



Office of the City Manager

CONSENT CALENDAR
October 31, 2017

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Margarita Zamora, Acting Director of Human Resources
Subject: Contract No. 9871A Amendment: Pillsbury Winthrop Shaw Pittman LLP for Legal Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9871A in the amount of \$90,000 with Pillsbury Winthrop Shaw Pittman LLP (hereinafter “Pillsbury”) for legal services pertaining to federal and state tax issues applicable to the City’s various employee benefit plans, for a revised total contract amount not to exceed \$230,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is expected to be expended in FY 2018 and FY 2019. \$50,000 of the proposed \$90,000 contract increase will be funded through a General Fund carryover from FY 2017 to FY 2018 and will be included in the First Amendment to the FY 2018 Annual Appropriations Ordinance. The remaining \$40,000 is already available in the FY 2018 budget. All contract expenditures will be made from budget code 010-9701-410-3038.

Original Contract Amount (January 30, 2015 – No End Date)	\$45,000
Previous Amendment (March 30, 2016 – No End Date)	\$95,000
Proposed Increase (this Amendment)	\$90,000
Total New Contract Amount	\$230,000

The contract amendment has been entered into the City’s contract management database and assigned CMS No. D4871.

CURRENT SITUATION AND ITS EFFECTS

The City utilizes the services of outside legal counsel to provide advice pertaining to the impact of federal and state tax laws on the City’s various employee benefits. On January 30, 2015, the City entered into a contract with the law firm of Pillsbury Winthrop Shaw Pittman LLP to advise the City on employee benefits and compensation matters that have federal and state income tax implications.

Most recently, the City has used the services of Pillsbury to assist the City on Internal Revenue Service (IRS) Determination Letter submissions for the Supplemental Retirement Plan; the Berkeley Police Supplemental Retirement Plan; as well as the

Supplementary Retirement and Income Plan (SRIP) I, II, and III. Moreover, a significant amount of specialized legal work is required to update the City's retiree medical plans to reflect changes negotiated with the various unions.

BACKGROUND

In March 2014, the City issued a Request for Proposal (RFP) that was sent to firms who performed Tax Counsel Services and received four (4) responses from prospective vendors. A selection committee made up of employees from the City Manager's Office; City Attorney's Office and the Human Resources Department evaluated the responses based on defined rating criteria. The selection committee conducted interviews and heard presentations from each of the prospective vendors and selected Pillsbury out of the vendors that responded to the RFP as the best able to meet the City's objectives.

The City entered into contract with Pillsbury on January 30, 2015 for an amount not to exceed \$45,000. On March 29, 2016 by Resolution No. 67,408-N.S., Council authorized the City Manager to execute an amendment to Contract No. 9871 with Pillsbury, increasing the amount by \$95,000 for a revised contract amount not to exceed \$140,000.

While the principal reason for the use of tax counsel has been as described above, this is not the exclusive tax and benefit work performed by Pillsbury 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.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

It is necessary for the City to provide employee benefits in a manner that complies with various Federal and State 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 the IRS.

ALTERNATIVE ACTIONS CONSIDERED

Have the work be performed by the City Attorney's Office. However, the nature of this work requires 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

Amy Ho, Assistant Management Analyst, 981-6814

Attachments:

1. Resolution

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

CONTRACT NO. 9871A AMENDMENT: PILLSBURY WINTHROP SHAW PITTMAN
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, legal advice and services on the impacts of these benefits on federal and state income tax withholding; and

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

WHEREAS, staff anticipates significant amount of specialized legal work associated with the City of Berkeley's retiree medical plans; and

WHEREAS, in March 2014, the City issued a Request for Proposal for legal services and selected Pillsbury through a competitive bidding process; and

WHEREAS, on January 30, 2015, the City entered into a contract with the law firm of Pillsbury Winthrop Shaw Pittman LLP (hereinafter "Pillsbury") (Contract No. 9871) for an amount not to exceed \$45,000 to provide legal services pertaining to federal and state tax issues applicable to the City's various employee benefit plans; and

WHEREAS, on March 29, 2016 by Resolution No. 67,408-N.S., Council authorized the City Manager to execute an amendment to Contract No. 9871 with Pillsbury, increasing the amount by \$95,000 for a revised contract amount not to exceed \$140,000; and

WHEREAS, funds are available in the current year budget and will be appropriated in the next fiscal year's budget in the General Fund, in budget code 010-9701-410-3038 and the contract amendment has been entered into the City's contract management database and assigned CMS No. D4871.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 9871A with Pillsbury for legal services to increase the amount by \$90,000, for a total not to exceed \$230,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

