

Council Meeting of
December 21, 2010

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

Members of the Council:

**SUBJECT: City Attorney – Approve Fee Agreement to provide legal services in
Walmart CEQA Action**

Expenditure: Not to exceed \$50,000

RECOMMENDATION

The city attorney recommends that City Council approve a fee agreement with the law firm of Rutan & Tucker, LLP in the case of Building an Economically Sound Torrance et al. v. City of Torrance et al., LASC Case No.BS129420 for Defense of Walmart CEQA Action and Indemnity and Reimbursement Agreement with Wal-Mart Real Estate Business Trust. The total contract amount will not exceed \$50,000.

Funding

Initial funding is available from the Community Development General Fund operating budget.

BACKGROUND AND ANALYSIS

The city attorney has retained the services of M. Katherine Jenson of the law firm of Rutan & Tucker, LLP, to provide legal representation to the City in Building an Economically Sound Torrance, which is a writ of mandate action challenging lack of environmental review prior to issuance of City permits to construct a new Walmart store at 22015 Hawthorne Boulevard. Ms. Jenson's specialized expertise in environmental quality act litigation and general municipal law will greatly assist the City with the issues associated with this lawsuit.

Walmart is the real party in interest in these proceedings, since its ability to construct its planned store is dependent upon successful defense of the pending lawsuit. Given the current financial crisis facing California government entities, it is appropriate for the real party in interest to bear the cost of the City's defense of these proceedings. Wal-Mart Real Estate Business Trust has agreed to indemnify the City against the significant financial burden the City would otherwise face in defending this lawsuit and to reimburse the City for its expenditures in so doing.

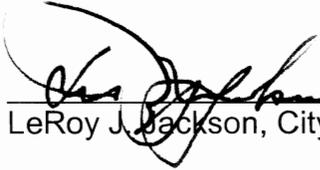
The city attorney recommends Your Honorable Body approve the attached fee agreement with Rutan & Tucker and the attached Indemnity and Reimbursement Agreement with Wal-Mart Real Estate Business Trust.

Respectfully submitted,

John L. Fellows III
City Attorney



NOTED:



LeRoy J. Jackson, City Manager

Attachment A) Fee Agreement with Rutan & Tucker

Attachment B) Indemnity and Reimbursement Agreement with Wal-Mart



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

December 8, 2010

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

Re: Fee Agreement for Legal Services -- Wal-Mart CEQA Challenge

Dear John:

This letter will serve as Rutan & Tucker, LLP's fee agreement for legal representation rendered to the City with regard to the CEQA Petition filed against the City by Building an Economically Sound Torrance, Ralph Martinez and Sandra Munoz with regard to the Wal-Mart project on Hawthorne Boulevard.

Pursuant to our discussion, I will be the lead working attorney on this matter. John Ramirez and Peter Howell will assist as needed. (John has handled numerous cases involving Wal-Mart projects, and Peter, John and I are currently defending Merced in a challenge to its Wal-Mart project.) Other attorneys and paralegals may assist on an as-needed basis. 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 \$225 per hour, with a cap of \$330 per hour. Paralegals would be billed at an hourly rate of \$135 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 the agreed rate, whichever is less.

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.

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

John L. Fellows, City Attorney
December 8, 2010
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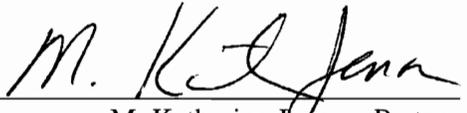
If you have any questions regarding this proposal, please call me at 1-800-76RUTAN.
Type of Entity

The City of Torrance accepts the above proposal.

CITY OF TORRANCE
a Municipal Corporation

RUTAN & TUCKER, LLP

Frank Scotto, Mayor



M. Katherine Jensen, Partner

ATTEST:

Sue Herbers
City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

MATERIALS AVAILABLE MONDAY