

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)
2900310

TO: CITY COUNCIL
2. FROM (ORIGINATING DEPARTMENT): CITY ATTORNEY
3. DATE: September 30, 2008

4. SUBJECT: RETENTION LYNBERG & WATKINS FOR LEGAL SERVICES FOR THE CASE *PABLO GOMEZ V. THE CITY OF SAN DIEGO, ET AL.* SUPERIOR COURT CASE NO. GIC 877892

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Andrew Jones (619) 533-5800, MS 59
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Lawrence Tomanek, (619) 533-5878, MS 59
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	81140			9. ADDITIONAL INFORMATION / ESTIMATED COST: Estimated costs for engagement not to exceed \$500,000.
DEPT.	81140			
ORGANIZATION	3501			
OBJECT ACCOUNT	4141			
JOB ORDER	081141			
AMOUNT	\$500,000			

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	CITY ATTORNEY	9/30/08	8			
2	RISK MGMT.		10-1-08	9	COO, IF REQUIRED	JAY GOLDSTONE	10/15/08
3	LIAISON OFFICE	ED FRANK	10/9/08	10			
4	FIN. MGMT.		10/14/08	11	CITY ATTORNEY	LAWRENCE TOMANEK	10/14/08
5	COMPTROLLER		10/15/08	DOCKET COORD: _____ COUNCIL LIAISON _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 10/10/08			
7							

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Authorizing the retention of Lynberg & Watkins as outside counsel in the defense of the City in the case of *Pablo Gomez v. City of San Diego*, Superior Court No. GIC 877892.
2. Authorizing the City Comptroller to expend up to \$500,000 from the Public Liability Fund for the coverage of Lynberg & Watkins legal fees and costs related to this matter.

11A. STAFF RECOMMENDATIONS:
ADOPT THE RESOLUTION

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): ALL
 COMMUNITY AREA(S): N/A
 ENVIRONMENTAL IMPACT: THIS ACTION IS NOT A "PROJECT" SUBJECT TO CEQA
 HOUSING IMPACT: N/A
 OTHER ISSUES:

EXECUTIVE SUMMARY SHEET

DATE ISSUED: September 30, 2008 **REPORT NO.:**
ATTENTION: COUNCIL PRESIDENT AND COUNCILMEMBERS

ORIGINATING DEPARTMENT: City Attorney

SUBJECT:

Contract with Lynberg & Watkins for co-counsel defense services in the matter entitled *Pablo Gomez v City of San Diego et al*, Case No.GIC 877892.

COUNCIL DISTRICT(S): ALL

CONTACT/PHONE NUMBER:

Andrew Jones, Deputy City Attorney/533-5800
Lawrence Tomanek, Chief Deputy City Attorney/236-6220

REQUESTED ACTION:

Authorize the City Attorney to execute an Agreement on behalf of the City of San Diego to engage Lynberg & Watkins LLP as Co-Counsel for the sole purpose of representing the City in this lawsuit.

Approve the Resolution to authorize the City Comptroller to expend up to \$500,000 for Lynberg & Watkins LLP for Legal services as Co-Counsel for the sole purpose of representing the City.

STAFF RECOMMENDATION:

Approve the Resolution.

EXECUTIVE SUMMARY:

\$500,000 is being requested for this matter. Plaintiff alleges he sustained injuries at the hands of a police officer on June 29, 2006. Plaintiff filed his lawsuit on January 4, 2007.

The City's insurance carrier requested that the City add co-counsel in this litigation.

Lynberg & Watkins LLP tried this case to a jury who found for the Plaintiff.

FISCAL CONSIDERATIONS:

The City shall compensate Lynberg & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$500,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This is the initial request of Council for approval of services for the above listed matter.

In the Closed Session Meeting of September 9, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

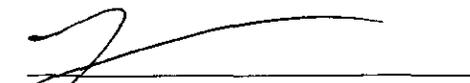
In the Closed Session Meeting of May 27, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Lynberg & Watkins LLP



Lawrence V. Tomanek
Chief Deputy City Attorney

000285

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2900310
DEPT. NO.: 045

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$500,000.00

Vendor: Lynberg & Watkins

Purpose: Authorize the City Attorney to execute an agreement with the above stated vendor for outside counsel in the defense of the City in the case of Pablo Gomez vs. City of San Diego. Authorize the City Comptroller to expend up to \$500,000 from the Public Liability Fund (81140) for legal fees and costs related to this matter.

Date: October 15, 2008 By: *Pam Hallbert* 10/15/08
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	81140	81140	3501	4141	081141				\$500,000.00
TOTAL AMOUNT										\$500,000.00

FUND OVERRIDE

AC 2900310

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A CONTRACT WITH LYNBERG & WATKINS FOR CO-COUNSEL SERVICES TO PROVIDE LEGAL SERVICES FOR THE DEFENSE SERVICES IN THE MATTER ENTITLED *PABLO GOMEZ V. CITY OF SAN DIEGO* AND AUTHORIZES THE CITY COMPTROLLER TO EXPEND RELATED FUNDS.

WHEREAS, Plaintiff alleges he sustained injuries at the hands of a police officer; and

WHEREAS, the City's insurance carrier has requested that the City add co-counsel in this litigation; and

WHEREAS, the firm of Lynberg & Watkins has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, in the Closed Session Meeting of May 27, 2008, the City Council heard a status report of this case; and

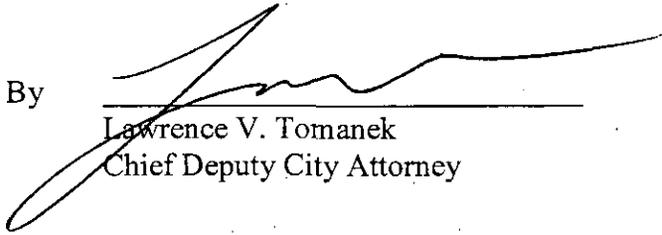
WHEREAS, in the Closed Session Meeting of September 9, 2008, the City Council heard a status report of this case; and

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to enter into a contract with Lynberg & Watkins, for co-counsel services for an amount not to exceed \$500,000; NOW THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney is authorized to retain Lynberg & Watkins for the provision of legal services in *Pablo Gomez v. City et al.*, Case No. GIC 877892.

BE IT FURTHER RESOLVED, that the Comptroller is authorized to expend up to \$500,000 from the Public Liability fund on this matter.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Lawrence V. Tomanek
Chief Deputy City Attorney

LVT:ca
9/23/08
Aud. Cert.: AC #2900310
Or.Dept:City Attorney
R-2009-482

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor