

Council Meeting of  
August 1, 2006

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

**Members of the Council:**

**SUBJECT: Approve Third Amendment to Fee Agreement with the law firm of Rutan & Tucker for legal services relating to litigation in the case of *Time Warner v. City of Torrance* (LASC No. BC318252) for an additional \$25,000 for a not to exceed total of \$119,000 to Contract No.C2004-179**

**Expenditure: \$25,000**

**RECOMMENDATION**

The City Attorney recommends that the City Council approve the Third Amendment to the Fee Agreement with the law firm of Rutan & Tucker to provide legal services in the case of Time Warner v. City of Torrance in the additional amount of \$25,000 for a total contract amount not to exceed \$119,000.

Funding

\$25,000 is available from the 2006/2007 City Attorney's Operating budget.

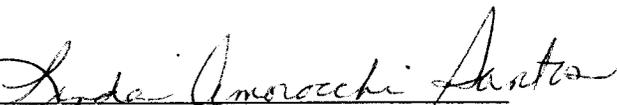
**BACKGROUND AND ANALYSIS**

On June 22, 2004, the City Manager entered into a Fee Agreement for legal services with the law firm of Rutan & Tucker to represent the City with regard to the complaint filed by Time Warner for declaratory relief in an amount not to exceed \$24,000. On June 14, 2005, City Council approved additional funding in the amount not to exceed \$69,000 and on February 26, 2006, the City Council approved additional funding in the amount not to exceed \$94,000. Recently, the law firm has provided the City with an estimate of additional costs to defend the litigation in the amount of \$25,000.

The City Attorney therefore recommends that the City Council approve the Third Amendment to the Fee Agreement with the law firm of Rutan & Tucker in the additional amount of \$25,000 for a total contract amount not to exceed \$119,000.

Respectfully submitted,

John L. Fellows III  
City Attorney

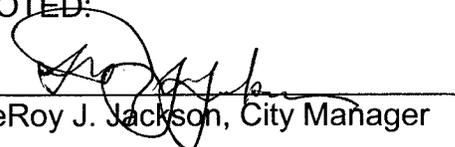
By   
Linda Amorocchi Santos  
Law Office Administrator

CONCUR:

  
John L. Fellows III, City Attorney

  
Eric E. Tsao, Finance Director

NOTED:

  
LeRoy J. Jackson, City Manager

Attachment: A) Third Amendment to Fee Agreement

**THIRD AMENDMENT TO FEE AGREEMENT FOR LEGAL SERVICES**

This Third Amendment to the Fee Agreement for legal services (“Amendment”) is made and entered into as of June 1, 2006 by and between the **CITY OF TORRANCE**, a municipal corporation (“CITY”), and the law firm of **RUTAN AND TUCKER, LLP** (“FIRM”).

**RECITALS:**

- A. CITY and FIRM entered into a Fee Agreement for legal services with regard to the complaint filed by Time Warner, Inc. for declaratory relief (known as “Agreement”) on June 22, 2004 in the amount of \$24,000. A copy of that Fee Agreement for Legal Services is attached as Exhibit A (Contract No. C2004-179).
- B. CITY COUNCIL approved an additional amount of \$45,000 for a not to exceed amount of \$69,000 on June 14, 2005. A copy of the First Amendment to the Fee Agreement is attached as Exhibit B (Contract No. C2004-179);
- C. CITY COUNCIL approved an additional amount of \$25,000 for a not to exceed amount of \$94,000 on February 28, 2006. A copy of the Second Amendment to the Fee Agreement is attached as Exhibit C (Contract No. C2004-179);

- D. CITY is satisfied with the services of FIRM and desires to continue the use of this firm's representation of the City by increasing the available funding to FIRM by \$25,000 for a not to exceed amount of \$119,000.

**AGREEMENT:**

1. The Fee Agreement for Legal Services Contract No. C2004-179 is ratified and extended to completion of the legal services through the appeal in an amount not to exceed the sum of \$119,000 unless otherwise first approved in writing by the CITY.
2. In all other respects, the Agreement dated June 22, 2004 between CITY and FIRM is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
a municipal corporation

RUTAN AND TUCKER, LLP  
a California partnership

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

\_\_\_\_\_  
M. Katherine Jenson  
Partner

ATTEST:

APPROVED AS TO FORM;

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

\_\_\_\_\_  
City Attorney

Attachments

**RUTAN  
& TUCKER**  
ATTORNEYS AT LAW

611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS [www.rutan.com](http://www.rutan.com)

ORANGE COUNTY  
SILICON VALLEY  
(408) 289-8777

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

M. Katherine Jenson  
Direct Dial: (714) 641-3413  
E-mail: [kjenson@rutan.com](mailto:kjenson@rutan.com)

June 22, 2004

John L. Fellows III  
City Attorney  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90503

Re: Fee Agreement for Legal Services -- Time Warner, Inc. v. City of Torrance

Dear John:

Pursuant to your request, this letter will serve as our fee agreement for representing the City with regard to the complaint filed by Time Warner, Inc. for Declaratory Relief.

The hourly rate Rutan & Tucker would charge the City for legal services is the standard hourly rates of attorneys in our office which begin at \$150 per hour, with an agreed cap of \$220 per hour. Paralegals would be billed at an hourly rate of \$110 per hour, and documents clerks would be billed at \$45 per hour. Under this proposal, the City would be charged either the attorney's standard hourly rate, or \$220 per hour, which ever is less. Jeff Melching, my Partner in our public Law Department will be the lead attorney working on this matter, and his time will be billed at \$220 per hour.

Rutan & Tucker also requires reimbursement for various costs incurred in performing legal services, including long distance telephone charges for calls outside the Los Angeles/Orange County area, postage, parking, out-of-town travel expenses (not mileage), duplication (@ 19¢ per page), telecopying, messengers, computer-assisted research (e.g. LEXIS), and other out-of-pocket expenses.

Detailed monthly invoices will be sent directly to you.

C2004-179

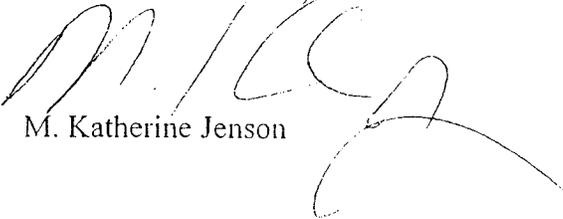
John L. Fellows III  
June 22, 2004  
Page 2

If this proposal is acceptable to the City, please execute and return a copy of this letter to me.

If you have any questions regarding this proposal, please call me at 1-800-76RUTAN.

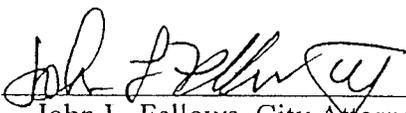
Very truly yours,

RUTAN & TUCKER, LLP

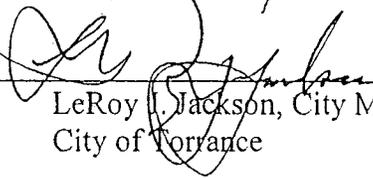
  
M. Katherine Jenson

The City of Torrance accepts the above proposal.

Dated: 9/24/2004

By:   
John L. Fellows, City Attorney  
City of Torrance

Dated: 24 Sept 2004

By:   
LeRoy L. Jackson, City Manager  
City of Torrance

**EXHIBIT B****AMENDMENT TO FEE AGREEMENT FOR LEGAL SERVICES**

This Amendment to the Fee Agreement for legal services ("Amendment") is made and entered into as of March 1, 2005 by and between the **CITY OF TORRANCE**, a municipal corporation ("CITY"), and the law firm of **RUTAN AND TUCKER, LLP** ("FIRM").

**RECITALS:**

- A. CITY and FIRM entered into a Fee Agreement for legal services with regard to the complaint filed by Time Warner, Inc. for declaratory relief (known as "Agreement") on June 22, 2004 in the amount of \$24,000. A copy of that Fee Agreement for Legal Services is attached as Exhibit A (Contract No. C2004-179).
- C. CITY is satisfied with the services of FIRM and desires to continue the use of this firm's representation of the City by increasing the available funding to FIRM by \$45,000 for a not to exceed amount of \$69,000.

**C2004-179****AGREEMENT:**

1. The Fee Agreement for Legal Services Contract No. C2004-179 is ratified and extended to completion of the legal services through the pending

motion in an amount not to exceed the sum of \$69,000 unless otherwise first approved in writing by the CITY.

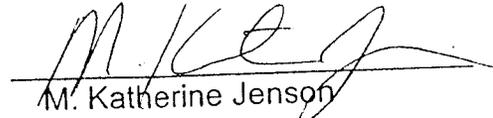
- 2. In all other respects, the Agreement dated June 22, 2004 between CITY and FIRM is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
a municipal corporation

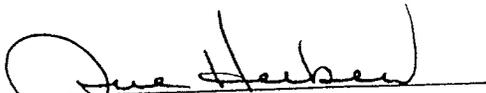


Dan Walker  
Mayor

RUTAN AND TUCKER, LLP  
a California partnership

By:   
M. Katherine Jenson  
Partner

ATTEST:

  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

By:   
JOHN L. FELLOWS III  
City Attorney

## SECOND AMENDMENT TO FEE AGREEMENT FOR LEGAL SERVICES

This Second Amendment to the Fee Agreement for legal services ("Amendment") is made and entered into as of December 1, 2005 by and between the **CITY OF TORRANCE**, a municipal corporation ("CITY"), and the law firm of **RUTAN AND TUCKER, LLP** ("FIRM").

### RECITALS:

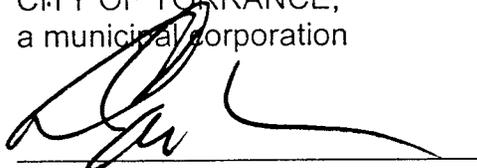
- A. CITY and FIRM entered into a Fee Agreement for legal services with regard to the complaint filed by Time Warner, Inc. for declaratory relief (known as "Agreement") on June 22, 2004 in the amount of \$24,000. A copy of that Fee Agreement for Legal Services is attached as Exhibit A (Contract No. C2004-179).
- B. CITY COUNCIL approved an additional amount of \$45,000 for an not to exceed amount of \$69,000 on June 14, 2005. A copy of that Amendment to the Fee Agreement is attached as Exhibit B (Contract No. C2004-179);
- C. CITY is satisfied with the services of FIRM and desires to continue the use of this firm's representation of the City by increasing the available funding to FIRM by \$25,000 for an not to exceed amount of \$94,000.

C2004-179

**AGREEMENT:**

1. The Fee Agreement for Legal Services Contract No. C2004-179 is ratified and extended to completion of the legal services through the appeal in an amount not to exceed the sum of \$94,000 unless otherwise first approved in writing by the CITY.
2. In all other respects, the Agreement dated June 22, 2004 between CITY and FIRM is ratified and reaffirmed and is in full force and effect.

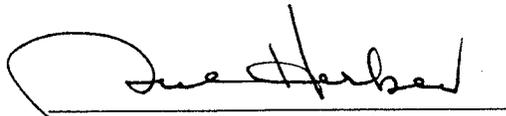
CITY OF TORRANCE,  
a municipal corporation

  
\_\_\_\_\_  
Dan Walker  
Mayor

RUTAN AND TUCKER, LLP  
a California partnership

By:   
\_\_\_\_\_  
M. Katherine Jenson  
Partner

ATTEST:

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

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
JOHN L. FELLOWS III  
City Attorney

Attachment: Exhibit A      Fee Agreement  
                  Exhibit B      Amendment to Fee Agreement