

**City of Carson City
Agenda Report**

Date Submitted: November 20, 2012 **Agenda Date Requested:** December 6, 2012
Time Requested: Consent

To: Mayor and Supervisors
From: Purchasing and Contracts

Subject Title: For Possible Action: To approve Contract 1213-122 for a Water and Sewer Rate Study in the amount of \$99,595.00 to FCS Group to be funded from the Water and Sewer Funds as provided in FY 2012/2013. *(Kim Belt)*

Staff Summary: The Water and Sewer Rate Study objective is to evaluate the rate design and the method for calculating rates. One element among others will be to possibly eliminate winter averaging for residential sewer, review of water rate tier structure, and development of a rate model for future planning and analysis. The rate study is proposed as revenue neutral; overall rates will not be raised as a result of this study.

Type of Action Requested: (check one)

Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve Contract 1213-122 for a Water and Sewer Rate Study in the amount of \$99,595.00 to FCS Group to be funded from the Water and Sewer Funds as provided in FY 2012/2013. *(Kim Belt)*

Explanation for Recommended Board Action: FCS Group is an expert in conducting utility rate studies and currently provides services to many clients in the region including Douglas County and the City of Reno. The study will include reviewing and analyzing current rate data, cost of service, and policy objectives. The rate design element will determine who should pay what share of the costs to equitably generate adequate revenues. Connection charges and review of schedule of charges will also be included in the study. A rate model will be developed for staff for future planning and analysis and rate adjustments as may be required. The initial study under this contract will be revenue neutral; overall rates will not be raised as a result of the study. Individual components of the rates may be adjusted up or down but overall or total revenues from the rate study will not be raised. This does not mean that rates won't be raised in the future depending on future revenue needs, especially capital needs.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 332.115 (m).

Fiscal Impact: \$89,595 to \$99,595.00

Explanation of Impact: If approved the Water and Sewer funds will be reduced by up to

\$99,595.00.

Funding Source: Water and Sewer Fund accounts 510-3201-434-03-09 and 520-3502-435-03-09 as provided for in FY2012/2013.

Prepared By: Kim Belt, Purchasing and Contracts Manager

Reviewed By:



(Public Works Director)

Date: 11-27-12

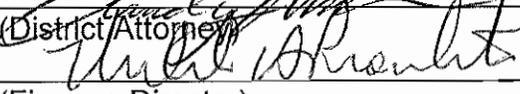
(City Manager)

Date: 11/27/12



(District Attorney)

Date: 11/27/12



(Finance Director)

Date: 11/27/12

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

THIS CONTRACT, made and entered into this 6th day of December, 2012, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**", and FCS Group hereinafter referred to as the "**CONTRACTOR**".

WHEREAS, the Purchasing and Contracts Manager for the City and County of Carson City is authorized, pursuant to Nevada Revised Statutes Chapter 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, it is deemed that the services of **CONTRACTOR** for **CONTRACT No. 1213-122 Carson City Water/Sewer Rate Study** are both necessary and in the best interests of **CITY**; and

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1 **REQUIRED APPROVAL:**

1.1 This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

2 **CONTRACT TERM:**

2.1 This Contract shall be effective from December 6, 2012, subject to Carson City Board of Supervisors' approval (anticipated to be December 6, 2012) to September 30, 2013, unless sooner terminated by either party as specified in **Section 7 Contract Termination**.

3 **CONSIDERATION:**

3.1 The parties agree that **CONTRACTOR** will provide the **SERVICES** specified in **Section 4 Scope of Work** and **CITY** agrees to pay **CONTRACTOR** the **CONTRACT SUM** based upon time and materials for a not to exceed maximum amount of Ninety Nine Thousand Five Hundred Ninety Five Dollars and No Cents (\$99,595.00).

For P&C Use Only	
CCBL expires	_____
GL expires	_____
AL expires	_____
PL expires	_____
WC expires	_____

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

3.2 **CONTRACT SUM** represents full and adequate compensation for the completed **WORK**, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the **WORK**.

3.3 Payment by **CITY** for the **SERVICES** rendered by **CONTRACTOR** shall be due within thirty (30) calendar days from the date **CITY** acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by **CITY** employee designated on the sample invoice, whichever is the latter date.

3.4 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

3.5 The continuation of this Contract beyond June 30, 2013 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the Carson City Board of Supervisors.

4 NOTICE:

4.1 All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by telephonic facsimile, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.1.1 Notice to **CONTRACTOR** shall be addressed to:

Karyn Johnson, Principal
FCS Group
7525 166th Avenue NE, Suite D-215
Redmond, WA 98052
425-867-1802/425-867-1937 fax
karynj@fcsgroup.com

4.1.2 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts
Kim Belt, Purchasing and Contracts Manager
201 North Carson Street Suite 3
Carson City, NV 89701
775-283-7137/ FAX 775-887-2107
KBelt@carson.org

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

5 SCOPE OF WORK:

5.1 **CONTRACTOR** shall provide and perform the following services set forth in **Exhibit A**, attached hereto and incorporated herein by reference for and on behalf of **CITY** hereinafter referred to as the "**SERVICES**".

5.2 **CONTRACTOR** represents that it is duly licensed by Carson City for the purposes of performing the **SERVICES**.

5.3 **CONTRACTOR** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the **SERVICES**.

5.4 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the **SERVICES** described herein and required hereunder. **CONTRACTOR** shall perform the **SERVICES** faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all **SERVICES** furnished by **CONTRACTOR** to **CITY**.

5.5 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the **SERVICES** required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such **SERVICES**.

5.6 Before commencing with the performance of any work under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, he shall bear all the costs arising therefrom.

5.7 **CITY Responsibilities:**

5.7.1 **CITY** shall make available to **CONTRACTOR** all technical data that is in **CITY'S** possession, reasonably required by **CONTRACTOR** relating to the **SERVICES**.

5.7.2 **CITY** shall provide access to and make all provisions for **CONTRACTOR** to enter upon public and private lands, to the fullest extent permitted by law, as reasonably required for **CONTRACTOR** to perform the **SERVICES**.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

5.7.3 CITY shall examine all reports, correspondence, and other documents presented by **CONTRACTOR** upon request of **CITY**, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of **CONTRACTOR**.

5.7.4 It is expressly understood and agreed that all work done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY** and approval of work shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONTRACTOR** of the responsibility of the work required under the terms of this Contract until all work has been completed and accepted by **CITY**.

6 TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

7 CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 This Contract may be terminated by either party without cause by giving the other party ten (10) calendar days written notice of the intent to terminate and specifying the date upon which the termination will be effective.

7.2 Cause Termination for Default or Breach:

7.2.1 A default or breach may be declared with or without termination.

7.2.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.2.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.2.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

7.2.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.2.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.2.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.2.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.3 Time to Correct:

7.3.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in **Section 3 Notice**, and the subsequent failure of the defaulting party within five (5) calendar days of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

7.4 Winding Up Affairs Upon Termination:

7.4.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

7.4.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

7.4.1.2 **CONTRACTOR** shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**;

7.4.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**;

7.4.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 22 City Ownership of Proprietary Information**.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

8 REMEDIES:

8.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. CITY may set off consideration against any unpaid obligation of CONTRACTOR to CITY.

9 LIMITED LIABILITY:

9.1 CITY will not waive and intends to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any CITY breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to CONTRACTOR, for the fiscal year budget in existence at the time of the breach. CONTRACTOR'S tort liability shall not be limited.

10 FORCE MAJEURE:

10.1 Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11 INDEMNIFICATION:

11.1 To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this paragraph.

11.2 Except as otherwise provided in Subsection 10.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12 INDEPENDENT CONTRACTOR:

12.1 An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

12.4 **CONTRACTOR** shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13 INSURANCE REQUIREMENTS:

13.1 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.2 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to Carson City Purchasing & Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.3 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.4 Insurance Coverage:

13.4.1 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the latter of:

13.4.1.1 Final acceptance by **CITY** of the completion of this Contract; or

13.4.1.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.4.2 Any insurance or self-insurance available to **CITY** shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

13.5 General Requirements:

13.5.1 **Certificate Holder:** Each liability insurance policy shall list Carson City c/o Carson City Purchasing & Contracts, 201 N. Carson Street Suite 11, Carson City, NV 89701 as a certificate holder.

13.5.2 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.5.3 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.

13.5.4 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.5.5 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by **CITY**.

13.5.6 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) calendar days prior written notice to Carson City Purchasing & Contracts, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to Carson City Purchasing & Contracts, 201 N. Carson Street Suite 11, Carson City, NV 89701.

13.5.7 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.5.8 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing & Contracts, 201 North Carson Street Suite 11, Carson City, NV 89701:

13.5.8.1 **Certificate of Insurance:** The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing & Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

13.5.8.2 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing & Contracts to evidence the endorsement of CITY as an additional insured per Subsection 12.5.2.

13.5.8.3 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

13.5.9 **Review and Approval:** Documents specified above must be submitted for review and approval by Carson City Purchasing & Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by CITY nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to CITY or others, and shall be in addition to and not in lieu of any other remedy available to CITY under this Contract or otherwise. CITY reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

14 COMMERCIAL GENERAL LIABILITY INSURANCE:

14.1 Minimum Limits required:

14.1.1 Two Million Dollars (\$2,000,000.00) - General Aggregate

14.1.2 One Million Dollars (\$1,000,000.00) - Each Occurrence

14.2 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

15 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

15.1 Minimum Limit required:

15.1.1 One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage

15.2 Coverage shall be for "any auto", including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

16 PROFESSIONAL LIABILITY INSURANCE:

16.1 Minimum Limit required: One Million Dollars (\$1,000,000.00)

16.2 Retroactive date: Prior to commencement of the performance of this Contract

16.3 Discovery period: Three (3) years after termination date of this Contract.

16.4 A certified copy of this policy may be required.

17 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

17.1 **CONTRACTOR** shall provide workers' compensation insurance as required by Nevada Revised Statutes Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

17.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive.

18 BUSINESS LICENSE:

18.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing & Contracts.

18.2 The Carson City business license shall continue in force until the latter of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

19 COMPLIANCE WITH LEGAL OBLIGATIONS:

19.1 **CONTRACTOR** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or services of this Contract. **CONTRACTOR** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with Nevada Revised Statutes 361.157 and 361.159. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

Contract. CITY may set-off against consideration due any delinquent government obligation.

20 WAIVER OF BREACH:

20.1 Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

21 SEVERABILITY:

21.1 If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

22 ASSIGNMENT/DELEGATION:

22.1 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by CITY, such offending portion of the assignment shall be void, and shall be a breach of this Contract. CONTRACTOR shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of CITY.

23 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

23.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by CONTRACTOR (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of CITY and all such materials shall be delivered into CITY possession by CONTRACTOR upon completion, termination, or cancellation of this Contract. CONTRACTOR shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of CONTRACTOR'S obligations under this Contract without the prior written consent of CITY. Notwithstanding the foregoing, CITY shall have no proprietary interest in any materials licensed for use by CITY that are subject to patent, trademark or copyright protection.

23.2 CITY shall be permitted to retain copies, including reproducible copies, of CONTRACTOR'S drawings, specifications, and other documents for information and reference in connection with this Contract.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

23.3 **CONTRACTOR'S** drawings, specifications and other documents shall not be used by **CITY** or others without expressed permission of **CONTRACTOR**.

24 **PUBLIC RECORDS:**

24.1 Pursuant to Nevada Revised Statute 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Nevada Revised Statute 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

25 **CONFIDENTIALITY:**

25.1 **CONTRACTOR** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

26 **FEDERAL FUNDING:**

26.1 In the event federal funds are used for payment of all or part of this Contract:

26.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

26.1.2 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

26.1.3 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

27 LOBBYING:

27.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

27.1.1 Any federal, state, county or local agency, legislature, commission, counsel or board;

27.1.2 Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

27.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

28 GENERAL WARRANTY:

28.1 **CONTRACTOR** warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications as set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

29 PROPER AUTHORITY:

29.1 The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by Carson City Purchasing & Contracts and only for the period of time specified in this Contract. Any services performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective are performed at the sole risk of **CONTRACTOR**.

30 ALTERNATIVE DISPUTE RESOLUTION:

29.1 Pursuant to NRS 338.150, public body charged with the drafting of specifications for a public work shall include in the specifications a clause requiring the use of a method of alternative dispute resolution before initiation of a judicial action if a dispute arising between the public body and the contractor engaged on the public work cannot otherwise be settled. Therefore, in the event that a dispute arising between **CITY** and **CONTRACTOR** cannot otherwise be settled, **CITY** and **CONTRACTOR** agree that, before judicial action may be initiated, **CITY** and **CONTRACTOR** will submit the dispute to non-binding mediation. **CITY** shall present **CONTRACTOR** with a list of three potential mediators. **CONTRACTOR** shall select one person to serve as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

31 **GOVERNING LAW; JURISDICTION:**

31.1 This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

32 **ENTIRE CONTRACT AND MODIFICATION:**

32.1 This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by Carson City Purchasing and Contracts. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122
Title: Carson City Water/Sewer Rate Study

33 ACKNOWLEDGMENT AND EXECUTION:

33.1 In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

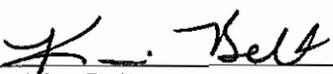
CARSON CITY

Finance Director
Attn: Kim Belt
Purchasing and Contracts Manager
201 North Carson Street, Suite 3
Carson City, Nevada 89701
Telephone: 775-283-7137
Fax: 775-887-2107
KBelt@carson.org

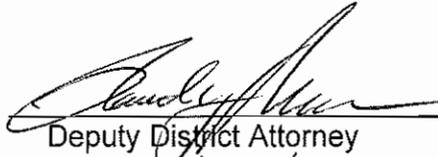
CITY'S LEGAL COUNSEL

Neil A. Rombardo, District Attorney

I have reviewed this Contract and approve as to its legal form.

By: 

Kim Belt

By: 

Deputy District Attorney

DATED 11/27/12

DATED 11/27/12

I certify that funds are available and that CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contracts.

BY: Andrew Burnham, Director
Carson City Public Works Department
3505 Butti Way
Carson City, NV 89701
Telephone: 775-887-2355
Fax: 775-887-2112
ABurnham@carson.org

By: 

Andy Burnham

DATED 11-27-12

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

Undersigned says: That she is the **CONTRACTOR** or authorized agent of the **CONTRACTOR**; that she has read the foregoing Contract; and that she understands the terms, conditions, and requirements thereof.

CONTRACTOR

BY: Karyn Johnson

TITLE: Principal

FIRM: FCS Group

CARSON CITY BUSINESS LICENSE #: 12-

Address: 7525 166th Avenue N.E., Suite D-215

City: Redmond **State:** Washington **Zip Code:** 98052

Telephone: 425-867-1802/ **Fax #:** 425-867-1937

E-mail Address: karynj@fcsgroup.com

(Signature of **CONTRACTOR**)

DATED _____.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 1213-122
Title: Carson City Water/Sewer Rate Study

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of December 6, 2012, approved the acceptance of **CONTRACT No. 1213-122** Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this contract in accordance with the action taken.

CARSON CITY, NEVADA

ROBERT L. CROWELL, MAYOR

DATED this 6th day of December, 2012.

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this 6th day of December, 2012.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

Contract No. 1213-122

Title: Carson City Water/Sewer Rate Study

SAMPLE INVOICE

Invoice Number: _____

Invoice Date: _____

Invoice Period: _____

Vendor Number: _____

Invoice shall be submitted to:

Carson City Public Works
Attn: Karen White
3505 Butti Way
Carson City, NV 89701

Use this section if CONTRACT SUM was based on a lump sum.

Line Item #	Description	Value	% Completed	Total \$\$
Total for this invoice				

Original Contract Sum \$ _____
Less amount previously billed \$ _____
= contract sum prior to this invoice \$ _____
Less this invoice \$ _____
=Dollars remaining on Contract \$ _____

ENCLOSE COPIES OF RECEIPTS & INVOICES FOR EXPENSES & OUTSIDE SERVICES

EXHIBIT A SCOPE OF WORK

The following Scope of Work (SOW) identifies the activities that FCS GROUP will perform for the City's Water and Sewer Rate Study.

A. Study Foundation

Establish the underlying data needs and assumptions, and financial, cost-of-service, and rate and fee policy objectives to serve as the foundation for the technical analyses. We will strive to uncover any data limitations, issues or concerns that will need to be addressed early on in the process to ensure successful study completion.

Task A.1 | Data Collection/Validation

Submit a preliminary data request so that readily available financial and operational materials can be received prior to the kickoff meeting. Review, analyze and validate data. In advance of the meeting, we will have conducted our initial review of the data and will be prepared with requests for any additional items or explanations as necessary.

Task A.2 | Meetings and Presentations

Prepare for and attend the following meetings and presentations:

- ◆ **Kick-Off Meeting** | Participate in a study kickoff meeting with City representatives to review study scope and schedule, confirm key milestones, discuss any data challenges, define anticipated deliverables, and establish communication protocols. We will also use this session identify potential rate and fee structures.
- ◆ **Interim Staff Review Meetings** | Meet with City staff in up to two (2) meetings to review the team's analysis and recommendations at key points during the study. The topic areas for discussion include financial planning alternatives, cost of service results, rate and fee structure alternatives, and future policy direction.
- ◆ **Board Presentations** | Prepare materials for and participate in two (2) meetings with City management and/or the Board to present draft results, receive policy direction, and present final study outcomes.

In addition to the defined meetings listed above, we can accommodate periodic project reviews via the teleconference process using GoToMeeting™ and/or Skype™ video conferencing. This technology enables City staff and consultants to simultaneously view work products via an Internet connection and see edits and changes made to a shared document in real time.

Task A.3 | Project Administration / Management

Perform administrative / management procedures for efficient study performance and work paper documentation. With our monthly invoicing, our managing principal will deliver written progress reports describing recent efforts; forthcoming efforts, including potential challenges and/or needs from City staff, as well as status of study progress, schedule and budget. We will stay in regular contact with the City's project manager via telephone and email to address issues as they arise.

B. Financial Planning

At the heart of any utility rate study is a revenue requirement, which uses projected cash flows to forecast and evaluate revenue needs.

Task B.1 | Revenue Requirements

Develop a revenue neutral long-range financial forecast for each utility which projects operating expenditures; repair, replacement and other capital needs; and offsetting revenues. This analysis will focus on the next five years (2013 – 2017), and will be used for our assessment of customer class cost of service, existing rate structures and potential alternative rate structures. Our evaluation will consider the overall funding strategy including near- and long-term capital and operational needs, as well as potential customer usage changes due to modifications of the rate structures. Any changes recommended for this study will remain revenue neutral for the utilities.

C. Cost of Service / Rate Design

The cost of service analysis is the evaluation, based on available engineering and customer information, of *who should pay what share* in order to equitably recover adequate revenues. While the revenue requirement determines the size of the pie, the cost of service analysis determines how you slice it amongst customers. This detailed quantitative analysis determines the level that customer class rate structures must be set to reflect each unique utility system and customer base.

Task C.1 | Customer Statistics Evaluation

A detailed customer data analysis must be performed to determine whether the historical billing system information serves as a valid basis for calculating rates that will generate the correct amount of revenue. We will conduct a statistical analysis of customer data using 12-months of historical information (e.g., accounts, dwelling units, meter sizes, water usage, etc.), and calibrate billing records against actual rate revenues to prevent over or under estimation of the City's customer base.

For each utility, we will develop consumption profiles that show water usage patterns by customer class (e.g., average use, peak use, winter period use) in order to assign costs and develop rates. Because sewer flows are not readily measured or sampled, we will rely on customer water usage data for the sewer analysis. Strength loadings assumptions and return to sewer factors will be based on City data, industry standards and/or consultant judgment.

Task C.2 | Functional Allocation

Review historical asset records and classify plant investment by major categories. For water, major categories include supply/treatment, storage, transmission/distribution, meters & services, hydrants, customer, and general plant. For sewer, major categories include collection, conveyance, treatment and general plant. We will assign categorized plant investment and operating expenses to functional cost components using system design criteria and assumed cost causation. For water, functional service components include customer, based demand, peak demand, and fire protection. For sewer, functional cost pools include those to collect and convey user flows; to treat the volume of user flows; to treat the strength of user flows (expressed as biochemical oxygen demand and suspended solids); and to provide customer services.

Task C.3 | Customer Class Review

A review of customer class statistics, as well as input from City staff, will be relied on to determine any alternative grouping of customers that might better address unique service requirements.

Task C.4 | Customer Class Cost Distribution

Utilizing results of the functional cost allocation and summary customer statistics, assign cost recovery to established customer classes in proportion to the estimated demands each class places on the system. Identify shifts in cost recovery by customer class from that experienced under the existing rate structure. This step determines the amount of revenue to be recovered from each class of customers, linked to a proportionate share of costs required to serve their respective demands/service requirements. Derive unit costs of service for each class by functional component to serve as the building blocks for alternative rate structure designs.

Task C.5| Rate Structure Design

Review existing utility rates to determine if current structures sufficiently meet the City's revenue needs and pricing goals. Our task will be to first evaluate the effectiveness of existing rate structures and, if warranted, recommend alternative structures that might better align with the City's current objectives for each utility - keeping simplicity and customer understanding in mind. The goal is the development of a schedule of rates for each utility that can preserve financial stability; achieve a reasonable and practical degree of customer equity; remain consistent with local practices and conditions; and serve the best interest of the City and community. Up to two (2) alternative rate structures will be developed for each utility. At a minimum, we expect that sewer rate structure option will consider residential flat rates and commercial strength differentials. Preliminary rate structure options will be identified and initially vetted during the study kickoff meeting. Prepare sample utility bills for each class of service comparing existing rates and proposed rate impacts.

D. Other Charges

Review and update utility connection charges to enhance cost recover and promote customer equity.

Task D.1 | Connection Charges

Review current connection charges / methodologies and update the schedule of charges for each utility to reflect current system infrastructure investment, eligible planned capital projects, anticipated system capacity, and growth in customer base. Charges will be calculated using up to three (3) alternative methodologies, following industry practices and legal precedence. Alternative approaches will be identified and initially vetted during the study kickoff meeting.

E. Documentation

Document study findings and recommendations in a written report; provide draft ordinances to reflect selected rate and charge modifications; and support the City's public outreach process.

Task E.1 | Study Report

Prepare and submit a rate study report to document the study process, assumptions, results, alternatives, and recommendations for each utility, including supporting spreadsheet documentation as technical appendices.

Task E.2 | Model Development

Develop user-friendly electronic rate models in Excel to enable City staff to calculate future water and sewer rates as model assumptions change over time. The model will be structured to include unique modules to provide for Source Document Inputs; Study Assumptions (growth rates, inflation factors, debt terms, policy choices, etc.); Revenue Requirements; Cost of Service; Rate Design; Customer Bill Impacts; and Tables and Graphics. We will tailor input parameters consistent with the City's utility's budget categories, billings system data, plant asset data, proposed customer classes, and so on. The model will be flexible and stable enough to perform sensitivity analyses for various inputs and scenario development. The model will include an introductory flow screen and dashboard module to enhance model navigation and "what if" scenarios. The dynamic dashboard module allows for various cost and policy alternatives to be simultaneously evaluated without corrupting the core data within the model. Conduct a half-day training session with City staff to demonstrate model operations and outputs.

SCHEDULE

Assuming timely receipt of required data, the technical analysis will be complete within 6 months of notice to proceed and a total of 9 months through presentations and final deliverables. Assuming a start date on or about November 15, 2012, technical results will be available April 2013; Board presentations in May and June 2013, and final deliverables submitted in July 2013.

EXHIBIT B BUDGET

The SOW will be performed for a not-to-exceed amount of \$99,595, as detailed in the exhibit below.

Task	Consultant Hours				Total Estimated Hours	Labor Budget	Expense Budget	Total Budget
	Managing Principal Johnson	Project Consultants	Analysts	Admin. Support				
<i>Hourly Billing Rates:</i>	<i>\$225</i>	<i>\$140</i>	<i>\$100</i>	<i>\$70</i>				
A. Study Foundation								
A.1 - Data Collection / Validation	4		16		20	\$2,500		\$2,500
A.2 - Meetings and Presentations [a]	38		24	4	66	\$11,230	\$1,575	\$12,805
A.3 - Project Administration / Management	18		8	4	30	\$5,130		\$5,130
B. Financial Planning								
B.1 - Revenue Requirements	16	20	136		172	\$20,000		\$20,000
C. Cost of Service / Rate Design								
C.1 - Customer Statistics Evaluation	4		48		52	\$5,700		\$5,700
C.2 - Functional Allocation	4	4	32		40	\$4,660		\$4,660
C.3 - Customer Class Review	2		8		10	\$1,250		\$1,250
C.4 - Customer Class Cost Distribution	4		48		52	\$5,700		\$5,700
C.5 - Rate Structure Design	6	8	80		94	\$10,470		\$10,470
D. Other Fees and Charges								
D.1 - Connection Charges	8	8	64		80	\$9,320		\$9,320
E. Documentation								
E.1 - Study Report	8		48	8	64	\$7,160		\$7,160
E.2 -Model Development	4		40		44	\$4,900		\$4,900
Subtotal	116	40	552	16	724	\$88,020	\$1,575	\$89,595
F. Supplemental Services as Authorized								\$10,000
Total								\$99,595