

Council Meeting of  
May 6, 2008

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

**Members of the Council:**

**SUBJECT: City Attorney – Approve Amendment to Post-Retirement At-Will  
Employment Agreement**

**Expenditure: \$50,000**

**RECOMMENDATION**

Recommendation of the City Attorney that the City Council approve the Amendment to Post-Retirement At-Will Employment Agreement with Robert Acciani for an additional \$50,000 for a total contract amount not to exceed \$74,000.

Funding

Funding is available from the Police Department General Fund operating budget

**BACKGROUND AND ANALYSIS**

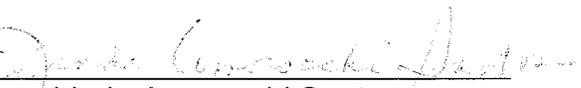
On January 8, 2008, the City Manager entered into a Post-Retirement At-Will Employment Agreement (Contract No. C2008-003) in an amount not to exceed \$24,000 with Robert Acciani (Employee). Employee was hired as a temporary appointee to handle three cases for the City: Suarez, Plowden and Bayley. Employee has settled the Bayley case and is currently in trial on the Suarez case. The Plowden case is set for trial on July 8, 2008.

The temporary employment is not to exceed 960 hours per fiscal year. Employee has worked a total of 268.7 hours this fiscal year at the rate of \$90.52 per hour for a total of \$24,322.72, of which \$7,241.60 is for pay period ending April 26, 2008. Additional funding in the amount of \$50,000 is necessary to continue the defense of the city in these proceedings.

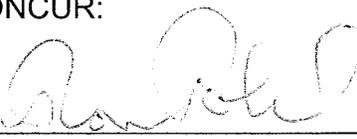
The City Attorney recommends that the City Council approve the Amendment to the Post-Retirement Agreement (Attachment A) with Robert Acciani in an additional amount of \$50,000 for a total not to exceed amount of \$74,000.

Respectfully submitted,

John L. Fellows III  
City Attorney

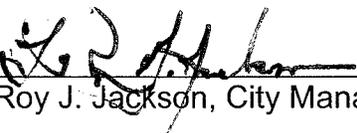
By   
Linda Amorocchi Santos  
Law Office Administrator

CONCUR:

  
John L. Fellows III, City Attorney

  
Eric E. Tsao, Finance Director

NOTED:

  
LeRoy J. Jackson, City Manager

Attachment A) Amendment to Post-Retirement At-Will Employment Agreement

**AMENDMENT TO POST-RETIREMENT AT-WILL EMPLOYMENT  
AGREEMENT**

This Amendment to Post-Retirement At-Will Employment Agreement (“Amendment”) is made and entered into as of April 27, 2008 by and between the **CITY OF TORRANCE**, a municipal corporation (“CITY”), and **Robert Acciani**, an individual (“EMPLOYEE”).

**RECITALS:**

- A. CITY and EMPLOYEE entered into a Post-Retirement At-Will Employment Agreement (“Agreement”) on January 8, 2008 as a temporary appointee employed to handle the following cases: Suarez, Plowden and Bayley. A copy of that Agreement is attached as Exhibit A (Contract No. C2008-003).
- B. CITY is satisfied with the services of EMPLOYEE and desires to increase the available funding by an additional amount of \$50,000 for a not to exceed amount of \$74,000.

**AGREEMENT:**

1. The Agreement (Contract No. C2008-003) is ratified and extended to completion of the cases in an amount not to exceed the sum of \$74,000 unless otherwise first approved in writing by the CITY.

2. In all other respects, the Agreement dated January 8, 2008 between CITY and EMPLOYEE is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
a municipal corporation

ROBERT ACCIANI,  
an individual

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

By: \_\_\_\_\_  
Robert Acciani

ATTEST:

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

APPROVED AS TO FORM:

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

Exhibit A: Post-Retirement At-Will Employment Agreement

**POST-RETIREMENT AT-WILL EMPLOYMENT AGREEMENT**

This POST-RETIREMENT AT-WILL EMPLOYMENT AGREEMENT ("AGREEMENT") is made and entered into as of January 8, 2008 by and between CITY OF TORRANCE, a municipal corporation ("CITY"), and Robert Acciani, an individual ("EMPLOYEE").

**RECITALS:**

- A.** EMPLOYEE has retired from public employment with CITY and is receiving or has made application to receive, service retirement benefits from the California Public Employment Retirement System ("CalPERS").
- B.** A service retiree under CalPERS is permitted to obtain temporary employment as a retired annuitant by a public agency employer provided that all of the following conditions are met:
- (1) the service retiree has the skills needed to perform work of limited duration, or the service retiree employee is needed during an emergency to prevent stoppage of public business;
  - (2) The temporary employment will not exceed 960 hours per fiscal year; and
  - (3) The rate of pay the service retiree will receive will not be less than the minimum, nor exceed the maximum that is paid to employees performing comparable duties.
- C.** EMPLOYEE has the skills needed to perform work of limited duration and desires temporary post-retirement employment with CITY on terms that will not result in a reduction of CalPERS retirement benefits.
- D.** CITY desires to employ EMPLOYEE on an at-will basis as a temporary appointee pursuant to Torrance Municipal Code Section 14.1.16, for a term that will not exceed 960 hours per fiscal year.

**AGREEMENT:**

1. **SCOPE OF DUTIES**  
EMPLOYEE will be employed as a litigation attorney to handle the following cases:

**Suarez v. City of Torrance**  
**Plowden v. City of Torrance**  
**Bayley v. City of Torrance**

From time to time EMPLOYEE may be assigned additional work, so long as EMPLOYEE's employment remains temporary in nature. EMPLOYEE will also perform such other duties and responsibilities as are customarily performed by other persons in similar such positions, as well as other duties which may be assigned to him by the City Attorney or the City Attorney's designee.

2. **CARE OF WORK**

EMPLOYEE will devote all of his working time, attention, knowledge, and skills to CITY's business interests and will do so in good faith, with best efforts, and to the reasonable satisfaction of CITY. EMPLOYEE understands that he is only entitled to compensation as set forth in this AGREEMENT.

3. **TERM**

Unless earlier terminated by CITY or EMPLOYEE, this AGREEMENT will continue in full force and effect through January 7, 2009.

4. **COMPENSATION**

In consideration of the services rendered by EMPLOYEE, EMPLOYEE will be paid \$90.52 per hour.

5. **PLACE AND HOURS OF WORK**

EMPLOYEE agrees that his duties will be primarily rendered at CITY's business premises or at such other places as CITY may in good faith require. In no event may EMPLOYEE's hours of work exceed 960 hours in a fiscal year.

6. **EMPLOYEE'S TIME RECORDS**

EMPLOYEE will maintain appropriate time records, reflecting the number of hours in .25 hour increments and activities undertaken on each case on which EMPLOYEE works during any day.

7. **OFFICE SUPPORT**

CITY agrees to provide EMPLOYEE with customary secretarial and office support during the term of his employment.

8. **BUSINESS EXPENSES**

CITY will reimburse EMPLOYEE for all reasonable and necessary travel expenses and other disbursements incurred by him for on behalf of CITY in the performance of his duties under this AGREEMENT, provided EMPLOYEE presents CITY with the appropriate expense reports in a timely manner and said expenses fall within CITY policies and procedures for reimbursement of expenses.

9. **AT-WILL EMPLOYMENT**

EMPLOYEE acknowledges and agrees that his employment with CITY is expressly "at will." This means that either party may terminate EMPLOYEE's employment for any reason with or without cause.

10. **TERMINATION OF AGREEMENT FOR CONVENIENCE**

If EMPLOYEE decides to terminate the AGREEMENT for convenience prior to expiration of the term, EMPLOYEE will provide a minimum of two weeks notice to CITY. If CITY decides to terminate the AGREEMENT for convenience prior to expiration of the term, CITY will provide a minimum of two weeks notice to EMPLOYEE.

11. **TERMINATION OF AGREEMENT FOR CAUSE**

If EMPLOYEE or CITY fails to perform any term, covenant or condition in this AGREEMENT the AGREEMENT may be immediately terminated for cause, upon written notice to the other party.

12. **PROFESSIONAL LICENSES**

EMPLOYEE is obligated to maintain an active membership with the State Bar of California in order to carry out the functions and duties set forth in this AGREEMENT. CITY will pay EMPLOYEE's State Bar dues during the term of this AGREEMENT.

13. **EMPLOYEE NOT SUBJECT TO CITY EMPLOYEE RESOLUTIONS**

EMPLOYEE understands and agrees that due to the temporary and limited nature of his post-retirement employment under this AGREEMENT, EMPLOYEE's employment will not be subject to any Resolution between any employee group and CITY.

14. **NO BENEFIT ENTITLEMENTS**

EMPLOYEE will not be entitled to the benefit of any CITY policies or administrative regulations and procedures relating to evaluation, compensation, performance pay, benefits, grievances, due process, leave, transfer or seniority.

15. **CITY REPRESENTATIVE**

John L. Fellows III is designated as the "City Representative" authorized to act in CITY's behalf with respect to the work and service specified in this AGREEMENT and to make all decisions in connection with this AGREEMENT. Whenever approval, directions, or other actions are required by CITY under this AGREEMENT, those actions will be taken by the City Representative, unless otherwise stated. The City Attorney has the right to designate another City Representative at any time, by providing notice to EMPLOYEE.

16. **INDEMNIFICATION**

Pursuant to Government Code Section 995 CITY will provide for the defense of any civil action or proceeding brought against EMPLOYEE in his official or individual capacity or both, on account of an act or omission in the scope of his employment as an employee of CITY.

17. **RETURN OF MATERIALS**

Upon termination of EMPLOYEE's employment with CITY for any reason, including without limitation termination by CITY with or without cause, EMPLOYEE will promptly deliver to CITY any and all documents and electronic files of any kind or character relating to any litigation matters as well as any and all documents and electronic files of any kind or character relating to any other matters EMPLOYEE has handled for CITY during his employment.

18. **CONFLICT OF INTEREST**

EMPLOYEE agrees that he will not engage in any form of activity that produces a conflict of interest with CITY unless agreed to in advance and in writing.



- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this AGREEMENT.

**20. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This AGREEMENT is personal in nature and EMPLOYEE may not assign or subcontract work under this AGREEMENT without the prior written consent of the other.

**21. INTEGRATION; AMENDMENT**

This AGREEMENT represents the entire understanding of CITY and EMPLOYEE as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this AGREEMENT. The AGREEMENT may not be modified or altered except in writing signed by both parties.

**22. INTERPRETATION**

The terms of this AGREEMENT should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this AGREEMENT or any other rule of construction that might otherwise apply.

**23. SEVERABILITY**

If any part of this AGREEMENT is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the AGREEMENT will remain in full force and effect.

**24. TIME OF ESSENCE**

Time is of the essence in the performance of this AGREEMENT.

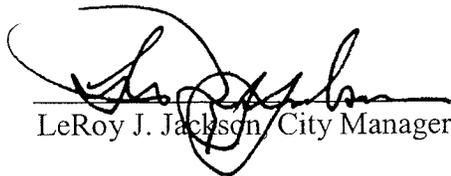
**25. GOVERNING LAW; JURISDICTION**

This AGREEMENT will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the AGREEMENT will be in Los Angeles County, California.

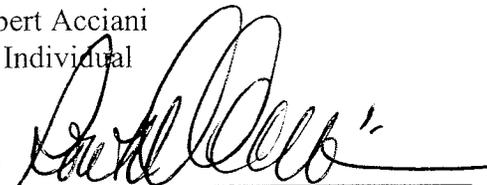
26. **COMPLIANCE WITH STATUTES AND REGULATIONS**

EMPLOYEE will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

CITY OF TORRANCE,  
a Municipal Corporation

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

Robert Acciani  
An Individual

By:   
\_\_\_\_\_  
Robert Acciani

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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