Council Meeting of
April 10, 2007

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

Members of the Council:

SUBJECT: City Attorney - Approve Third Amendment to Fee Agreement for legal services in the matter of Willett v. City of Torrance. Expenditure: $100,000

RECOMMENDATION

The City Attorney recommends that the City Council approve the Third Amendment to the Fee Agreement with the law firm of Rutan and Tucker to provide legal services in the matter of Willett v. City of Torrance in the additional amount of $100,000 for a not to exceed total of $199,000 to contract No. C2006-021.

Funding

Funding is available from the 2006/07 Self-Insurance operating budget.

BACKGROUND AND ANALYSIS

On December 1, 2005, the City Attorney entered into a Fee Agreement for legal services with the law firm of Rutan and Tucker to represent the City in a legal proceeding entitled Willett v. City of Torrance in an amount not to exceed $10,000.

On April 4, 2006, the City Manager approved an Augmentation to the Fee Agreement in an amount not to exceed $24,000 and on September 26, 2006, the City Council approved an additional $75,000 for an amount not to exceed $99,000.

Recently, the law firm has provided the City with an estimate of additional costs to defend the litigation through settlement in the amount of $100,000.

The City Attorney therefore recommends that the City Council approve the Third Amendment to the Fee Agreement with the law firm of Rutan and Tucker in the additional amount of $100,000 for a not to exceed total contract amount of $199,000 to Contract No.C2006-021 to cover legal fees through litigation.

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 January 1, 2007, 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 legal action entitled Willett v. City of Torrance ("Agreement") on December 1, 2005 in an authorized amount of not to exceed $10,000. A copy of that Fee Agreement for Legal Services is attached as Exhibit A (Contract No. C2006-021).

B. CITY MANAGER approved an additional amount of $14,000 for a not to exceed amount of $24,000 on April 4, 2006. A copy of that Contract Augmentation Approval is attached as Exhibit B (Contract No. C2006-021);

C. CITY COUNCIL approved an additional amount of $75,000 for a not to exceed amount of $99,000 on September 26, 2006. A copy of the Second Amendment is attached as Exhibit C (Contract No. C2006-021);

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 $100,000 for a not to exceed amount of $199,000.

AGREEMENT:

1. The Fee Agreement for Legal Services Contract No. C2006-021 is ratified and extended to completion of the legal services in an amount not to exceed the sum of $199,000 unless otherwise first approved in writing by the CITY.
2. In all other respects, the Agreement dated December 1, 2005 between CITY and FIRM is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
a municipal corporation

_____
Frank Scotto
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 Contract
Exhibit B Augmentation
Exhibit C Second Amendment

EXHIBIT A

RUTAN & TUCKER LLP
ATTORNEYS AT LAW

611 ANTON BOULEVARD, FOURTEENTH FLOOR
COSTA MESA, CALIFORNIA 92626-1931
POST OFFICE BOX 1950
COSTA MESA, CALIFORNIA 92628-1950
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035
www.rutan.com

ORANGE COUNTY

PALO ALTO
(650) 320-1500

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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

December 1, 2005

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

Re: Fee Agreement for Legal Services -- Willett v. City of Torrance

Dear John:

This letter will serve as our fee agreement for legal advice rendered to the City with regard to the above-referenced legal action. As I previously mentioned, our role will be to provide assistance to your office, however we will not be appearing as counsel in this matter.

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 $170 per hour, with a cap of $230 per hour. This rate is $10 per hour more than our contracts for matters 0001 through 0080, however in August the rate was raised due to the fact that, at that time, it had been approximately 18 months since our last rate increase. Paralegals would be billed at an hourly rate of $115 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 $230 per hour, which ever is less. I will be the lead attorney working on this matter, and Bill Ihrke, an associate in this office, may assist me with this matter. Both my time, and Bill's time will be billed at $230 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.

C20060021

COPY

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119/062579-0070
677591.01 a12/01/05

RUTAN & TUCKER
ATTORNEYS AT LAW

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: 1/27/2006

By: John L. Fellows

John L. Fellows, City Attorney
City of Torrance

EXHIBIT B

CONTRACT AUGMENTATION APPROVAL

This Contract Augmentation Approval (APPROVAL) is made with reference to the following facts:

1. On December 1, 2005, the City Attorney entered into an Agreement with the law firm of Rutan & Tucker to provide the City with legal services regarding the case of Willett v. City of Torrance.

2. That Agreement (C 2006-021) a copy of which is attached hereto as Exhibit A, was signed by the City Attorney in an authorized amount of under $10,000 in accordance with City contract authority and procedure.

3. Continued costs associated with this matter mandate that the authorized amount be increased to an amount "not to exceed $24,000."

THEREFORE:

Pursuant to the authority granted to the City Manager under Section 22.3.13 of the Torrance Municipal Code, APPROVAL is hereby granted authorizing the payment in an amount not to exceed an aggregrate of $24,000 under Agreement C 2006-021.

C2006-021

LeRoy J. Jackson, City Manager

6 April 2006
Date

CONCUR AND
APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

4/4/06
Date

COPY

[24886_1.DOC]

EXHIBIT C

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 August 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 legal action entitled Willett v. City of Torrance ("Agreement") on December 1, 2005 in an authorized amount of not to exceed $10,000. A copy of that Fee Agreement for Legal Services is attached as Exhibit A (Contract No. C2006-021).

B. CITY MANAGER approved an additional amount of $14,000 for an not to exceed amount of $24,000 on April 4, 2006. A copy of that Contract Augmentation Approval is attached as Exhibit B (Contract No. C2006-021);

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 $75,000 for an not to exceed amount of $99,000.

C2006-021

COPY

AGREEMENT:

1. The Fee Agreement for Legal Services Contract No. C2006-021 is ratified and extended to completion of the legal services in an amount not to exceed the sum of $99,000 unless otherwise first approved in writing by the CITY.
2. In all other respects, the Agreement dated December 1, 2005 between CITY and FIRM is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
a municipal corporation

Frank Scotto
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 Augmentation to Fee Agreement