



Office of the City Manager

CONSENT CALENDAR
October 2, 2012

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: David W. Hodgkins, Director of Human Resources

Subject: Contract No. 7008 Amendment: Hanson Bridgett Marcus Vlahos Rudy LLP for Legal Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the existing Contract No. 7008 with Hanson Bridgett Marcus Vlahos Rudy LLP (hereinafter “Hanson Bridgett”) by increasing expenditure authority in an amount not to exceed \$40,000 for legal services pertaining to federal and state tax issues.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in an allocation from the FY 2013 General Fund.

Original contract amount	\$25,000
January 16, 2007 amendment	\$40,000
April 22, 2008 amendment	\$40,000
April 21, 2009 amendment	\$40,000
April 20, 2010 amendment	\$40,000
Proposed increase (this amendment)	\$40,000
Total New Contract Amount	\$225,000
Budget codes:	
010-9701-410-3038	\$185,000
Proposed increase - 010-9701-410-3038 (this amendment)	\$40,000
Total Expense Budget for Contract	\$225,000

The Contract Management System number is CMS No. FEP7A.

CURRENT SITUATION AND ITS EFFECTS

The City has sought the services of outside counsel to provide opinion and advice on several matters pertaining to the impact of federal and state tax laws on employee benefit matters. On May 31, 2001, the City entered into a contract with the law firm of Hanson Bridgett to advise the City on employee benefit and compensation matters that have

federal and state income tax implications. Judy Boyette, a partner with Hanson Bridgett, is the attorney in charge of the engagement.

Most recently, the City has used the services of Hanson Bridgett to assist the City on modification to the Police Employees Retiree Income Plan by writing a new Plan Document and Trust Agreement to permit transition to a Police Retiree Premium Assistance Plan for employees who retire after September 19, 2012. This work will require changing the existing Trust Agreement that was adopted under Internal Revenue Code Section 401(a) to an Internal Revenue Code Section 115 Trust. This is important because the City wants to be able to permissibly use assets under the existing Trust to pay benefits to existing retirees under the Police Employees Retiree Income Plan and to pay new retirees who will receive benefits under the Police Retiree Premium Assistance Plan.

BACKGROUND

The original contract for services entered into on May 31, 2000 and the City Council has approved additional contracts with Hanson Bridgett on May 14, 2002 (Resolution No. 61,543-N.S.), September 9, 2003 (Resolution No. 62,204-N.S.), March 23, 2004 (Resolution No. 62,411-N.S.), September 21, 2004 (Resolution No. 62,645-N.S.), July 12, 2005 (Resolution No. 62,985-N.S.), on January 16, 2007 (Resolution No. 63,548-N.S.), on April 22, 2008 (Resolution No. 64,025), on April 21, 2009 (Resolution No. 64,397-N.S.) and on April 20, 2010 (Resolution No. 64,833-N.S.).

While the principal reason for the use of tax counsel has been as described above, the City Council should know that this is not the exclusive tax and benefit work performed by Hanson Bridgett for the City. From time to time staff consults with tax counsel on various benefit and payroll matters and obtains legal advice to ensure the City is in compliance with State and Federal tax and benefit law. This is a very technical field of legal work with frequent changes in legislation, court rulings and regulations promulgated by the Internal Revenue Service and the Governmental Accounting Standards Board.

RATIONALE FOR RECOMMENDATION

It is necessary for the City to provide employee benefits in a manner that complies with various Federal and State tax laws, rules and regulations. In order to ensure that the City is in compliance, it is appropriate for the City to contract for specialized legal services to advise the City and to act on behalf of the City when dealing with tax counsel with outside firms.

ALTERNATIVE ACTIONS CONSIDERED

An alternative would be for the work to be performed by the City Attorney's Department. However the nature of this work involves specialized knowledge of Federal and State tax laws, rules and regulations and the City Attorney believes that this specialized legal work should be performed by outside counsel.

CONTACT PERSON

David W. Hodgkins, Director of Human Resources, 981-6805

Attachment:

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 7008 AMENDMENT: HANSON BRIDGETT MARCUS VLAHOS RUDY
LLP FOR LEGAL SERVICES

WHEREAS, from time to time the City enters into agreements with employee organizations on health and welfare benefit matters that require technical opinion, advice and services on the impact of these benefits on federal and state income tax withholding; and

WHEREAS, the law firm of Hanson Bridgett Marcus Vlahos Rudy LLP (hereinafter "Hanson Bridgett") has staff with the requisite technical knowledge, skills and abilities to provide such opinions, advice and services; and

WHEREAS, the City does not have staff that can provides such opinion, advice and services; and

WHEREAS, Hanson Bridgett was selected to provide these services based on the technical knowledge, skills and abilities of the attorney in charge of the engagement; and

WHEREAS, funds are available in the current year budget in the fringe benefit fund, budget code 010-9701-410-3038 and a contract has been entered into the City contract database, and assigned CMS No. FEP7A.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 7008 with Hansen Bridgett for legal services by \$40,000, Budget Code 010-9701-410-3038. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.