

# DEFERRED COMPENSATION PLAN BOARD REPORT 12-30

Date: May 2, 2012  
To: Board of Deferred Compensation Administration  
From: Staff  
Subject: Proposed Contract with Buck Consultants for  
Communications Consulting Services

*Board of Deferred  
Compensation Administration  
Eugene K. Canzano, Chairperson  
John R. Mumma, Vice-Chairperson  
Michael Amerian  
Sangeeta Bhatia  
Cliff Cannon  
Tom Moutes  
William Raggio  
Robert Schoonover  
Margaret Whelan*

## Recommendation:

That the Board of Deferred Compensation Administration approve the attached proposed contract between the City of Los Angeles Deferred Compensation Plan and Buck Consultants for communications consulting services, and authorize the Board Chairperson to execute the contract, pending final approval as to form by the City Attorney.

## Discussion:

At its April 17, 2012 meeting, the Board approved the selection of Buck Consultants to provide communication consulting services to the City's Deferred Compensation Plan. Staff drafted a contract and, following review by the Personnel Department's Administrative Services Division (ASD), submitted it to Buck for its review. Buck indicated they had no changes to the proposed language. The document has now been provided to the City Attorney for final review as to form.

Staff had originally drafted an effective date of July 1, 2012. However, given the expeditiousness of the review process thus far, an earlier effective date may be possible. Staff's intent would be to move the effective date forward if it is possible to finalize the contract prior to July 1, 2012.

Staff therefore recommends that the Board approve the approve the attached proposed contract between the City of Los Angeles Deferred Compensation Plan and Buck Consultants for communications consulting services, and authorize the Board Chairperson to execute the contract, pending final approval as to form by the City Attorney.

Submitted by: \_\_\_\_\_  
Steven Montagna

Approved by: \_\_\_\_\_  
Alejandrina Basquez

**PROFESSIONAL SERVICES AGREEMENT**

**Contractor: BUCK CONSULTANTS, LLC**

**Regarding: Deferred Compensation Plan Communications  
Consulting Services for the City of Los Angeles  
Deferred Compensation Plan**

**Said Agreement is Number \_\_\_\_\_**

**Professional Services Agreement  
DEFERRED COMPENSATION PLAN  
COMMUNICATIONS CONSULTING SERVICES**

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**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF LOS ANGELES AND  
BUCK CONSULTANTS, LLC**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into by and between the City of Los Angeles (hereinafter “the City”), a municipal corporation, acting by and through the City of Los Angeles Board of Deferred Compensation Administration (hereinafter “the Board”) and Buck Consultants, a limited liability company (hereinafter “Contractor”), with reference to the following:

**RECITALS**

1. The City wishes to engage the services of the Contractor to provide professional and expert communications consulting services for the purpose of assisting the City in the administration of its Deferred Compensation Plan (“Plan”); and
2. The City publicly solicited proposals for communications consulting services and the Contractor submitted a proposal dated October 17, 2011, hereinafter referred to as Proposal, and which offers to provide these services as specified in the City’s Request for Proposal (RFP), incorporated herein by reference; and
3. The City reviewed the Contractor’s Proposal, finds it to be satisfactory in response to the services needed by the City, and accepts the Contractor’s offer to provide the services indicated in the Contractor’s Proposal; and
4. The services to be performed are of an expert and technical nature and are temporary and occasional in character.

NOW, THEREFORE, in consideration of the promises and of the covenants, representations, and agreements set forth herein, the parties hereby covenant, represent, and agree as follows:

**ARTICLE I –  
INTRODUCTION**

A. Representatives of the Parties and Service of Notices

1. The representatives of the respective parties authorized to administer this Agreement, and to whom formal notices, demands, and communications shall be given are as follows:

- a. The representative of the City shall be, unless otherwise stated in the Agreement:

Steven Montagna, Plan Manager  
City of Los Angeles Deferred Compensation Plan  
200 North Spring Street, Room 867  
Los Angeles, CA 90012

- b. The representative of the Contractor shall be:

Elizabeth M. Williams, Principal  
Buck Consultants, LLC  
1801 Century Park East, Suite 500  
Los Angeles, CA 90067

2. Formal notices, demands, and communications required hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.
3. If the name of the person designated to receive the notices, demands, or communications, or the address of such person is changed, written notice shall be given, in accordance with Article I, within five (5) working days of said change.

## **ARTICLE II – TERM AND SERVICES TO BE PROVIDED**

### **A. Time of Performance**

The term of this Agreement will commence on July 1, 2012, and will end on June 30, 2015, or at such time as all funding provided herein has been expended, whichever occurs first, with an option to be extended for up to two additional years should the City seek and grant approval for said extension, subject to the termination provisions herein.

### **B. Purpose of the Agreement and Services to be Provided**

1. The purpose of Contractor's work under this Agreement is communications consulting with respect to the City's Deferred Compensation Plan.
2. Scope of Work – Contractor shall provide the following services to the City:

COMMUNICATIONS CONSULTING

- a. *Communications Materials Development/Review* – Contractor will provide assistance in the design/review of communications materials regarding various aspects of promoting the Plan or educating participants regarding various aspects of the Plan. Communications materials include Plan print materials such as program or benefit descriptions, Plan educational pieces, and forms; Plan virtual materials on our Plan websites; and Plan audio/verbal communications such as group meeting presentations or webinars.
- b. *Communications Strategies* – Contractor will provide assistance in the development of marketing strategies for the Plan. Marketing strategies may be geared towards encouraging participation in the Plan as well as educating participants regarding various aspects of the Plan.
- c. *Participant Assessments* – Contractor will provide advice and assistance in developing and evaluating participant assessments. Participant assessments may include but are not limited to participant surveys, focus groups, customer satisfaction evaluations, and other knowledge/awareness assessments.

**ARTICLE III –**  
**GENERAL TERMS AND CONDITIONS**

A. Deliverables, Payment Terms, and Invoicing

1. Deliverables, Compensation, and Method of Payment

- a. Contractor shall provide to the City any and all deliverables in connection with the provision of Contractor's services pursuant to this Agreement, including without limitation those deliverables set forth in Article II of this Agreement. The Contractor must be capable of providing all such deliverables to the City in both hard copy (final or camera-ready copy) and editable electronic format.
- b. Contractor will coordinate regular status meetings with the City as requested.
- c. Contractor understands and agrees that it may not make any financial commitment on behalf of the City, incur any cost or expense on behalf of the City, or obligate the City to make payments for any costs or expenses, unless authorized in the approved work plans.
- d. The Contractor's compensation for the services performed hereunder will not exceed the amount of \$150,000. The City shall be billed only for actual fees and expenses incurred by Contractor. The hourly rates that

will be charged by the Contractor for the services rendered by staff in the following job titles are:

*Communications Consulting*

Principal Consultant	\$625
Managing Consultant	\$475
Consultant	\$350
Associate/Analyst	\$225
Clerical	\$150

- e. In the case of hourly rates pursuant to section (d) above, the stated rates shall remain fixed for the duration of the contract.

2. Invoicing

- a. Invoices shall be submitted to:

Steven Montagna, Plan Manager  
City of Los Angeles Deferred Compensation Plan  
200 North Spring Street, Room 867  
Los Angeles, CA 90012

- b. To ensure that services provided under personal services contracts are measured against services as detailed in the contract, the Controller of the City of Los Angeles has developed a policy requiring that specific supporting documentation be submitted with invoices.
- c. The Contractor is required to submit invoices that conform to City standards and include, at a minimum, the following information:
  - i. Name and address of Contractor
  - ii. Name and address of City department being billed
  - iii. Date of invoice and period covered
  - iv. Contract number or authority (purchase order) number
  - v. Description of completed task and amount due for task, including:
    - 1. Name of personnel working on task
    - 2. Hours spent on task and timesheet supporting charges (if applicable)

### 3. Rate per hour and total due

- vi. Certification by a duly authorized officer
  - vii. Discount and terms (if applicable)
  - viii. Remittance Address (if different from company address)
- d. All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or other unique and identifying information such as the name and address of the Contractor. Evidence that tasks have been completed, in the form of a report, brochure, or photograph, shall be attached to all invoices. Invoices shall be submitted within 30 days of service, or monthly, and shall be payable to the contractor no later than 30 days after acknowledged receipt of a complete invoice. Invoices are considered complete when appropriate documentation or services provided are signed off as satisfactory by the City's Fiscal Officer.
- e. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of the Contractor. The City will not compensate the Contractor for costs incurred in invoice preparation. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate costs at any time.
- f. *Subcontractors' Requirements.* Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.
- g. *Limitation of City's Obligation to Make Payments to Contractor.* Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in the Agreement. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of said appropriation(s) shall be free and without charge to the City and the City shall have no obligation to pay for said services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until the City appropriates additional funds for this Agreement.



- h. ***Failure to adhere to the provisions set forth in this Article III may result in nonpayment or non-approval of demands, pursuant to Los Angeles City Charter Section 262(a)***, which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and approve demands before they are drawn on the Treasury.

B. Contractor's Personnel

1. Contractor shall use its own employees to perform the services described in this Agreement. The City shall have the right to review and approve any personnel who are assigned to work under this Agreement. Contractor agrees to remove personnel from performing work under this Agreement if requested to do so by the City.
2. Contractor may utilize subcontractors to assist in performance of this Agreement. Notwithstanding the fact that Contractor may utilize subcontractors, Contractor shall remain responsible for performing all aspects of this Agreement. The City has the right to approve Contractor's subcontractors and the City reserves the right to request replacement of a subcontractor. The City does not have any obligation to pay subcontractors and nothing herein creates any privity between the City and the subcontractors.

**ARTICLE IV –  
STANDARD PROVISIONS**

A. Standard Provisions for City Contracts

Contractor agrees to comply with the Standard Provisions for City Contracts (Rev. 09/11), attached hereto as Attachment A and made a part hereof.

B. Responsibility to Provide Services in Accordance with Applicable Standards and Requirement to Possess All Valid Permits and Licenses

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in the Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

C. Compliance with Statutes and Regulations

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of

California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

## **ARTICLE V – MISCELLANEOUS**

### **A. Amendments to Agreement**

Any changes in the terms of this Agreement, including changes in the services to be performed by Contractor, extension of the term, and any increase or decrease in pricing, shall be incorporated into this Agreement by a written amendment properly executed by both parties.

### **B. Termination of Contract**

#### **1. Termination for Convenience**

- a. The City may terminate this Agreement for City's convenience at any time by giving Contractor thirty (30) days written notice thereof. Upon receipt of said notice, Contractor shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The City shall pay Contractor its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by Contractor to effect such termination. Thereafter, Contractor shall have no further claims against the City under this Agreement. All finished or unfinished documents and materials procured for or produced under this Agreement shall become City property upon date of such termination.

#### **2. Termination for Breach of Agreement**

- a. If Contractor fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, the City may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this Agreement due to Contractor's breach of this Agreement.
- b. If a federal or state proceeding for relief of debtors is undertaken by or against Contractor, or if Contractor makes an assignment for the benefit of creditors, then the City may immediately terminate this Agreement.

- c. If Contractor engages in any dishonest conduct related to the performance or administration of this Agreement or violates the City's lobbying policies, then the City may immediately terminate this Agreement.
- d. In the event City terminates this Agreement as provided in this Article, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Contractor shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services.
- e. All finished or unfinished documents and materials produced or procured under this Agreement shall become City property upon date of such termination.
- f. If, after notice of termination of this Agreement under the provisions of this Article, it is determined for any reason that Contractor was not in default under the provisions of this Article, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the preceding section in this Article, titled "Termination for Convenience".
- g. The rights and remedies of the City provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

C. Ownership

1. Contractor acknowledges and agrees that all documents, publications, databases, videos, reports, analyses, studies, drawings, information, or data (hereinafter collectively referred to as "Materials"), originated and prepared by Contractor pursuant to the terms of this Agreement, are "Work Made for Hire" and shall become the property of the City for its use in any manner it deems appropriate. Contractor assigns any and all of its respective interests and rights in such property to the City.
2. All documents and records (hereinafter collectively referred to as "Documents") provided by the City to Contractor shall remain the property of the City and must be returned to the City upon termination of this Agreement or at request of the City.
3. The provisions of this Section C shall survive termination of this Agreement.

D. Confidentiality

1. All Documents and information provided to Contractor by the City are confidential. All Materials are to be considered confidential. Contractor agrees not to provide Documents or Materials, nor disclose their content or any information therein, either orally or in writing, to any other person or entity, except as authorized by the City or as required by law. Contractor shall immediately notify City representative of any attempt by a third party to obtain access to Documents or Materials.
2. The provisions of this Section D shall survive termination of this Agreement.

E. Ambiguity

Any ambiguity in this Agreement shall not be interpreted against any one party by virtue of that party being drafter of the Agreement.

F. Ratification

Due to the need for Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

G. Entire Agreement

1. This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.
2. In the event of any inconsistency between the provisions in the body of this Agreement and the attachment(s), the provisions in the body of this Agreement take precedence, followed by the Standard Provisions for City Contracts (Rev. 09/11, Attachment A).

**(Signature Page to Follow)**

**IN WITNESS THEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**THE CITY OF LOS ANGELES**

**BUCK CONSULTANTS, LLC**

By: \_\_\_\_\_  
EUGENE K. CANZANO  
Chairperson, Board of Deferred  
Compensation Administration

By: \_\_\_\_\_  
ELIZABETH M. WILLIAMS  
Principal

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

**ATTEST:**

CARMEN A. TRUTANICH, City Attorney

JUNE LAGMAY, City Clerk

By: \_\_\_\_\_  
**Deputy City Attorney**

By: \_\_\_\_\_  
**Deputy City Clerk**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\* Approved Signature Methods:

- 1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.
- 2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number – **0000611915-0001-5**  
Internal Revenue Service Taxpayer Identification Number – \_\_\_\_\_  
Agreement Number \_\_\_\_\_