Council Meeting of
February 28, 2006

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

Members of the Council:

SUBJECT: Approve Second 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 $94,000 to Contract No.C2004-179

Expenditure: $25,000

RECOMMENDATION

The City Attorney recommends that the City Council approve the Second 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 $94,000.

Funding

$25,000 is available from the 2005/2006 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 to fund the lawsuit through the motion for summary judgment. Recently, the law firm has provided the City with an estimate of additional costs to defend the litigation through the appeal in the amount of $25,000.

The City Attorney therefore recommends that the City Council approve the Second 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 $94,000.

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 Fee Agreement

ATTACHMENT A

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.

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

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

By: _____
JOHN L. FELLOWS III
City Attorney

RUTAN AND TUCKER, LLP
a California partnership

By: _____
M. Katherine Jenson
Partner

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

EXHIBIT A

RUTAN & TUCKER LLP
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

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

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

C2004-179

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.

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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: 9/24/2004

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

Dated: 24 Sept 2004

By: _____
LeRoy J. 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

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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