

Council Meeting of  
July 17, 2012

Honorable Mayor and Members  
of the Torrance City Council  
City Hall  
Torrance, California

**Members of the Council:**

**SUBJECT: City Attorney – Approve Agreement Amendment with Jerold A. Goddard, Esq.**

**Expenditure: None**

**RECOMMENDATION**

Recommendation of the City Attorney that City Council approve a second amendment to fee agreement with Jerold A. Goddard, Esq. (C2010-220) to represent the City in defending *Pitches* motions. The second amendment will substitute the Exhibit B agreement for the previous Exhibit A agreement to satisfy CALPERS requirement for retirees.

Funding

Not applicable.

**BACKGROUND AND ANALYSIS**

On October 26, 2010, the City entered into a \$25,000 fee agreement with Jerold A. Goddard, Esq. to defend the Torrance Police Department's officers' personnel files against discovery requests made by criminal defendants. Mr. Goddard is the retired city attorney of Redondo Beach.

On June 13, 2012, the City Council approved a First Amendment to Fee Agreement for Legal Services (C2010-220), in order to add \$20,000 to the contract, for an amount not to exceed \$45,000. The First Amendment also increased Mr. Goddard's hourly rate from \$100 to \$150 per hour, effective July 1, 2012.

Subsequent to the June 13, 2012 City Council approval, a revised draft Agreement for Legal Services was received. This agreement incorporates language required by CALPERS for retirees working for public agencies.

Therefore, the city attorney recommends that Your Honorable Body approve a second amendment to the fee agreement with Mr. Goddard, which will replace the existing form of Fee Agreement.

Respectfully submitted,

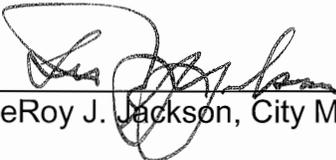
John L. Fellows III  
City Attorney

By   
\_\_\_\_\_  
Alice Rusa  
Law Office Administrator

CONCUR:

  
\_\_\_\_\_  
John L. Fellows III, City Attorney

NOTED:

  
\_\_\_\_\_  
LeRoy J. Jackson, City Manager

Attachment A: Second Amendment to Fee Agreement

**ATTACHMENT A****SECOND AMENDMENT TO FEE AGREEMENT FOR  
LEGAL SERVICES (C2010-220)**

This Second Amendment to Fee Agreement for Legal Services is made and entered into as of July 1, 2012, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and JEROLD A. GODDARD, ESQ., an individual ("ATTORNEY").

**RECITALS:**

- A. The CITY and ATTORNEY entered into a Fee Agreement for Legal Services (the "Fee Agreement") on October 26, 2010, in the amount of \$25,000. A copy of the Fee Agreement is attached as Exhibit A.
- B. On June 13, 2012, the City Council approved a First Amendment to Fee Agreement for Legal Services (C2010-220), in order to add \$20,000 to the contract for an amount not to exceed \$45,000. It also increased ATTORNEY's hourly rate from \$100 to \$150 per hour, effective July 1, 2012.
- C. Subsequent to the June 13, 2012 City Council approval, a revised draft Agreement for Legal Services was received. (Exhibit B)
- D. The CITY is satisfied with the level of service provided by ATTORNEY.
- E. Both parties wish to amend the contract to replace in its entirety the original Fee Agreement, as previously amended, with the revised form of agreement attached as Exhibit B, because it incorporates language required by CALPERS for retirees working for public agencies.

**AGREEMENT:**

In all other respects, the First Amendment dated July 1, 2012 is ratified and reaffirmed and remains in full force and effect.

CITY OF TORRANCE,  
a municipal corporation

JEROLD A. GODDARD, ESQ.  
an individual

\_\_\_\_\_  
Frank Scotto, Mayor

\_\_\_\_\_  
Jerold A. Goddard

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_

Exhibit A) Fee Agreement  
Exhibit B) Agreement

**EXHIBIT A****FEE AGREEMENT FOR LEGAL SERVICES**

This Fee Agreement for legal services ("Agreement") is made and entered into as of October 26, 2010, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and JEROLD A. GODDARD, ESQ., an individual ("ATTORNEY").

**RECITALS:**

1. CITY wishes to retain the services of an experienced and qualified attorney to provide certain legal services to CITY.
2. ATTORNEY represents that he is qualified to perform those services.

**AGREEMENT:**

1. Services to be Performed by ATTORNEY.  
ATTORNEY will advise and represent CITY in the defense of *Pitchess* motions. *Pitchess* motions are brought by criminal defendants looking for material in police officer personnel files to be used to attack testifying officers' credibility. ATTORNEY warrants that all services set forth herein will be performed in a competent, professional and satisfactory manner.
2. Attorney's Fee.  
For services rendered pursuant to this Agreement, ATTORNEY will be paid \$100 per hour; provided, however, that in no event will the total amount of money paid ATTORNEY, for services contemplated by this Agreement, exceed the sum of **\$25,000**, unless otherwise first approved in writing by CITY.
3. Expenses and other charges.  
In addition to fees for professional services, there will be charges for such incurred expenses as court costs, long distance telephone charges, travel costs, computerized legal research, copying and faxes. Expenses incurred will be billed at amounts that are competitive with other sources of the same products or services.
4. Conflict of Interest.  
ATTORNEY warrants that all necessary conflict clearances have been obtained.

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5. Insurance.

ATTORNEY is not required to maintain professional liability insurance. CITY will defend, hold harmless and indemnify ATTORNEY against any tort, except intentional torts, professional liability claim, demand, or other legal action, arising out of any alleged act or omission occurring solely within the performance of ATTORNEY's duties under this Agreement. CITY agrees that it will defend or compromise and settle any claims or suits and pay the amount of any settlements or judgments rendered, to the extent permitted by California law.

6. Business License Exemption.

CITY waives any requirement for ATTORNEY to obtain a City of Torrance business license for the purpose of work assigned pursuant to this Agreement.

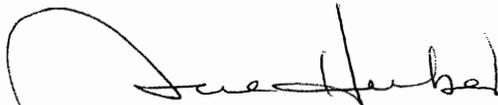
CITY OF TORRANCE,  
a municipal corporation

JEROLD A. GODDARD, ESQ.,  
an individual

By:   
Frank Scotto, Mayor

  
Jerold A. Goddard

ATTEST:

  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: 

**AGREEMENT FOR LEGAL SERVICES**  
**JEROLD A. GODDARD, ESQ.**

THIS RETAINER AGREEMENT is made this 1<sup>st</sup> day of July, 2012, by the CITY OF TORRANCE, a municipal corporation, ("CITY"), and JEROLD A. GODDARD, ESQ. ("ATTORNEY").

**RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Torrance City Council authorization on July 17, 2012.
2. The CITY is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
3. The ATTORNEY is member of the State Bar of California in good standing, authorized to practice law under the statutes of the State of California.
4. The CITY and ATTORNEY desire to enter into an Agreement for services upon the terms and conditions herein.

**AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall cover services rendered from July 1, 2012, and until terminated. This agreement supersedes any previous agreements.
2. **Services to be Provided.** The services to be performed by ATTORNEY shall consist of the following: Professional Legal Services as assigned by the City Attorney's Office.
3. **Independent Contractor.** It is agreed that ATTORNEY shall work as an independent contractor and not as employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
4. **Compensation.** ATTORNEY shall be compensated as follows:

- 3.1 Amount. (\$150 per hour). Compensation under this Agreement shall be paid only for assigned work and after approval of hourly billing statement by the City Attorney.
- 3.2 Payment. For work under this Agreement, payment shall be made per monthly invoice. ATTORNEY will receive a 1099 M Form at the end of each calendar year.
- 3.3 Records of Expenses. ATTORNEY shall keep accurate records of time and expenses. These records will be made available to CITY.
- 3.4 Hours. No specific number of hours of work is guaranteed. It is expected that Attorney's services will be on an as needed basis depending upon the work assigned. ATTORNEY will retain control of the manner and mean of accomplishing the work.
- 3.5 Termination. CITY and ATTORNEY shall have the right to terminate this Agreement, without cause, by giving fifteen (15) days written notice.
5. **Insurance Requirements.**
- 4.1 Workers' Compensation Insurance. ATTORNEY shall maintain Workers' Compensation Insurance where applicable.
- 4.2 Insurance Amounts. ATTORNEY is not authorized to drive an automobile for the CITY or on CITY business. ATTORNEY will maintain adequate insurance on his private vehicles for any travel on City business.
6. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.
7. **Non-Discrimination.** ATTORNEY covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
8. **Compliance with Law.** ATTORNEY shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Ownership of Work Product.** All documents or other information developed or received by ATTORNEY in the course and scope of work for the City shall be the property of CITY. ATTORNEY shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

10. **Conflict of Interest and Reporting.** ATTORNEY shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement. ATTORNEY agrees to complete and file a California State Form 730 disclosure statement if required by the City Attorney.
11. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses. These addresses shall be used for delivery of service of process.
- a. Address of ATTORNEY' OFFICE is as follows:
- 611 Susana Ave,  
Redondo Beach, Ca 90277
- b. Address of CITY is as follows:
- City Attorney's Office  
3031 Torrance Blvd.  
Torrance, California 90503
12. **Licenses, Permits, and Fees.** ATTORNEY shall obtain and maintain a current **California State Bar License**, and all permits, fees, or licenses as may be required by this Agreement. Attorney is required may be required to have a City Business License.
13. **Familiarity with Work.** By executing this Agreement, ATTORNEY warrants that: (1) he has investigated the work to be performed, (2) he has investigated the site of the work and is aware of all conditions there; and (3) he understands the difficulties and restrictions of the work under this Agreement. Should ATTORNEY discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at ATTORNEY'S risk, until instructions are received from CITY.
14. **Time of Essence.** Time is of the essence in the performance of this Agreement.
15. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement or any portion shall be assigned by ATTORNEY without prior consent of the CITY ATTORNEY.
16. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.
17. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by subsequent mutual written

agreement executed by CITY and ATTORNEY.

- 18. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Los Angeles County Superior Court.
- 19. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
- 20. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
- 21. **Confidentiality of Legal Matters Assigned.** The nature of the work assigned to ATTORNEY will deal with confidential information involving prosecution matters, police investigative files and personnel records. ATTORNEY will be granted access to city records and agrees to maintain the highest standards of confidentiality and security regarding these matters. During the period of this agreement, ATTORNEY will represent no other client as a criminal defense attorney.

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

**CITY OF TORRANCE,**  
a municipal corporation

By: \_\_\_\_\_  
Frank Scotto, Mayor

**"ATTORNEY"**

By: \_\_\_\_\_  
Jerold A. Goddard, Esq.

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_