



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: DECEMBER 6, 2022

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: REQUEST TO APPROVE EXPENDITURE OF \$49,650 TO RETAIN OUTSIDE COUNSEL WILLIAM PRICE

ISSUE:

Requesting approval of a \$49,650 budget for the City Attorney's Office to retain William Price to serve as associated counsel to handle the case of *Xavier Lopez v City of Riverside; Evan Wright*, United States Central District Court Case No. 5:21-cv-02140- PSG (JEMx) and to authorize the City Attorney to execute the Outside Counsel Engagement Letter.

RECOMMENDATION:

1. That the City Council: approve the \$49,650 budget to retain William Price, who is already on the City's panel of approved outside counsel; and
2. Authorize the City Attorney to execute the Outside Counsel Engagement Letter

DISCUSSION:

The City Attorney's Office has developed an in-house legal services team. However, there are times when it is necessary to employ a panel firm to provide legal services, if for example, there is a conflict of interest or there are inadequate office resources due to unforeseen circumstances.

The case of *Xavier Lopez v City of Riverside; Evan Wright* ("Lopez") concerns an officer involved shooting in which Plaintiff, Xavier Lopez, claims Riverside Police Department ("RPD") Officer Evan Wright violated his constitutional rights against excessive force. Plaintiff claims that he was shot by Officer Wright after Plaintiff raised his empty hands in compliance with Officer Wright command. Body Worn Camera footage show that Officer Wright shot Plaintiff after Plaintiff drew a loaded firearm from his trench coat in response to Officer Wright's verbal commands to show his hands.

Since its inception, Senior Deputy City Attorney Debra Cook and Deputy City Attorney Cecilia Rojas have been assigned to the case for handling. The City filed an early Motion for Summary Judgment ("MSJ") asserting Qualified Immunity and self-defense for Officer Wright. Unfortunately, the MSJ was denied by the Central District Court Judge. The City immediately appealed to the Ninth Circuit Court of Appeals. Plaintiff challenged the appeal and the Central District certified the City's appeal as frivolous. Despite this decision by the trial court, in a rare move, the Ninth Circuit decided it would hear the appeal. The opening brief is currently due on

December 23, 2022. Because of the high profile of this case, Mr. Price's past success at trial against this Plaintiff's counsel and with Ninth Circuit appeals, the approaching due date of the appeal, and the current workload of the assigned attorneys, outside counsel assistance is required to file this appeal and provide collaborative assistance prior to trial.

William Price is already on the City's pre-approved panel of outside counsel. He has over 25 years of first-chair trial success with an undefeated record as a defense attorney. He has also significant experience with handling appeals. Mr. Price assisted the City Attorney's Office with the recent case, *Seriafi v. City of Riverside*, in which the City prevailed.

Mr. Price has submitted a total proposed budget of \$49,650 for attorneys' fees.

FISCAL IMPACT:

It will cost the City up to \$49,650 to retain Will Price to work with in-house Senior Deputy City Attorney Debra Cook and Deputy City Attorney Cecilia Rojas through this appeal and, if unsuccessful, through pretrial discovery and further law and motion. The funds to cover all costs are currently budgeted in the Liability Trust Fund account 1310000-421100 for legal fees in the amount of \$49,650.

Prepared by:	Cecilia Rojas, Deputy City Attorney
Certified as to availability of funds:	Edward Enriquez, Assistant City Manager/Chief Financial Officer
Approved by:	Michael Moore, Acting City Manager
Approved as to form:	Phaedra A. Norton, City Attorney

Attachment:

1. Will Price's Proposed Budget for *Xavier Lopez v City of Riverside; Evan Wright*, United States Central District Court Case No. 5:21-cv-02140- PSG (JEMx)
2. Outside Counsel Engagement Letter