



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO/Human Resources
Department No.: 064
For Agenda Of: July 14, 2009
Placement: Administrative
Estimated Tme: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Susan Paul, Assistant CEO, 568-2817
Director(s)
Contact Info: Jeri Muth, Assistant HR Director, 568-2816

John for Susan Paul

SUBJECT: Contract with Mercer Inc.

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

Approve and authorize the Chair to execute Change Order 1, which increases the professional service contract by \$75,000. This change order would modify the existing Board Contract Number BC-08-115 with Mercer Inc. for the purposes of providing expert assistance to the County regarding various issues related to the administration of the County Retirement Plan.

Summary Text:

In Fiscal Year 2007-2008 the Board approved a contract with Mercer Inc. to provide consulting and actuarial services for the County to address a variety of Retirement Plan issues. This work has been essential in allowing County management to review the impact of various Retirement Plan options. Given the criticality of retirement issues to the County organization it is vital for this work to continue.

Background:

The Board approved Board Contract BC-08-115 in May, 2008 authorizing the use of Mercer Inc. to provide the County with expert actuarial and consulting services. These services were critical in assisting County management to fully understand the complexity of the issues and begin developing options and solutions related to escalating County retirement costs. Due to the complexity of these issues and the County's ongoing efforts to address them, Staff

recommends increasing the contract maximum by \$75,000. Funding for this contract amendment was discussed and approved by the Board during the FY 09-10 Budget Hearings.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund	\$ 75,000.00		
State			
Federal			
Fees			
Other:			
Total	\$ 75,000.00	\$ -	\$ -

Narrative: CEO/Human Resources has included the funding for this contract in its FY09-10 Adopted Budget.

Staffing Impacts:

Legal Positions:

N/A

FTEs:

N/A

Special Instructions:

Please return two (2) signed copies to Nicci Plata in CEO/HR

Attachments:

Authored by: Don Nguyen x2823

cc:

**AMENDMENT NO. 1
TO AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR
(CONTRACT NO. BC-08-115)**

This Amendment No. 1 hereby amends the Agreement for Services of Independent Contractor (hereafter Agreement) dated May 6, 2008 between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Mercer (US) Inc. (hereafter CONTRACTOR).

Exhibit B of the Agreement is amended as follows:

Section A is replaced with "For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$175,000.00."

All other terms remain in full force and effect.

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Amendment No. 1 to Agreement for Services of Independent Contractor between the County of Santa Barbara and Mercer (US) Inc.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: _____
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

MERCER (US) INC.

By: _____
Deputy

By: William R. Hallmark
TaxID Number: 13-2834414

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: Anne Lerson
Deputy County Counsel

By: William R. Hallmark
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK PROGRAM ADMINISTRATOR

By: Ray Aromatorio
Risk Program Administrator

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By: _____
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

MERCER (US) INC.

By: _____
Deputy

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APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK PROGRAM ADMINISTRATOR

By: _____
Risk Program Administrator



County of Santa Barbara
BOARD OF SUPERVISORS

Minute Order

May 06, 2008

SANTA BARBARA COUNTY
HUMAN RESOURCES

2008 MAY 13 AM 9:25

Present: Supervisor Carbajal, Supervisor Wolf, Supervisor Firestone, Supervisor
Gray and Supervisor Centeno

COUNTY EXECUTIVE OFFICE: HUMAN
RESOURCES

File Reference No. 08-00399

RE: Consider recommendations regarding a contract for consulting services with Mercer
Inc., as follows: (4/5 Vote Required)

a) Approve and authorize the Chair to execute a contract with Mercer Human
Resources Consulting Inc. (not a local vendor) in an amount not to exceed \$100,000
for the purpose of providing actuarial services and expert advice regarding
retirement-related matters; and

b) Authorize and approve a budget revision request to transfer \$100,000 from
contingency to the CEO/ Human Resources budget for the execution of this contract.

A motion was made by Supervisor Gray, seconded by Supervisor Centeno, that this
matter be Acted on as follows:

a) Approved; Chair to execute.

b) Authorized.

The motion carried unanimously.

Budget Revision Request

BJE 2007245
Budget Journal Entry #

Gov. Code Sec. 29125 & 29130

JE
Related Journal Entry #

Subject / Title: Provide a short description for this budget revision request. For example, "Designate funds for ordinance amendments" or "Distribute proceeds from sale of 2005 COPS."

CEO/HUMAN RESOURCES: This revision transfers \$100,000 from contingency to CEO/HR's budget for the purpose of contracting with Mercer Human Resources Consulting Inc. for actuarial and consulting services related to retirement and


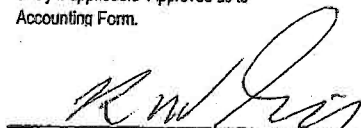


Justification: For all changes, explain what the change is for and why it is needed. Attach additional justification, board letters or spreadsheets, if appropriate. When moving Appropriation, explain why it's available. When Revenue is adjusted, explain the reason for the increase or decrease. For adjustments to General Fund Contingency, explain why no other alternative funding source is available.

The County and Santa Barbara County Employees' Retirement System (SBCERS) have been working together for some time to identify solutions to complex issues related to retirement matters. Mercer Human Resources Consulting Inc. has been providing expert advice, actuarial services, and consulting to assist the County in making sound and fiscally responsible decisions. These efforts are ongoing and staff recommends retaining the services of Mercer to continue to support the County's efforts. These efforts will be critical to the County's ability to effectively address the fiscal and management issues related to retirement and retiree medical matters.

CEO/Human Resources (CEO/HR) has paid for Mercer's services to date from the Department's existing budget. The complexities of these issues have resulted in a greater than anticipated need for these services and there is no additional funding available within the existing budget to cover ongoing expenses related to these services. Therefore, CEO/HR is requesting a transfer of funds from contingency.

Financial Summary

Increase or (Decrease) in Appropriation for / Uses:	Department / Fund 064 / 0001	Department / Fund /	Department / Fund /	Department / Fund /
Salaries & Benefits	00	00	00	00
Services & Supplies	100,000 00	00	00	00
Other Charges	00	00	00	00
Fixed Assets	00	00	00	00
Other Financing Uses	00	00	00	00
Intrafund Transfers	00	00	00	00
Reserve or Designation	00	00	00	00
Sources:				
Revenue	00	00	00	00
Other Financing Sources	00	00	00	00
Intrafund Transfers	00	00	00	00
Reserve or Designation	00	00	00	00
Effect on Contingency / RE	(100,000) 00	00	00	00

Departmental Authorization	Auditor-Controller	CEO's Recommendation	Board of Supervisors Action
 Department Head _____ Date <u>4/15/08</u>	Budget Journal Entry and Related Journal Entry if applicable Approved as to Accounting Form.  Auditor-Controller	<input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove Date <u>29 Apr 08</u> Transfer/Revision in Accordance with Board Policy dated 8/3/93.  County Executive Officer	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date <u>3/6/08</u> Agenda Item  Clerk of the Board of Supervisors

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Mercer (US) Inc., formerly known as Mercer Human Resource Consulting, Inc., having its principal place of business at 111 SW Columbia, Suite 500, Portland, OR 97201 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR has been providing services under Purchasing Contract # CN05864 and expects to reach the "not to exceed" amount of such contract in 2008, and

WHEREAS, COUNTY desires to continue to receive services from CONTRACTOR;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Jeri Muth at phone number 805-568-2816 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Bill Hallmark at phone number 503-273-5920 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Jeri Muth, Assistant Human Resources Director
County of Santa Barbara
CEO/Human Resources
1226 Anacapa Street
Santa Barbara, CA 93101

To CONTRACTOR: Bill Hallmark
Principal
Mercer
111 SW Columbia Street, Suite 500
Portland, OR 97201-5839

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** CONTRACTOR has been providing services under Purchasing Contract # CN05864 and expects to reach the "not to exceed" amount of such contract in 2008. The parties shall operate under this Agreement instead of Purchasing Contract #CN05864 beginning on the effective date of this Agreement, at which time such Purchasing Contract shall no longer be in effect. CONTRACTOR shall end performance of this Agreement upon completion, but no later than March 31, 2010 unless otherwise directed by COUNTY or unless earlier terminated.

5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein

by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES, above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR. CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. STANDARD OF PERFORMANCE. CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. TAXES. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

9. CONFLICT OF INTEREST. CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR.

10. EXPERTS/CONSULTANTS. CONTRACTOR shall get COUNTY's approval prior to retaining any expert or consultant to assist with any matter covered by this Agreement.

11. OWNERSHIP OF DOCUMENTS/INTELLECTUAL PROPERTY RIGHTS. COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever (paper or electronic), and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and other use in whole or in part, any reports, data, documents or other materials prepared under this Agreement. The COUNTY shall be responsible for, and CONTRACTOR shall have no liability with respect to, modifications made by COUNTY or its representatives to CONTRACTOR's work product or use of CONTRACTOR's work product in a manner not mutually contemplated by the parties under this Agreement.

Notwithstanding the foregoing or anything to the contrary set forth herein, CONTRACTOR will retain all copyright, patent and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience owned or possessed by CONTRACTOR before the commencement of, or developed or acquired by CONTRACTOR during or after, the performance of the services and CONTRACTOR shall not be restricted in any way with respect thereto.

12. **RECORDS, AUDIT, AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. Any audit should (a) not unreasonably interfere with CONTRACTOR's business operations and (b) be limited to CONTRACTOR's books, records and personnel relating to the services under this Agreement and not include CONTRACTOR's computer systems.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR agrees to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **NONEXCLUSIVE AGREEMENT.** CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **TERMINATION.**

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience or because of the failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

1. For Convenience. COUNTY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, CONTRACTOR shall promptly notify COUNTY as to the status of its performance.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of

service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

2. For Cause. Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by CONTRACTOR.

B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

18. SECTION HEADINGS. The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. NO WAIVER OF DEFAULT. No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

25. COMPLIANCE WITH LAW. CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be

in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

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Agreement for Services of Independent Contractor between the County of Santa Barbara and Mercer (US) Inc..

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: *[Signature]*
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

MERCER (US) INC.

By: *[Signature]*
Deputy

By: *[Signature]*
SocSec or TaxID Number: 13-2834414

APPROVED AS TO FORM:
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: *[Signature]*
Deputy County Counsel

By: *[Signature]*
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK PROGRAM ADMINISTRATOR

By: *[Signature]*
Risk Program Administrator

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR will perform such services as requested by the COUNTY from time to time (the "Services"). Primarily, the Services will be to provide consulting advice related to the management of the Santa Barbara County Employees Retirement System (SBCERS) and other post employment benefits offered by the COUNTY as requested by the COUNTY and agreed to by CONTRACTOR.

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EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$100,000.00.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of presentation.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

ATTACHMENT B1 (Schedule of Fees)

Because the scope of services is largely unknown at this time, CONTRACTOR's compensation for Services ("Compensation") will be professional fees based on the following hourly rates:

Title	Hourly Rate
Principal	\$500
Senior Associate	\$375
Associate	\$275
Analyst	\$210

These rates include a load for the cost of all support staff needed to provide Services to COUNTY. These rates may be updated annually with 30 days notice.

In addition to Compensation, COUNTY will also pay at the COUNTY's reimbursement rates for CONTRACTOR's expenses and disbursements incurred in connection with the provision of the Services.

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS for contracts REQUIRING professional liability insurance

INDEMNIFICATION

Indemnification pertaining to other than Professional Services:

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities to the extent arising out of any negligent act or omission to act or willful misconduct on the part of the CONTRACTOR or its agents or employees or other independent contractors directly responsible to CONTRACTOR; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities to the extent resulting from the negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Indemnification pertaining to Professional Services:

CONTRACTOR shall defend, indemnify, and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities to the extent arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or its agents or employees or other independent contractors directly responsible to CONTRACTOR to the fullest extent allowable by law.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. Other than professional liability insurance that is provided by an offshore captive that is not Best rated, all insurance coverage is to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as

defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.

2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy with respect to liability arising from CONTRACTOR's performance of the services. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies must provide that the insurance afforded by such policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by such policy, that other insurance shall be excess only, with respect to claims arising from CONTRACTOR's performance of the services.

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Professional Liability Insurance. Professional liability insurance shall include coverage for the activities of CONTRACTOR's professional staff with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Said policy or policies shall provide that COUNTY shall be given thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in coverage. If the policy providing professional liability coverage is a on 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three (3) years (ten years [10] for Construction Defect Claims) following completion of the performance or attempted performance of the provisions of this Agreement.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel and CONTRACTOR's written agreement, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification, provided that such changes are acceptable to CONTRACTOR.

BC-08-115

D1. Fiscal Year : FY07-08
D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) : 064-00-00-10000/64-00-00-10000
D3. Requisition Number :
D4. Department Name : CEO/Human Resources
D5. Contact Person : Jeri Muth
D6. Phone : x2816

K1. Contract Type (check one): Personal Service Capital Project/Construction
K2. Brief Summary of Contract Description/Purpose : Consulting services related to retirement issues
K3. Original Contract Amount : \$100,000
K4. Contract Begin Date : 5/6/2008
K5. Original Contract End Date : 3/31/2010
K6. Amendment History (leave blank if no prior amendments):

Seq#	EffectiveDate	ThisAmndtAmt	CumAmndt	ToDate	NewTotalAmt	NewEndDate	Purpose (2-4 words)
		\$	\$		\$		

K7. Department Project Number :

B1. Is this a Board Contract? (Yes/No) : YES
B2. Number of Workers Displaced (if any) :
B3. Number of Competitive Bids (if any) :
B4. Lowest Bid Amount (if bid) : \$
B5. If Board waived bids, show Agenda Date :
B6. ... and Agenda Item Number : #
B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶) : Exhibit C modified and approved by Risk Management; Contract terms reviewed & approved by County Counsel

F1. Encumbrance Transaction Code : 1701
F2. Current Year Encumbrance Amount : \$
F3. Fund Number : 0001
F4. Department Number : 064
F5. Division Number (if applicable) :
F6. Account Number : 7460
F7. Cost Center number (if applicable) :
F8. Payment Terms : Net 30

V1. Vendor Numbers (A=uditor; P=urchasing) : A=006547; P=19656
V2. Payee/Contractor Name : MERCER INC
V3. Mailing Address : 111 SW Columbia Street
V4. City State (two-letter) Zip (include +4 if known) : Portland, OR 97201-5839
V5. Telephone Number : 503-273-5920
V6. Contractor's Federal Tax ID Number (EIN or SSN) : 13-283 4414
V7. Contact Person : Bill Hallmark
V8. Workers Comp Insurance Expiration Date : 9/30/2008
V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl) : G=9/30/08; P=9/30/08
V10. Professional License Number : #
V11. Verified by (name of County staff) : Don Nguyen
V12. Company Type (Check one): Individual Sole Proprietorship Partnership Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature Jeri R. Muth
4/18/06

D1. Fiscal Year: FY 09-10
 D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) : 064-00-00-10000/64-00-00-10000
 D3. Requisition Number.....: N/A
 D4. Department Name.....: CEO/Human Resources
 D5. Contact Person.....: Jeri Muth
 D6. Phone.....: x2816

K1. Contract Type (check one): Personal Service Capital Project/Construction
 K2. Brief Summary of Contract Description/Purpose : Consulting services related to retirement issues
 K3. Original Contract Amount.....: \$100,000
 K4. Contract Begin Date.....: 5/6/2008
 K5. Original Contract End Date.....: 3/31/2010
 K6. Amendment History (leave blank if no prior amendments):

<u>Seq#</u>	<u>EffectiveDate</u>	<u>ThisAmndtAmt</u>	<u>CumAmndtTo</u>	<u>DateNewTotal</u>	<u>AmntNew</u>	<u>EndDate</u>	<u>Purpose (2-4 words)</u>
July 14, 2009	\$75,000		\$175,000		March 31, 2010		Inc. Contract Amount

 K7. Department Project Number.....:

B1. Is this a Board Contract? (Yes/No).....: Yes
 B2. Number of Workers Displaced (if any).....: None
 B3. Number of Competitive Bids (if any).....: N/A
 B4. Lowest Bid Amount (if bid).....: \$N/A
 B5. If Board waived bids, show Agenda Date.....:
 B6. ... and Agenda Item Number.....: #
 B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶) : Exhibit C modified and approved by Risk Management;
 Contract terms reviewed & approved by County Counsel

F1. Encumbrance Transaction Code.....: 1701
 F2. Current Year Encumbrance Amount.....: \$N/A
 F3. Fund Number.....: 0001
 F4. Department Number.....: 064
 F5. Division Number (if applicable).....: N/A
 F6. Account Number.....: 7460
 F7. Cost Center number (if applicable).....: N/A
 F8. Payment Terms.....: Net 30

V1. Vendor Numbers (A=uditor; P=urchasing).....: A=006547; P=19656
 V2. Payee/Contractor Name.....: MERCER INC
 V3. Mailing Address.....: 111 SW Columbia Street, STE 500
 V4. City State (two-letter) Zip (include +4 if known) : Portland, OR 97201-5839
 V5. Telephone Number.....: 503-273-5920
 V6. Contractor's Federal Tax ID Number.....: 13-2834414
 V7. Contact Person.....: Bill Hallmark
 V8. Workers Comp Insurance Expiration Date.....:
 V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl) :
 V10. Professional License Number.....: #N/A
 V11. Verified by (name of County staff).....: Don Nguyen
 V12. Company Type (Check one): Individual Sole Proprietorship Partnership Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Authorized Signature: _____ Date: _____