

Council Meeting of
December 7, 2010

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

Members of the Council:

SUBJECT: City Attorney – Approve Fee Agreements with Woodruff, Spradlin & Smart

Expenditure: Not to exceed \$50,000

RECOMMENDATION

Recommendation of the City Attorney that City Council approve two fee agreements with Woodruff, Spradlin & Smart in the case of Jill Carlton, et al. v. City of Torrance, et al., LASC Case No. YC061411, in the total amount not to exceed \$50,000.

Funding

Funding is available from the Public Works General Fund operating budget and the Self-Insurance Fund.

BACKGROUND AND ANALYSIS

The City Attorney has retained the services of Daniel K. Spradlin of the law firm of Woodruff, Spradlin & Smart to provide legal representation to the City. Mr. Spradlin's specialized expertise in the areas of design immunity, bad faith, insurance defense and indemnification will greatly assist the City with both the indemnification and defense issues associated with this lawsuit.

Upon consideration of the amount of time necessary to defend this lawsuit, the City Attorney recommends that the City Council enter into the attached two fee agreements with Woodruff, Spradlin & Smart:

1. Fee Agreement to assist and litigate to obtain defense and indemnity from Sully-Miller Contracting Company and Liberty Mutual Fire Insurance Company in the lawsuit entitled Jill Carlton, et al. v. City of Torrance, et al., LASC Case No. YC061411, in the amount of \$25,000 (Attachment A).

- 2. Fee Agreement to associate as counsel to represent the City up to and including trial and post-trial motions in the defense of the lawsuit entitled Jill Carlton, et al. v. City of Torrance, et al., LASC Case No. YC061411, in the amount of \$25,000 (Attachment B).

Respectfully submitted,

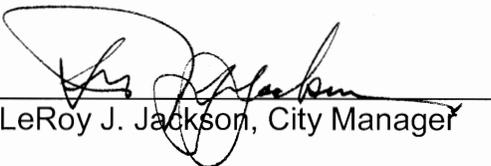
John L. Fellows III
City Attorney

By 
Alice Rusa
Law Office Administrator

CONCUR:


John L. Fellows III, City Attorney

NOTED:


LeRoy J. Jackson, City Manager

Attachment A) Fee Agreement re Jill Carlton case – defense and indemnity
Attachment B) Fee Agreement re Jill Carlton case – trial and post trial motions



DANIEL K. SPRADLIN
DIRECT DIAL: (714) 415-1018
DIRECT FAX: (714) 415-1118
E-MAIL: DSPRADLIN@WSS-LAW.COM

November 17, 2010

John Fellows, City Attorney
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503-5059

Attn: Tatia Strader

Re: **Jill Carlton, et al. v. City of Torrance, et al.**
Case #: YC061411

Dear Mr. Fellows:

At the direction of Deputy City Attorney Tatia Strader, I have prepared two retaining letters for separate legal representation of the City of Torrance in connection with the above-referenced lawsuit. These two areas of representation are described as follows:

1. Assist and litigate as directed by the City Attorney in efforts to obtain defense and indemnity in the above-referenced action from Sully-Miller Contracting Company and Liberty Mutual Fire Insurance Company. Such assistance may include the prosecution of separate legal actions against such parties for breach of contract and other legal remedies.
2. Associate as defense counsel for the City of Torrance in defense of the above-referenced action to provide legal services as directed by the City Attorney up to and including trial and post-trial motions. Pursuit or defense of any appeal shall be the subject of a separate agreement.

This letter confirms our representation and your authorization for us to act on behalf of the City of Torrance in connection with the services described in paragraph 1 above.

Professional services and fees. Our professional fees for legal services will be determined by the amount of time our attorneys and paralegals spend on this engagement based on their applicable hourly rates in effect at the time our invoices are rendered. The applicable hourly rates for attorneys and paralegals are listed on the attached rate schedule. As indicated on the Rate Schedule, our hourly rates may be adjusted from time to time. We have provided Ms. Strader with an estimate of the likely fees that may be incurred by the City for our services in the

November 17, 2010

Page 2

event that matter should require litigation through trial. We have advised Ms. Strader that should circumstances dictate that we must litigate this matter fees likely will exceed \$25,000.00. Ms. Strader has requested that our initial scope of work be limited to the number of hours which is the equivalent of \$25,000.00 unless the City authorizes us to continue.

Expenses and other charges. In addition to fees for our professional services, there will be charges for expenses which we incur such 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.

Expert Witnesses. In addition to fees and expenses, it is likely that the representation of the Defendants in this matter will require the retention of expert consultants and witnesses. We will not retain any expert without advance consultation with you and the Defendants. However, typically for cases of this nature experts are required. It is understood that the City will be responsible for payment of all fees associated with the retention of such expert consultants and witnesses.

Invoices and payments. We will render our invoices to you monthly for legal services, expenses and other charges. Our invoices are payable upon receipt and are considered overdue if not paid within thirty (30) days. Any statement not paid within sixty (60) days of the date of the statement will incur finance charges at the rate of one and one-half percent (1½ %) per month, compounded monthly.

Termination of Agreement. The City shall at all times have the right to terminate the services of our firm for any reason upon twenty-four (24) hours written notice of the same. The firm retains the right to terminate this agreement if, in the sole discretion of the firm, we conclude that the City or any individual named Defendants are not cooperating with the defense of this matter, or if we believe that our continued representation would be unethical or impractical, or if the City fails to pay our invoices for services rendered upon presentation.

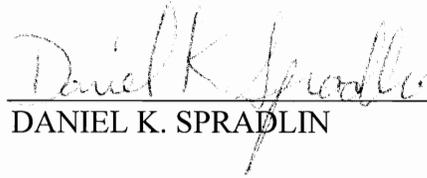
Acceptance of Engagement. If the terms as set forth in this letter are acceptable to the City, please have the enclosed copy executed by the appropriate representative of the City and return it to us. Unless terminated earlier by you or us, this engagement will end when we have completed the work described in the scope of engagement paragraph above.

November 17, 2010
Page 3

We are pleased that you have selected Woodruff, Spradlin & Smart to act as defense counsel in this matter.

Cordially,

WOODRUFF, SPRADLIN & SMART
A Professional Corporation



DANIEL K. SPRADLIN

Attachments:
Copy of This Letter With Return Envelope
"Rate Schedule"

CITY OF TORRANCE

(Signature)

Dated: _____

Name and Title

APPROVED AS TO FORM:

On behalf of the City of Torrance

RATE SCHEDULE

Hourly Rates for Legal Personnel

Attorneys: \$195 per hour
Paralegals: \$125 per hour

Standard Charges

Attorney charges for Attorney's time in minimum units of six minutes.

Costs and Expenses

Costs advanced will be charged at rates that are competitive with other sources of the same products or services. Rates for in-house costs are currently:

In-office photocopying \$ 0.15 per page
Mileage \$ 0.55 per mile
Clerical staff overtime: \$50.00 per hour

Subject to Change

The rates on this schedule are subject to change on 30 days' written notice. If Client declines to pay any increased rates, attorney will have the right to withdraw as Client's lawyers.

Rate Schedule



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This letter confirms our representation and your authorization for us to act on behalf of the City of Torrance in connection with the services described in paragraph 2 above.

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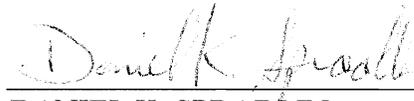
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Name and Title

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