

**AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF SAN JOSE
AND
BUCK CONSULTANTS, LLC**

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and Buck Consultants, LLC, a Delaware limited liability company, authorized to do business in the state of California (hereinafter "CONSULTANT").

RECITALS

The purpose for which this AGREEMENT is made, and all pertinent recitals, are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

A. Initial Term

The initial term of this AGREEMENT shall be from January 1, 2010 to June 30, 2010 ("Initial Term"), inclusive, subject to the provisions of Subsections 2B, 2C and Section 11 of this AGREEMENT.

B. Options

The Director of Human Resources ("Director") may extend the Initial Term of the AGREEMENT in three (3) one-year increments and one (1) six-month increment, up to a maximum of forty-eight (48) months, ending on December 31, 2013 ("Option Period"). The Director shall exercise the option by written Notice of Exercise of Option in the form set forth in EXHIBIT G at least thirty (30) days prior to the expiration of this AGREEMENT or the expiration of the Option Period, whichever is applicable. All terms and conditions of this AGREEMENT shall remain in full force and effect during the Option Period.

C. Appropriation of Funds

CITY's funding of this agreement is subject to annual appropriations. CITY's exercise of any option to extend is contingent upon appropriation of funds by the CITY.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

SECTION 4. COMPENSATION.

The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, shall not exceed Ninety Five Thousand Dollars (\$95,000) for the Initial Term of the AGREEMENT. The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, for each of the three (3) one-year Option Periods (July 1, 2010 through June 30, 2013) shall not exceed One Hundred Ninety Thousand Dollars (\$190,000) per year; and the compensation to be paid to

CONSULTANT, including payment for professional services , supplies and equipment provided by CONSULTANT, for the one (1) six-month Option Period (July 1, 2013 to December 31, 2013) shall not exceed Ninety Five Thousand Dollars (\$95,000).

The total maximum compensation, including payment for professional services , supplies and equipment provided by CONSULTANT for the Initial Term of the AGREEMENT, the three (3) one-year Option Periods and the one (1) six-month Option Period shall not exceed Seven Hundred Sixty Thousand Dollars (\$760,000) for the total 48 month period ending December 31, 2013. Any expenses incurred in the performance of this AGREEMENT shall be the sole responsibility of CONSULTANT. The rate and schedule of payment is set out in EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein.

SECTION 5. METHOD OF PAYMENT.

CITY shall pay CONSULTANT a monthly retainer fee amount as described in EXHIBIT D, entitled "COMPENSATION". During the entire period approved under this AGREEMENT, CONSULTANT shall track the actual cost of the services provided, based on Hourly Labor/Fees described in EXHIBIT D.

Within thirty (30) days of the expiration or termination of this AGREEMENT, whichever is sooner, CONSULTANT shall furnish to CITY a final accounting of all work performed during the period approved under this AGREEMENT and an accounting of the actual cost of all services based on the specified Hourly/Labor Fees.

CONSULTANT shall compare the actual cost of the professional services to the AGREEMENT's maximum amounts for the Initial Term and any approved Option

Periods, and CONSULTANT shall refund to CITY any excess of retainer fees received that exceed the amount calculated above based on the actual hours worked. Any hours worked for which payment would result in a total annual cost exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

There will be no reimbursable expenses.

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. INDEMNIFICATION.

CONSULTANT shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification.

SECTION 9. INSURANCE REQUIREMENTS.

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT E, entitled "INSURANCE," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Human Resources or the Director's authorized designee ("Risk Manager") of the City of San José as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 10. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 11. TERMINATION.

- A. CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination. The CONSULTANT shall have the right to terminate this AGREEMENT, with cause, by giving not less than sixty (60) days' written notice of termination.

- B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.

- C. CITY's Human Resources Director, or the Human Resources designee, is empowered to terminate this AGREEMENT on behalf of CITY.

- D. In the event of termination, CONSULTANT shall deliver to CITY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed and reimbursable expenses incurred to the date of termination.

SECTION 12. GOVERNING LAW.

CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 13. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 14. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.

SECTION 15. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use.

SECTION 16. WAIVER.

CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.

- A. CONSULTANT agrees that, in the performance of this AGREEMENT, CONSULTANT shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the City's website at the following link:
<http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm>.

- B. Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:
1. Use of recycled and/or recyclable products in daily operations.(i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
 2. Use of Energy Star Compliant equipment.
 3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)
 4. Internal waste reduction and reuse protocol(s).
 5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 18. CONSULTANT'S BOOKS AND RECORDS.

- A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.
- B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to CITY, any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.
- D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

SECTION 19. CONFLICT OF INTEREST.

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. CONSULTANT's employees assigned to perform services as specified in EXHIBIT B of this AGREEMENT ("CONSULTANT's Assigned Employees") shall file an ASSUMING Office Disclosure Statement of Economic Interests (Form 700) as specified in EXHIBIT F, entitled "DISCLOSURE STATEMENT", which is attached hereto and incorporated herein. Such statement shall be filed within thirty (30) days of the date of this AGREEMENT and annually thereafter by the first of April. Upon termination of this AGREEMENT, CONSULTANT shall file a Leaving Office

Disclosure Statement of Economic Interest (Form 700). CONSULTANT shall file the Form 700 with CITY's Clerk and submit a copy to Benefits Manager. In addition to disclosure of financial interests, each employee is also subject to disqualification under the conflicts of interest prohibitions in the Political Reform Act §§ 87100 et seq. and Government Code Section 1090.

SECTION 20. GIFTS.

- A. CONSULTANT is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.
- B. CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.

SECTION 21. DISQUALIFICATION OF FORMER EMPLOYEES.

CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). CONSULTANT shall not utilize either directly or indirectly any officer, employee, or agent of CONSULTANT to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 22. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT G, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

SECTION 23. NOTICES.

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY:

City of San José
Attention: Marc Danaj, Human Resources
Director
200 E. Santa Clara Street, 2nd Floor Wing
San José, CA 95113-1905

To CONSULTANT:

Buck Consultants, LLC
Attention Jacqueline Farren, Director
50 Fremont Street, 12th Floor
San Francisco, CA 94105

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 24. VENUE.

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 25. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

LINDA R. BJORKE
Deputy City Attorney

By _____
LEE PRICE, MMC
City Clerk

“CONSULTANT”

Buck Consultants, LLC

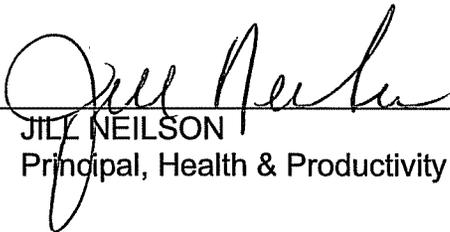
By  _____
JILL NEILSON
Principal, Health & Productivity

EXHIBIT A

RECITALS

WHEREAS, the CITY OF SAN JOSE desires to obtain the following consultant services to assist the City of San José:

- Benefit consulting services related to CITY-paid health and welfare benefit programs and Flexible Spending Accounts,
- Benefit consulting services related to City's 401(a) money purchase retirement plan, and
- Actuarial services related to CITY's self-funded dental plan.

WHEREAS, Buck Consultants, LLC has the necessary professional expertise and skill to perform such services;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain Buck Consultants, LLC as CONSULTANT to CITY to perform those services specified in SECTION 1 of this AGREEMENT.

EXHIBIT B
SCOPE OF SERVICES

- I. CONSULTANT shall perform the following benefit consulting services related to CITY's CITY-paid health and welfare benefit programs and Flexible Spending Accounts:
- A. Attend all Benefit Review Forum ("BRF") meetings and its subcommittee meetings.
 - B. Provide written legislative updates at each monthly BRF meeting.
 - C. Within three (3) months of contract begin date, develop with the CITY a Four-Year Work Plan for benefit program request for proposals ("RFPs") to facilitate the timely issuance and scope of benefit RFPs. The Four-Year Work Plan shall include at least one RFP per year, unless CITY determines otherwise. CONSULTANT shall issue an RFP for each of the benefit programs at least once during the Four-Year Work Plan. CONSULTANT shall provide a quarterly Work Plan status report to CITY.
 - D. Within first six (6) months of the contract begin date, develop and implement a Current Benefits Work Plan, including strategically reviewing and making recommendations to CITY regarding current benefit programs.
 - E. Recommend type and frequency of review for each benefit program. Obtain experience reports from providers, manage analysis of each benefit program, provide written updates to Benefits Manager at least annually, and facilitate

meetings with benefit providers as required by the CITY. CONSULTANT shall submit first review to CITY within six (6) months of contract begin date.

- F. As part of each RFP, develop and implement review of performance measures for each benefit provider.
- G. For each benefit provider for whom performance measures are already developed, report to the BRF on the measures within three (3) months of the issuance of each provider's performance report.
- H. Review National Committee for Quality Assurance ("NCQA") report on the quality of care delivered by managed care organizations. Within three (3) months of the issuance of each NCQA report, provide annual report results of the CITY's health plans to the Benefits Review Forum subcommittee.
- I. Provide timely response to CITY requests for information necessary for benefit, planning, labor relations and consensus building.
- J. Prepare and release RFP's as directed by CITY, including preparing specifications, obtaining quotes and proposals, negotiating rates, and analyzing and comparing proposals for both insured, self-funded and third party administered options.
- K. Conduct contract review for CITY benefit programs currently in place or being considered by CITY, including health plans, dental plans, vision plans, disability plans, life insurance, IRS Section 125 Cafeteria plan (including medical reimbursement and dependent care assistance plan), and Employee

Assistance Program ("EAP") to determine whether agreements correctly reflect the terms of CITY's agreements with the benefit providers and that those terms are deemed by CITY to be in CITY's best interest.

- L. Negotiate with the benefit providers for the best price for services selected by the CITY and contract terms most beneficial to CITY.
- M. Review rate proposals to ensure underlying underwriting assumptions used by the benefit providers in rate determination are appropriate and relevant to the CITY's eligible population, claims experience and market trends.
Negotiate savings on renewals from existing benefit providers. Report outcomes to the CITY.
- N. Present benefit trends, best practices and recommendations for development of new programs or changes to existing programs, which include attending and presenting to CITY Council, Senior Executive meetings, and labor management forums.
- O. Facilitate a strategic overview of CITY's current benefit programs and provide an annual written report containing the alternative strategies evaluated by CONSULTANT, estimated costs for each of the recommended options, if applicable, and specific recommendations to CITY. CONSULTANT shall develop any alternative strategies based on specific goals identified in advance by CITY, benefit trends, and best practices in the market place. CONSULTANT shall submit the first such annual report to CITY within six (6) months of contract begin date.

- P. Assist CITY in analyzing existing coverage and developing cost-saving recommendations and in making projections of potential savings in connection with the renewal processes.
- Q. Assist CITY in monitoring and analyzing experience trends and providing timely alerts on changing patterns and appropriate recommendations.
- R. Review claims experience, claim service and claim administration to ensure maximum benefit to CITY.
- S. Annually monitor and evaluate the benefit providers' performance to ensure that performance measures and guarantees in CITY's existing contracts with the benefit providers are met.
- T. Review all of CITY's existing insurance, benefit, and administrative service documents for accuracy and adherence to legislative requirements (but not perform a legal review). Provide CITY Benefits Manager with specific written recommendations of necessary changes by September 30, 2010.
- U. Provide customer service and assist staff in problem resolution for employees and retirees with benefit providers related to billing, advocacy for services, disputes, interpretation of services, changes, and contract disputes.
- V. Review CITY's Evidence of Coverage documents annually for accuracy, make recommendations regarding changes, modification and/or benefit enhancements, and negotiate any necessary changes with carriers.

- W. Provide CITY with annual industry reports, including the National Committee for Quality Assurance/HEDIS reports and the Pacific Business Group on Health/CCHRI reports, to assist in CITY's ongoing assessment of the health insurance marketplace and the ongoing monitoring of CITY's carriers' performance.
- X. Assist CITY with timely budget projections and analyses upon request by CITY.
- Y. Assist CITY with its annual review of benefit plans by conducting an in-depth underwriting analysis of the plan design and key cost drivers. Provide recommendations for improvement and cost reduction strategies.
- Z. Attend monthly BRF meetings, and other meetings of the BRF or its subcommittees, as requested by CITY.
- AA. Provide neutral subject matter expertise for union bargaining sessions as requested by CITY.
- BB. Provide materials/handouts for meetings as necessary.
- CC. Develop and present reports to committees and for other meetings, as requested by CITY, regarding insurance trends, new products and audits.
- DD. By October 1st of each year, develop and submit to CITY an annual report that compares CITY's benefits with other governmental agencies, including

the State of California and the CITY'S ten comparison cities as identified by the CITY.

- EE. Provide benefits education to staff and committees as requested by CITY.
- FF. Review and disseminate information on State and Federal legislation that impacts benefits programs, and provide training, in consultation with CITY's legal counsel, to Human Resources staff on new laws pertaining to benefit services.
- GG. Recommend and assist CITY in enhancements and improvements for CITY's existing employee and retiree communications, including but not limited to brochures, pamphlets, website, forms, employee handbooks, annual enrollment, and employee orientation materials. CONSULTANT shall complete the first such review by July 31, 2010. Thereafter, CONSULTANT shall conduct reviews on CITY's communications as plan changes are made.
- HH. Assist CITY in proactive mitigation of negative impacts or disruption of services to employees and retirees from any health benefit and/or provider network changes.
- II. Assist CITY with benefit plan transitions as necessary
- JJ. Support CITY with obtaining benefit provider marketing funds to support CITY sponsored benefit and wellness programs, such as sponsorship of wellness events, give aways during fairs, wellness communication materials and

services to raise employee and retiree interest, provide education and encourage employee participation in wellness programs.

- KK. Provide up to \$2,500 annually to sponsor CITY's Wellness events.
 - LL. Within the first six months of the initial year of Agreement, provide CITY with a cost benefit analysis for outsourcing COBRA administration.
 - MM. Make, or prepare CITY staff to make, high-level presentations for Council, committee meetings, union meetings and other high-level consensus building meetings, as determined by Director of Human Resources, on a wide range of subjects.
 - NN. Provide expertise in tracking and measuring the performance of the CITY's benefit programs.
 - OO. As requested by CITY, develop new initiatives, such as wellness plans and audits, to help CITY improve CITY's benefit program's financial performance.
 - PP. Assist CITY with any required government filings and reporting relating to CITY's employee benefit programs.
- II. CONSULTANT shall perform the following services with respect to the CITY's 401(a) money purchase retirement plan:

- A. Perform quarterly and annual review of the 401(a) plan and report to the Benefits Manager on the performance of the investment options provided under the 401(a) Plan.
- B. Assist Benefits Manager in setting investment policy for the 401(a) plan.
- C. Assist Benefits Manager in selecting investment managers and record keepers for the 401(a) plan.
- D. Make recommendations and assist CITY and plan participants with any transition of investment options that occurs outside of the annual investment review process, either adding to or deleting from the core options available under the 401(a) plan as deemed appropriate by CONSULTANT and Benefits Manager.
- E. Evaluate the performance of the customer service guarantees of the 401(a) plan's investment provider as set forth in any investment provider agreement(s).
- F. Upon request by CITY, develop RFPs for services related to the 401(a) plan, including preparing specifications, obtaining quotes and proposals, and negotiating rates.
- G. Make recommendations and assist Benefits Manager in developing and revising 401(a) plan documents, including agreements or amendments, resolutions or ordinances, as deemed appropriate by CONSULTANT and CITY.

- H. Monitor and evaluate any agreements with investment provider(s) for the 401(a) plan, including review of contracts and recommendation of contract changes, oversight of day-to-day contract administration, monitoring and evaluating investment provider(s) in terms of any guarantees by CONSULTANT or performance measures to be determined by CITY (i.e., customer service response time, distribution of statements to participants, distribution of employer reports to participants, etc.), and resolution of any discrepancies between provider performance and CITY's agreements with the investment provider(s).
- I. Provide materials/handouts for meetings on a timely basis as requested by CITY.
- J. Attend meetings as requested by CITY.
- K. Review and disseminate information to Benefits Manager and CITY on legislation that affects 401(a) money purchase plans, and provide input to Benefits Manager and CITY regarding questions about legislation; make recommendations to Benefits Manager and CITY regarding impact of legislation on plan documents and administrative guidelines.
- L. Provide industry information, educational resources and defined benefit plan information to assist CITY regarding "best practices" on 401(a) money purchase plan design and investment selection guidelines.

- M. Assist the Benefits Manager and CITY with government filings and reporting relating to CITY's 401(a) plan.
- N. Attend all CITY meetings by phone, as required by CITY.
- O. Provide legislative reports and updates of important developments to Benefits Manager in a timely manner.
- P. Provide CITY with 401(a) defined contribution information and recommendations to facilitate decision making, including outline of possible alternatives, recommendation and reason(s) for recommendations.
- Q. Respond to staff requests for information in a timely manner.
- R. Initiate, manage and facilitate semi-annual review of the CITY's 401(a) money purchase plan.
- S. Conduct an RFP for 401(a) plan investment provider. CONSULTANT shall issue and complete the RFP during the 2010 calendar year.
- T. Develop, implement and review performance measures for the 401(a) Money Purchase Plan provider, in conjunction with CITY's 457 plans, annually.
- U. Evaluate 401(a) Plan investment options and performance investments in conjunction with CITY's 457 plans; provide written reports to Benefits Manager and CITY at least semi-annually by date to be determined by Director of Human Resources.

- V. Upon request by Benefits Manager or CITY, provide written reports documenting the issues studied, alternatives considered, recommended actions and anticipated costs for implementing the recommendations.
- III. By a date determined by Director of Human Resources during each fiscal year that falls within the term of this AGREEMENT, CONSULTANT shall perform the following services to conduct an actuarial review and rate-setting analysis of the CITY's self-funded dental plan for the subsequent fiscal year's budget:
- A. Gather dental rates, claim data, enrollment information, plan design information, dental reserve information and fund balances.
 - B. Recommend funding rates to CITY for current and subsequent budget years.
 - C. Provide CITY with a final written report, including statements regarding the appropriate funding level of reserves to be maintained within CITY's self-funded dental plan, review CITY's revenue and expenditure estimates, and provide CITY with, recommendations of changes to dental rates on a composite basis, to ensure that CITY maintains adequate funding to pay all anticipated claims.
 - D. At the direction of the CITY, CONSULTANT's designated contact person shall attend scheduled meetings with CITY's staff as necessary to complete the actuarial review.

- E. CONSULTANT's review and analysis shall rely on and follow appropriate Standards of Practice as promulgated by the Actuarial Standards Board of the American Academy of Actuaries.
 - F. Work with CITY and its dental providers to identify and resolve any enrollment discrepancies that are discovered between CITY's eligibility files and those of the dental plan provider(s).
 - G. Provide CITY with any other services, which the Director of Human Resources or the City Manager's Budget Office may request in connection with the actuarial review, alternative scenarios, and rate-setting analysis of the CITY's self-funded dental plan.
 - H. Attend all meetings requested by CITY, in person or by phone.
 - I. Each fiscal year, by a date determined by the City Manager's Budget Office (usually in early January), provide CITY with a completed professional Actuarial Report for the following fiscal year.
 - J. Initiate contact with the CITY and dental provider to obtain, in a timely manner, all reports needed in order for CONSULTANT to complete the Actuarial Report described above by the date determined by the City Manager's Budget Office.
- IV. In regard to all of the above services, CONSULTANT shall perform the following customer service:
- A. Return CITY calls and e-mails within 24 hours.

- B. Provide timely resolution to CITY issues.
- C. Communicate expected time frame for resolution and provide follow up until the issue is resolved.
- D. Provide all reports in advance of scheduled meetings.

EXHIBIT C
SCHEDULE OF PERFORMANCE

Work shall commence on January 1, 2010. The estimated time for completion is December 31, 2013.

In addition to requirements described in the Scope of Services, CONSULTANT shall adhere to the following schedule listed in the table below.

All dates are subject to review by CITY and can be revised as deemed appropriate by Director of Human Resources or designee.

Deliverable	Deliverable Date
Provide an actuarial report for the dental plan PPO.	January 31, 2010 January 31, 2011 January 31, 2012 January 31, 2013
Submit Four-Year Work Plan for benefit program RFPs	March 31, 2010
Complete and submit annual report of benefits review and recommendations to CITY Benefits Manager for the annual enrollment period.	June 30, 2010 June 30, 2011 June 30, 2012 June 30, 2013
Submit recommendation of type and frequency of review for each benefit program.	June 30, 2010
Submit report on strategic overview of CITY's current benefit programs.	June 30, 2010
Submit cost benefit analysis of outsourcing COBRA	June 30, 2010
Submit report on enhancements and improvements for CITY's existing employee and retiree communication materials.	July 31, 2010
Submit recommendations on existing insurance, benefit and administrative service documents related to accuracy and adherence	September 30, 2010

RD:LRB:SBM
10/20/09

to legislative requirements.	
Submit annual report comparing CITY health benefits and CITY's contribution strategy for health plans with other governmental agencies.	October 1, 2010 October 1, 2011 October 1, 2012 October 1, 2013
Complete RFP process for money purchase retirement plan provider.	December 31, 2010

EXHIBIT D
COMPENSATION

I. Initial Term and Option Maximums

CITY agrees to compensate CONSULTANT at the not to exceed retainer fee cost described below for professional services performed in accordance with the terms and conditions of this AGREEMENT:

(A) Initial Term and six-month Option Period:

Health & Welfare Benefit Consultant Services and Dental Actuarial Services	\$92,500
401(a) Money Purchase Plan Consultant Services	\$ 2,500

(B) One-year Option Periods:

Health & Welfare Benefit Consultant Services and Dental Actuarial Services	\$185,000
401(a) Money Purchase Plan Consultant Services	\$ 5,000

The maximum amounts of compensation to be paid to CONSULTANT under this AGREEMENT include payment for professional services, supplies, materials, and equipment provided by CONSULTANT. There shall be no reimbursable expenses.

II. Contract Maximum

The maximum total amount of compensation to be paid to the CONSULTANT under this AGREEMENT for the Initial Term and all Option Periods shall not exceed a total cost of Seven Hundred and Sixty Thousand Dollars (\$760,000).

III. Payment Method: Monthly Retainer Fee Based on Average Estimated Hours

Each month, CITY shall pay CONSULTANT a retainer fee based on an average number of hours which CITY and CONSULTANT estimate CONSULTANT will work each month multiplied by the Hourly Labor/Fees rates provided below,

The monthly amount to be paid to CONSULTANT for CITY-paid Health & Welfare Benefit Consultant Services and Dental Actuarial Services will be in an amount not to exceed Fifteen Thousand Four Hundred Sixteen and 66/100 Dollars (\$15,416.66). The monthly amount to be paid to CONSULTANT for the 401(a) Money Purchase Plan Consultant Services will be in an amount not to exceed Four Hundred Sixteen and 66/100 Dollars (\$416.66).

II. Retainer Fee Comparison to Actual Hours Worked

CONSULTANT shall determine the cost of services performed in accordance with the terms and conditions of this AGREEMENT using the hourly rates described in the table below:

Hourly Labor/Fees	Position Level
\$468 to \$605	Principal or Managing Director
\$396 to \$468	Director
\$302 to \$392	Senior Consultant
\$202 to \$234	Senior Associate or Associate
\$79 to \$140	Other Technical

The Hourly Labor/Fees listed above account for all costs required to complete the Scope of Services (Exhibit B) and Schedule of Performance (Exhibit C) to CITY.

During the period approved under this AGREEMENT, CONSULTANT shall track and keep a record of actual cost of the services provided based on the Hourly Labor/Fees above. Within thirty (30) days of the expiration or termination of this AGREEMENT, whichever is sooner, CONSULTANT shall furnish to CITY a final accounting of all work performed during the period approved under this AGREEMENT and an accounting of the actual cost of all services based on the specified Hourly/Labor Fees.

CONSULTANT shall compare the actual cost of the services to the AGREEMENT's maximum amounts for the Initial Term and any approved Option Periods. At the termination of the AGREEMENT, CONSULTANT shall refund to CITY any excess of retainer fees received by CONSULTANT that exceed the amount calculated above based on the actual hours worked. Any hours worked by CONSULTANT for which payment to CONSULTANT would result in a total annual cost exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

EXHIBIT E
INSURANCE

CONSULTANT, at CONSULTANT's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors.

I. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- a. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
- b. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
- c. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
- d. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above.

II. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

- a. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
- c. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officers and employees, ;

and

- d. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

III. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, the CITY's Risk Manager. All deductibles or self-insured retentions will be the sole responsibility of the Consultant.

IV. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- a. Commercial General Liability and Automobile Liability Coverages
 1. Insured. The City of San Jose, its officers, employees are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, and employees,.
 2. Contribution Not Required. CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers and employees,. Any insurance or self-insurance maintained by CITY, its officers and employees, shall be excess of CONSULTANT's insurance and shall not contribute with it.
 3. Provisions Regarding the Insured's Duties After Accident or Loss. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided CITY, its officers and employees,.
 4. Coverage. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 5. Waiver of Subrogation. Coverage shall contain a waiver of subrogation in favor of the City, its officers and employees.

B. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY's Risk Manager.

V. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

VI. Verification of Coverage

CONSULTANT shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose—Human Resources
Risk Management
Attn: Connie Aparicio-Yanez
200 East Santa Clara Street, 2nd Floor Wing
San Jose, CA 95113-1905

VII. Subcontractors

CONSULTANT shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

EXHIBIT F

DISCLOSURE STATEMENT

CONSULTANT shall file with City Clerk a disclosure statement (Statement of Economic Interests -- Form 700) which includes disclosure of the following:

1. Schedule A - 1 -- Investments.
2. Schedule A - 2 -- Investments, Income and Assets of Business Entitles/Trusts.
3. Schedule C -- Income and Business Positions.
4. Schedule D -- Income - Loans.
5. Schedule E -- Income -- Gifts from sources located in or doing business in the City of San Jose.
6. Schedule F -- Income - Gifts; Travel Payments, Advances and Reimbursements from sources located in or doing business in the City of San Jose.

EXHIBIT G

**NOTICE OF EXERCISE OF OPTION TO EXTEND
CONSULTANT SERVICES AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
BUCK CONSULTANTS, LLC**

WHEREAS, on _____, 2009, the CITY OF SAN JOSE ("CITY") and BUCK CONSULTANTS, LLC ("CONSULTANT") entered an Agreement for Consultant Services ("AGREEMENT") which contains an option to extend the Initial Term for three (3) additional one-year periods and one (1) additional six-month period ("Option Period"); and

WHEREAS, CITY has made the determination to extend the AGREEMENT for the first/second/third one-year Option Period or for the six-month Option Period;

NOW, THEREFORE,

CITY HEREBY EXERCISES, pursuant to Section 2 of the AGREEMENT, the first/second/third one-year option or six-month option to extend the term of the AGREEMENT for the period of _____ through _____. All of the terms and conditions of the AGREEMENT shall remain in full force and effect during the Option Period.

"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

LINDA R. BJORKE
Deputy City Attorney

By _____
MARK DANAJ
Director of Human Resources