

001337

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE) 117
11/18
290030

TO: CITY COUNCIL

2. FROM (ORIGINATING DEPARTMENT): CITY ATTORNEY

3. DATE: September 30, 2008

4. SUBJECT: AUTHORITY TO ENTER INTO CONTRACT FOR LEGAL SERVICES WITH PAUL PLEVIN SULLIVAN & CONNAUGHTON, LLP. RE: JACQUELINE LINDSAY VS CITY.

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Walter Chung, (619) 533-5804

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Lawrence Tomanek, (619) 533-5878

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	81140				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	81140				
ORGANIZATION	3501				
OBJECT ACCOUNT	4141				
JOB ORDER	081141				
AMOUNT	\$100,000.00				

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	CFO / CCA	MART LEWIS	10/15/08
2	RISK MGMT.		10-1-08	9			
3	LIAISON OFFICE		10-9-08	10			
4	FIN. MGMT.		10/14/08	11	CITY ATTORNEY	LAWRENCE TOMANEK	10/16/08
5	COMPTROLLER		10/15/08		DOCKET COORD:	COUNCIL LIAISON	SC 11/4/08
6					<input checked="" type="checkbox"/> COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input checked="" type="checkbox"/> CONSENT
7					<input type="checkbox"/> REFER TO:		COUNCIL DATE: 11/18/08

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

1. Authorize the City Attorney to enter into a contract with Paul Plevin Sullivan & Connaughton, LLP, for outside counsel services in the amount not to exceed \$100,000 for the case *Jacqueline Lindsay vs. City of San Diego*.
2. Authorize the City Comptroller to expend up to \$100,000 from the Public Liability Fund.

11 A. STAFF RECOMMENDATIONS: Adopt the resolution and authorize the expenditures.

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

COUNCIL DISTRICT(S): N/A
 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 Council Members

ORIGINATING DEPARTMENT: City Attorney

SUBJECT: Contract with Paul Plevin Sullivan & Connaughton, LLP for legal services.

COUNCIL DISTRICT(s): N/A

CONTACT/PHONE NUMBER: Walter Chung, Deputy City Attorney (619) 533-5804;
Lawrence Tomanek, Chief Deputy City Attorney (619) 533-5878**REQUESTED ACTION:**

Authorize the City Attorney to enter into a contract with Paul Plevin Sullivan & Connaughton, LLP, for outside counsel services for an amount not to exceed \$100,000 for legal services to defend any and all claims by Jacqueline Lindsay against the City and Michael Aguirre, including, but not limited to: Worker's compensation, disability claims, and defense of all allegations raised in the administrative claim. Also to include defense of a writ for denial of long-term disability and industrial leave benefits.

Authorize the City Comptroller to expend up to \$100,000 from the Public Liability Fund.

STAFF RECOMMENDATION: Approve the Resolution.**EXECUTIVE SUMMARY:**

On or about February 28, 2007, Jacqueline Lindsay filed a claim with Risk Management for harassment, discrimination, worker's compensation, and disability claims. Ms. Lindsay also filed a Writ for denial of long-term disability benefits and industrial leave, *Jacqueline Lindsay v. Office of the City Attorney and City on San Diego, et al.* San Diego Superior Court Case No. 881910. Outside legal counsel is necessary because Jacqueline Lindsay is a former Deputy City Attorney and the claims arise out of the actions allegedly taken by the City Attorney's Office. Paul Plevin Sullivan & Connaughton, LLP, has been identified as the firm best able to provide the necessary services within the required time frame. It is proposed that the representation be in an amount not to exceed \$100,000. Non-conflicted employees in the City Attorney's Office shall monitor and direct the firm's work.

In a separate but related action on or about November 2007, Jacqueline Lindsay filed a complaint alleging wrongful discharge against the City and an Assistant City Attorney, San Diego Superior Court Case No. 37-2007-00081422-CU-WT-CTL, and due to the conflict of interest outside counsel the Brown Law Group is defending that case.

FISCAL CONSIDERATIONS:

Up to \$100,000 from the Public Liability Fund. (81140)

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 16, 2008, the City Council voted in Closed Session on Item CS-4, *Jacqueline Lindsay v. Office of the City Attorney and City on San Diego, et al.*, San Diego Superior Court Case No. 881910, to authorize the litigation strategy and to the retention of Paul Plevin Sullivan & Connaughton, LLP in this matter. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed unanimously 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Paul Plevin Sullivan & Connaughton, LLP



Lawrence V. Tomanek
Chief Deputy City Attorney

001341

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE
ORIGINATING

AC 2900307
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: \$100,000.00

Vendor: Paul Plevin Sullivan & Connaughton, LLP

Purpose: Authorize the City Attorney to enter into a contract with above stated vendor for outside counsel services in the amount not to exceed \$100,000 for the case Jacqueline Lindsay vs. City of San Diego. Authorize the City Comptroller to expend up to \$100,000 from the Public Liability Fund (81140).

Date: October 15, 2008 By: *Pam Hall* 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				\$100,000.00
TOTAL AMOUNT										\$100,000.00

FUND OVERRIDE

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO AN AGREEMENT WITH PAUL PLEVIN SULLIVAN & CONNAUGHTON, LLP IN AN AMOUNT UP TO \$100,000 TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE DEFENSE OF *JACQUELINE LINDSAY V. OFFICE OF THE CITY ATTORNEY, CITY OF SAN DIEGO, ET AL.*, AND AUTHORIZING THE COMPTROLLER TO EXPEND RELATED FUNDS.

WHEREAS, on or about February 28, 2007, Jacqueline Lindsay filed a claim with Risk Management for harassment, discrimination, worker's compensation, and disability claims.

WHEREAS, Ms. Lindsay also filed a Writ for denial of long-term disability benefits and industrial leave. Outside legal counsel is necessary because Jacqueline Lindsay is a former Deputy City Attorney and the claims arise out of the actions allegedly taken by the City Attorney's Office; and

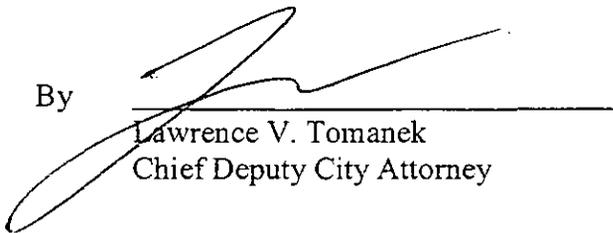
WHEREAS, the firm of Paul Plevin Sullivan & Connaughton, LLP has the been identified as the firm best able to provide the necessary services within the required time frame; and

WHEREAS, On September 16, 2008, the City Council voted in Closed Session on Item CS-4, *Jacqueline Lindsay v. Office of the City Attorney and City on San Diego, et al.*, San Diego Superior Court Case No. 881910, to authorize the litigation strategy and to the retention of Paul Plevin Sullivan & Connaughton, LLP in this matter. The motion was made by Council President Peters and the second by Council President Pro-Tem Madaffer. The motion passed unanimously 8-0.

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to retain Paul Plevin Sullivan & Connaughton, LLP for the legal services in *Jacqueline Lindsay v. City of San Diego* in an amount not to exceed \$100,000. Non conflicted employees in the City Attorney's Office shall monitor and direct the firm's work.

BE IT FURTHER RESOLVED, the Comptroller is authorized to expend up to \$100,000 from the Public Liability Fund.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Lawrence V. Tomanek
Chief Deputy City Attorney

LVT:ca
10/16/08
Aud. Cert.: AC# 2900307
Or.Dept:ATTY
R-2009-484

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