

DOC # 0799937
03/30/2012 12:08 PM Deputy: KE

OFFICIAL RECORD

Requested By:

DC/PUBLIC WORKS

Douglas County - NV
Karen Ellison - Recorder

Page: 1 Of 22 Fee: 0.00

BK-0312 PG- 7845 RPTT: 0.00



Assessor's Parcel Number: N/A

Date: MARCH 30, 2012

Recording Requested By:

Name: EILEEN CHURCH, PUBLIC WORKS
(CR)

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

CONTRACT #2012.044

(Title of Document)

2012.044

2012 MAR 29 PM 2:59

CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

DOUGLAS COUNTY

AND

FCS GROUP
REDMOND TOWN CENTER
7525 166TH AVE., NE, SUITE D-215
REDMOND, WA 98052



This Contract for Services by an Independent Contractor (the "Contract") is made by and between Douglas County, Nevada, a political subdivision of the State of Nevada, through its authorized agent, the Douglas County Manager (the "County"), and FCS GROUP, a Washington Subchapter S Corporation ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WHEREAS, Douglas County, a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

WHEREAS, Contractor represents that he is duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. DOCUMENTS INCORPORATED. The following exhibits are by this reference incorporated herein and are made part of this Contract:

Exhibit A--General Conditions for Contracts

Exhibit B--Letter from FCS Group to Carl Ruschmeyer dated March 12, 2012

Except as otherwise specifically provided herein, no other documents shall be part of this Contract.

2. WORK TO BE PERFORMED. Except as otherwise provided in this contract, Contractor shall furnish all services, equipment, and materials and shall perform all operations necessary and required to carry out and perform in accordance with the terms and conditions of the Contract the work described in Exhibit B.

3. PERIOD OF PERFORMANCE. Contractor shall perform and complete all work within the time periods set forth in Exhibit B. The time periods set forth in Exhibit B may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the Contract. Contractor shall begin performance upon receipt of a Notice to Proceed from the County.

4. COMPENSATION. Contractor agrees to perform the work for the Issue Paper for the County documenting the pros, cons, methodologies, industry practices and case law regarding availability charges, specifically for the County's sewer system for a total cost not to exceed Seven Thousand Four Hundred and Seventy Dollars (\$7,470), which, unless otherwise provided in this Contract, shall be paid in accordance with the provisions of Exhibit B. Unless otherwise provided in Exhibit B or unless Contractor has received a written exemption from the County, Contractor shall submit monthly requests for payment for services performed under this Contract. Requests for payment shall be submitted no later than fifteen (15) days after the end of each month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Contractor agrees to provide the following with each request for payment:

1. Appropriate invoice forms. The forms shall include the project purchase order number, a listing of personnel hours and billing rates, and other expenditures for which payment is sought.

2. A progress report. The report shall include, for each monthly reporting period, a description of the work accomplished, problems experienced, upcoming work, any extra work carried out, and a schedule showing actual expenditures billed for the period, cumulative total expenditures billed and paid to date under the Contract, and a comparison of cumulative total expenditures billed and paid to the approved budget.

The County will pay for work satisfactorily completed by Contractor. The County will pay Contractor within 30 days of approval by the County of the submitted invoice forms and progress reports. No payments will be made by the County until the invoice forms and progress reports have been submitted and approved. The parties expressly agree that progress payments shall not exceed the amounts for any particular task or phase of work set forth in Exhibit B and may be made in accordance with General Condition ¶ 14.

5. EFFECTIVE DATE OF CONTRACT. This contract shall not become effective until and unless approved by the Douglas County Manager.

6. Notices. All notices, requests, or approvals required or permitted to be given under this Contract shall be in writing, shall be sent by hand delivery, overnight carrier, or by United States mail, postage prepaid, and registered or certified, and shall be addressed to:

COUNTY REPRESENTATIVE: Carl Ruschmeyer, PE, Public Works Director
P.O. Box 218
Minden, NV 89423



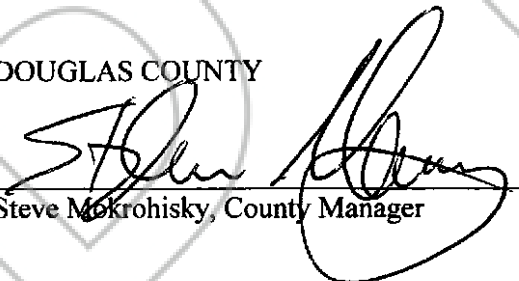
CONTRACTOR REPRESENTATIVE: Karyn Johnson, Principal
FCS Group
Redmond Town Center
7525 166th Ave., NE, Suite D-215
Redmond, WA 98052

Any notice required or permitted under this Contract, if sent by United States mail, shall be deemed to be given to and received by the addressee thereof on the third business day after being deposited in the mail. The County or Contractor may change the address or representative by giving written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

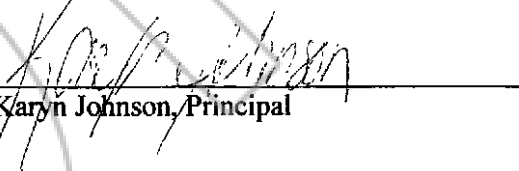
Dated: March 14, 2012.

DOUGLAS COUNTY


Steve Mokrohisky, County Manager

Dated: 3/5, 2012.

FCS GROUP


Karyn Johnson, Principal

**EXHIBIT A
GENERAL CONDITIONS**

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1. Definitions.

Unless otherwise required by the context, "Contractor" includes any of the Contractor's consultants, subconsultants, contractors, and subcontractors

Unless otherwise required by the context or unless no County Representative is designated under General Condition ¶ 4 of this Contract, "County" means the person designated under General Condition ¶ 4 of this Contract.

2. Independent Contractor Status and Provision of Workers Compensation Coverage.

The parties agree that Contractor shall have the status of and shall perform all work under this contract as an independent contractor, maintaining control over all its consultants, subconsultants, contractors, or subcontractors. The only contractual relationship created by this Contract is between the County and Contractor, and nothing in this Contract shall create any contractual relationship between the County and Contractor's consultants, subconsultants, contractors, or subcontractors. The parties also agree that this Contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 300.700, as necessarily adapted, to the parties, including that Contractor is not a County employee and that there shall be no:

- (1) Withholding of income taxes by the County;
- (2) Industrial insurance coverage provided by the County;
- (3) Participation in group insurance plans which may be available to employees of the County;
- (4) Participation or contributions by either the independent contractor or the County to the public employees' retirement system;
- (5) Accumulation of vacation leave or sick leave provided by the County; and
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

If applicable (and Contractor bears the sole responsibility for producing proof satisfactory to the County that these provisions are not applicable to Contractor), Contractor further agrees, as a precondition to the performance of any work under this Contract and as a precondition to any obligation of the County to make any payment under this Contract, to provide the County with a work certificate and/or a certificate issued by a qualified insurer in accordance with NRS 616B.627. Contractor also agrees, prior to commencing any work under the Contract, to complete and to provide the following written request to the qualified insurer:

(Company Name) has entered into a contract with Douglas County to perform work from (starting date) to (ending date) and requests that the qualified insurer provide to Douglas County 1) a certificate of coverage and 2) notice of any lapse in coverage or nonpayment of coverage that the contractor is required to maintain. The certificate and notice should be mailed to:

Douglas County Manager
Post Office Box 218
Minden, Nevada 89423

Contractor agrees to maintain required workers compensation coverage throughout the entire term of the Contract. If Contractor does not maintain coverage throughout the entire term of the Contract, Contractor agrees that County may, at any time the coverage is not maintained by Contractor, immediately order the Contractor to stop work and may immediately suspend or terminate the Contract. For each six month period this Contract is in effect, Contractor agrees, prior to the expiration of the six month period, to provide another written request to a qualified insurer for the provision of a certificate and notice of lapse in or nonpayment of coverage. If Contractor does not make the request or does not provide the certificate before the expiration of the six month period, then Contractor agrees that County may order the Contractor to immediately stop work and may immediately suspend or terminate the contract. In the event of an immediate suspension or termination under this provision, Contractor is entitled to receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the terms of the Contract prior to the date of the suspension or termination. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. In addition, the provisions of ¶ 10 shall apply in the case of a suspension or termination in accordance with this paragraph.

Contractor may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that the Contractor is a sole proprietor and that:

1. In accordance with the provisions of NRS 616B.659, has not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS; and
2. Is otherwise in compliance with those terms, conditions and provisions.

3. Standard of Care.

Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all work performed under this Contract. Contractor warrants that all work shall be performed with the degree of professional skill, care, diligence, and sound practices and judgment which are normally exercised by recognized professional firms with respect to services of a similar nature. It shall be the duty of Contractor to assure at its own expense that all work is technically sound and in conformance with all applicable federal, state, and local laws, statutes, regulations, ordinances, orders, or other requirements. In addition to all other rights which the County may have, Contractor shall, at its own expense and without additional compensation, re-perform work to correct or revise any deficiencies, omissions, or errors in the work or the product of the work or which result from Contractor's failure to perform in accordance with this standard of care. Any approval by the County of any products or services furnished or used by Contractor shall not in any way relieve Contractor of the responsibility for professional and technical accuracy and adequacy of its work. County review, approval, or acceptance of, or payment for, any of Contractor's work under this contract shall not operate as a waiver of any of the County's rights or causes of action under this Contract, and Contractor shall be and remain liable in accordance with the terms of the Contract and applicable law.

Contractor shall furnish competent and skilled personnel to perform the work under this Contract. The County reserves the right to approve key personnel assigned by Contractor to perform work under this Contract. Approved key personnel shall not be taken off of the project by Contractor without the prior written approval of the County, except in the event of termination of employment. Contractor shall, if requested to do so by the County, remove from the job any personnel whom the County determines to be incompetent, dishonest, or uncooperative.

4. County Representative.

The County may designate a County representative for this Contract. If designated, all notices, project materials, requests by Contractor, invoice forms, and progress reports, and any other communication about the Contract shall be addressed or be delivered to the County Representative.

5. Changes to Scope of Work.

The County may, at any time, by written order, make changes to the general scope, character, or cost of this Contract and in the services or work to be performed, either increasing or decreasing the scope, character, or cost of Contractor's performance under the Contract. Contractor shall provide to the County within 10 calendar days, a written proposal for accomplishing the change. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the County to be able to adequately analyze the proposal. The County will then determine in writing if Contractor should proceed with any or all of the proposed change. If the change causes an increase or a decrease in Contractor's cost or time required for performance of the Contract as a whole, an equitable adjustment shall be made and the Contract accordingly modified in writing. Any claim of Contractor for adjustment under this clause shall be asserted in writing within 30 days of the date the County notified Contractor of the change.

When changes are requested by Contractor, Contractor shall, before any work commences, estimate the effect of the proposed changes on the cost of the Contract and on the work schedule and notify the County in writing of the estimate. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the County to be able to adequately analyze the proposal. The County will then determine in writing if Contractor should proceed with any or all of the proposed changes.

Except as provided in this paragraph, no change shall be implemented by Contractor unless the change is approved by the County in writing. Unless otherwise agreed to in writing, the provisions of this Contract shall apply to all changes. Verbal approval of a change may be provided by the County when the County, in its sole discretion, determines that time is critical or public health and safety are of concern. Any verbal approval must be confirmed in writing by Contractor as soon as practicable. Any change undertaken without prior County approval shall not be compensated and is, at the County's election, sufficient reason for Contract termination.

6. County Cooperation.

The County agrees that its personnel will cooperate with Contractor in the performance of its work under this Contract and that such personnel will be available to Contractor for consultation at reasonable times and after being given sufficient advance notice that will prevent conflict with the other responsibilities of County personnel. The County also agrees to provide Contractor with access to County records in a reasonable time and manner and to schedule items which require action by the Board of County Commissioners or their designee in a timely manner. The County and Contractor also agree to attend all meetings called by the County or Contractor to discuss the work under the Contract, and that Contractor may elect to conduct and record such meetings and shall later distribute prepared minutes of the meeting to the County.

7. Discovery of Conflicts, Errors, Omissions, Ambiguities, or Discrepancies.

Contractor warrants that it has examined all Contract documents, has brought all conflicts, errors, discrepancies, and ambiguities to the attention of the County in writing, and has concluded that the

County's resolution of each matter is satisfactory to Contractor. All future questions Contractor may have concerning interpretation or clarification of this Contract shall be submitted in writing to the County within 10 calendar days of their arising. The writing shall state clearly and in full detail the basis for Contractor's question or position. The County representative shall render a decision within 15 calendar days. The County's decision on the matter is final and accepted by Contractor as final. Any work affected by a conflict, error, omission, or discrepancy which has been performed by Contractor prior to having received the County's resolution shall be at Contractor's risk and expense. At all times, Contractor shall carry on the work under this Contract and maintain and complete work in accordance with the requirements of the Contract or determination of the County. Contractor is responsible for requesting clarification or interpretation and is solely liable for any cost or expense arising from its failure to do so.

8. Construction and Interpretation of Contract.

This contract shall be construed and interpreted according to the laws of the State of Nevada and shall not be construed against or in favor of any Party.

9. Dispute Resolution.

Any dispute not within the scope of ¶ 7 shall be resolved under this paragraph ¶ 9. Either Party shall provide to the other Party, in writing and with full documentation to verify and substantiate its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting Party has delivered the written statement of its position and full documentation to the other Party. The Parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the County Representative and a Contractor representative. At all times, Contractor shall carry on the work under this Contract and maintain and complete work in accordance with the requirements of the Contract or determination or direction of the County. If the dispute is not resolved within 30 days, either Party may request that the dispute be submitted to the County Manager for final resolution. The decision of the County Manager shall be final and binding on the Parties. If either Party is dissatisfied with the decision of the County Manager, that Party may immediately terminate the Contract under this paragraph, with Contractor being entitled to compensation for work actually and satisfactorily performed up to the time of the termination and the County being entitled to all Contract materials in accordance with ¶ 21 and compensation for any additional damages or expenses incurred in completing the work under the Contract, including, without limitation, the costs of securing the services of other independent contractors.

10. Termination of Contract.

A. TERMINATION, ABANDONMENT, OR SUSPENSION WITHOUT CAUSE. The County, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project without cause by providing Contractor 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days by the County, the suspension shall be treated as a termination of all or part of the project and Contract.

Upon receipt of notice of termination, abandonment, or suspension, without cause Contractor shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the Contract that is not terminated.
3. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the County of all orders or subcontracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the County any orders or subcontracts specified in the notice, and revoke agreements specified in the notice.
4. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the County to resume performance.

In the event of a termination, abandonment, or suspension of the Contract without cause, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the Contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit or costs on unperformed services or other unperformed work.

B. TERMINATION FOR CAUSE. This Contract may be terminated by the County upon giving 10 calendar day's written notice to Contractor in the event of a failure by Contractor to adhere to all the terms and conditions of the Contract or for failure to satisfactorily, in the sole opinion of the County, pursue the project or to complete all work in a timely and professional manner. Contractor shall be given an opportunity for consultation with the County prior to the effective date of the termination. Contractor may terminate the contract on 10 calendar days written notice if, through no fault of Contractor, the County fails to pay Contractor for 30 days after the date of approval of any submitted invoice forms and progress reports.

In the event of a termination of the Contract for cause, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the Contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the County by reasons of Contractor's failure. Contractor shall not be relieved of liability to the County for damages sustained from the failure, and the County may withhold any payment to the Contractor until such time as the exact amount of damages due to the County is determined. All claims for payment by the Contractor must be submitted to the County within 30 days of the effective date of the notice of termination.

If after termination of the Contract for the failure of Contractor to adhere to all the terms and conditions of the Contract or for failure to satisfactorily, in the sole opinion of the County, pursue the project or to complete work in a timely and professional manner, it is determined that Contractor had not so failed, the termination shall be deemed to have been a termination without cause.. In that event, an equitable adjustment in the compensation paid to Contractor shall be made by the County. The adjustment shall include a reasonable profit for services or other work performed up to the effective date of termination less all previous payments.

C. GENERAL PROVISIONS FOR TERMINATION. Upon termination of the contract, the County may take over the work and prosecute it to completion by agreement with another party or otherwise. Neither Party shall be considered in default of the performance of its obligations hereunder to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such Party. Delays arising from the actions

or inactions of one or more of Contractor's principals, officers, employees, agents, subcontractors, consultants, vendors, or suppliers are expressly recognized to be within Contractor's control.

11. No Damages for Delay.

Apart from a written extension of time, no payment, compensation, or adjustment of any kind shall be made to Contractor for damages because of hindrances or delays in the progress of the work from any cause, and Contractor agrees to accept in full satisfaction of such hindrances and delays any extension of time which the County may provide.

12. Insurance.

Contractor shall carry and maintain in effect during the performance of services under this Contract worker's compensation and employer's liability insurance covering the Contractor's employees in accordance with statutory requirements, professional liability insurance, general liability insurance, and such other insurance coverage normally carried by Contractor insuring against the injury, loss, or damage to persons and property caused by Contractor's activities. Any additional insurance as may be required shall be as set forth below. Contractor shall maintain in effect at all times during the performance under this Contract all specified insurance coverage with insurers and forms of policy satisfactory to the County, acceptance of which shall not be unreasonably withheld. None of the requirements as to types, limits, and approval of insurance coverage to be maintained by Contractor are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract. Unless specifically set forth below, the County shall not maintain any insurance on behalf of Contractor.

Contractor will provide the County with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within 10 calendar days after the notice to proceed is issued by the County. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer and who is licensed by the State of Nevada.

- A. Each insurance company's rating as shown in the latest Best's Key rating guide shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by Contractor, including the rating and financial health of each insurance company providing coverage, is subject to the approval of the County.
- B. The County and its officers and employees must be expressly covered as additional insureds, except on workers compensation coverage.
- C. Contractor's insurance shall be primary as respects the County and its officers and employees.
- D. Contractor's general liability insurance policies shall provide coverage for Contractor's contractual liability to the County. The parties further agree that Contractor or its insurance carrier shall provide the County with 30 days advance notice of cancellation of the policies.
- E. All deductibles and self-insured retentions shall be fully disclosed in the certificates of insurance.

F. If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, the Contractor must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.

G. Contractor shall obtain and maintain, for the duration of this contract, general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this contract by Contractor or its agents, representatives, or employees. No separate payment shall be made by the County for the cost of such insurance.

H. General liability coverage shall be on a "per occurrence" basis only and not "claims made." The coverage must be provided either on a Commercial General Liability Form A or a Broad Form Comprehensive General Liability form. The parties agree that no exceptions will be permitted to the coverage provided in such forms. Policies must include, but need not be limited to, coverage for bodily injury, personal injury, broad form property damage, premises operations, severability of interest, products and completed operations, contractual and independent contractors. General liability insurance policies shall be endorsed to include the County as an additional insured. Subject to ¶ F of this section, Contractor shall maintain limits of no less than \$1,000,000 combined single limit per occurrence for bodily injury (including death), personal injury, and property damages.

I. Contractor shall obtain and maintain, for the duration of this Contract, automobile coverage which must include, but need not be limited to, coverage against claims for injuries to persons or damages to property which may arise from or in connection with the use of any automobile in the performance of work under this contract by Contractor or its agents, representatives, or employees. Subject to ¶ F of this section, Contractor shall maintain limits of no less than \$1,000,000 combined single limit "per occurrence" for bodily injury and property damage.

J. Contractor shall obtain and maintain professional liability coverage in a form acceptable to the County in an amount of \$500,000 per claim, \$500,000 annual aggregate. If Contractor's retention or deductible is greater than \$25,000, Contractor shall demonstrate to the County's satisfaction, upon the request of the County, Contractor's ability to fund the retention or deductible.

K. If contractor fails to maintain any of the required insurance coverage, then the County will have the option to declare Contractor in breach and terminate the Contract, or the County may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverage is maintained. Contractor is responsible for any payments made by the County to obtain or maintain such insurance, and the County may collect the same from Contractor or deduct the amount paid from any sums due Contractor under this Contract.

L. The specified insurance requirements do not relieve Contractor of its responsibility or limit the amount of its liability to the County or other persons, and Contractor is encouraged to purchase such additional insurance as it deems necessary.

M. Contractor is responsible for and required to remedy all damage or loss to any property, including property of the County, caused in whole or in part by Contractor or anyone employed, directed, or supervised by Contractor.

13. Fiscal Contingency.

All payments under this Contract are contingent upon the availability to the County of the necessary funds. In accordance with NRS 354.626, NRS 244.320, and any other applicable provision of law, the financial obligations under this Contract between the parties shall not exceed those monies appropriated and approved by the County for this Contract for the then current fiscal year under the Local Government Budget Act. This Contract shall terminate and the County's obligations under it shall be extinguished at the end of any fiscal year in which the County fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this Contract.

Nothing in this Contract shall be construed to provide Contractor with a right of payment from any other entity. Any funds obligated by the County under this Contract that are not paid to Contractor shall automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the Contract. The County shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor shall have no claim of any sort to the unexpended funds.

14. Retentions.

Review by the County of Contractor's submitted monthly invoice forms and progress reports for payment will be promptly accomplished by the County. If there is insufficient information, the County may require Contractor to submit additional information. Unless the County, in its sole discretion, decides otherwise, the County shall pay Contractor in full within 30 days of approval of the submitted monthly invoice forms and progress reports as follows:

- a) From the dollar amount of work in place, a ten percent (10%) retention will be deducted from each monthly progress payment.
- b) Upon completion of 50% of the work in place and if, in the sole opinion of the County, the work is progressing satisfactorily, then the County may forego further retentions.
- c) If, at any time after foregoing a retention from a payment, the County determines that Contractor is failing to make satisfactory progress, the County may resume retentions.

15. Compliance with Applicable Laws.

Contractor, at all times, shall fully and completely comply with all applicable local, state and federal laws, statutes, regulations, ordinances, orders, or requirements of any sort in carrying out the obligations of this Contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Americans With Disabilities Act. Contractor shall, throughout the period services are to be performed under this Contract, monitor for any changes to the applicable laws, statutes, regulations, ordinances, orders, or requirements, shall promptly notify the County in writing of any changes to the same relating to or affecting this Contract, and shall submit detailed documentation of any effect of the change in terms of both time and cost of performing the Contract.

16. Nondiscrimination.

If applicable or required under any federal or state law, statute, regulation, order, or other requirement, Contractor agrees to enforce a policy of nondiscrimination. Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for employment which the employee or applicant for employment is qualified. Contractor agrees to take affirmative action to employ, advance in employment, or to otherwise treat qualified, handicapped individuals without discrimination based upon physical or mental handicap in all employment practices, including but not limited to the following: Employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation and selection for training, including any apprenticeship.

Contractor acknowledges that it is aware of and is fully informed of Contractor's obligations under Executive Order 11,246 and, where applicable, shall comply with the requirements of the Order and all other orders, rules, and regulations promulgated under the Order and its amendments unless exempted therefrom.

Without limitation of the foregoing, Contractor's attention is directed to 41 C.F.R. § 60-1.4, and the clause entitled "Equal Opportunity Clause" which, by reference, is incorporated into this Contract, to 41 C.F.R. § 60-250 *et seq.* and the clause entitled "Affirmative Action Obligations of Contractors and Subcontractor for Disabled Veterans and Veterans of the Vietnam Era," which, by reference, is incorporated in this Contract, and to 41 C.F.R. § 60-471 and the clause entitled "Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers," which, by this reference, is incorporated in this Contract.

Contractor agrees to assist disadvantaged business enterprises in obtaining business opportunities by identifying and encouraging disadvantaged suppliers, consultants, and subconsultants to participate to the extent possible, consistent with their qualification, quality of work, and obligation of Contractor under this contract.

In connection with the performance of work under this Contract, Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, or age. This Contract includes, but is not limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The failure to comply with NRS 338.130 shall render this Contract void.

Contractor agrees, if applicable, to insert these provisions in all subcontracts, except for subcontracts for standard commercial supplies or raw materials. Any violation of any applicable provision by Contractor shall constitute a material breach of the Contract.

17. Federal Subcontracting Requirements.

If Contractor awards a subcontract under this Contract, Contractor, if applicable, shall use the following alternative steps:

- a. Placing Small Businesses in Rural Areas (SBRAs) on solicitation lists;
- b. Ensuring that SBRAs are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs;

- d. Establishing delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;
- e. Using the services of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, as appropriate; and
- f. Requiring the subcontractor, if it awards subcontracts, to take the affirmative steps set forth in ¶¶ a-e.

If applicable, Contractor agrees to complete and submit to the County a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within 30 days after the end of each fiscal quarter until the end of the Contract.

18. Contractor Endorsement.

Contractor shall seal and/or stamp drawings, plans, maps, reports, specifications, and other instruments of service prepared by Contractor or under its direction as required by state law.

19. Assignment, Transfer, Delegation, or Subcontracting.

Contractor shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this Contract without the prior written consent of the County. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the County is void. Any consent of the County to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms and conditions set forth in this Contract, including all incorporated Exhibits and written amendments or modifications. Subject to the foregoing provisions, the Contract inures to the benefit of, and is binding upon, the approved successors and assigns of the Parties.

20. County Inspection of Contract Materials.

The books, records, documents and accounting procedures and practices of Contractor related to this Contract shall be subject to inspection, examination and audit by the County, including, but not limited to, the contracting agency, the County Manager, the District Attorney, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

21. Disposition of Contract Materials.

Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials, including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by, or supplied to, Contractor in the performance of its obligations under this Contract shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Contractor's expense, by Contractor to the County upon completion, termination, or cancellation of this contract. Alternatively, if the County provides its written approval to Contractor, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Contractor in the performance of its obligations under this Contract must be retained by Contractor for a minimum of four years after final payment is made and all other pending matters are closed. If, at any time during the retention period, the County, in writing, requests any or all of the materials, then Contractor shall promptly remit and deliver the materials, at Contractor's expense, to the County. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than

the performance of Contractor's obligations under this Contract without the prior written consent of the County.

22. Public Records Law, Copyrights, and Patents.

Contractor expressly agrees that all documents ever submitted, filed, or deposited with the County by Contractor (including those remitted to the County by Contractor pursuant to ¶ 21), unless designated as confidential by a specific statute of the State of Nevada, shall be treated as public records pursuant to NRS chapter 239 and shall be available for inspection and copying by any person, as defined in NRS 0.039, or any governmental entity.

No books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Contractor in the performance of its obligations under this Contract shall be the subject of any application for a copyright or patent by or on behalf of Contractor. The County shall have the right to reproduce any such materials.

Contractor expressly and indefinitely waives all of its rights to bring, including but not limited to, by way of complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright or patent laws of the United States or of any other nation. Contractor agrees to indemnify, to defend, and to hold harmless the County, its representatives, and employees from any claim or action seeking to impose liability, costs, and attorney fees incurred as a result of or in connection with any claim, whether rightful or otherwise, that any material prepared by or supplied to Contractor infringes any copyright or that any equipment, material, or process (or any part thereof) specified by Contractor infringes any patent.

Contractor shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing materials, concepts, products, or processes, or to modify such infringing materials, concepts, products, or processes so they become non-infringing, or to obtain the necessary licenses to use the infringing materials, concepts, products, or processes, provided that such substituted or modified materials, concepts, products, or processes shall meet all the requirements and be subject to all the terms and conditions of this contract.

23. Indemnification.

Regardless of the coverage provided by any insurance, Contractor agrees to indemnify and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Contract by Contractor, Contractor's agents or employees. Contractor hereby indemnifies and shall defend and hold harmless the County, its officials, employees, and authorized representatives and their employees from and against any and all suits, actions, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatever kind or nature, including those arising out of injury to or death of Contractor's employees, whether arising before or after completion of the work under this Contract and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this Contract. Contractor's indemnity, defense, and hold harmless obligations, or portions

or applications thereof, shall not apply in the event of the sole negligence of the County, its officials, employees, agents, authorized representatives, or any of their employees or agents.

24. Final Acceptance.

Upon completion of all work under the Contract, Contractor shall notify the County in writing of the date of the completion of the work and request confirmation of the completion from the County. Upon receipt of the notice, the County shall confirm to Contractor in writing that the whole of the work was completed on the date indicated in the notice or provide Contractor with a written list of work not completed. With respect to work listed by the County as incomplete, Contractor shall promptly complete the work and the final acceptance procedure shall be repeated. The date of final acceptance of a project by the County shall be the date upon which the Douglas County Board of County Commissioners accepts and approves the notice of completion.

25. Taxes.

Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work performed under the Contract and make any and all payroll deductions required by law. The Contract sum and agreed variations to it shall include all taxes imposed by law. Contractor hereby indemnifies and holds harmless the County from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

26. Non-Waiver of Terms and Conditions.

None of the terms and conditions of this contract shall be considered waived by the County. There shall be no waiver of any past or future default, breach, or modification of any of the terms and conditions of the Contract unless expressly stipulated to by the County in a written waiver.

27. Rights and Remedies.

The duties and obligations imposed by the Contract and the rights and remedies available under the contract shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

28. Prohibited Interests.

Contractor shall not allow any officer or employee of the County to have any indirect or direct interest in this Contract or the proceeds of this Contract. Contractor warrants that no officer or employee of the County has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this Contract or in the business of Contractor. If any such interest comes to the attention of Contractor at any time, a full and complete disclosure of the interest shall be immediately made in writing to the County. Contractor also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Contractor further warrants that no person having such an interest shall be employed in the performance of this Contract. If County determines that a conflict exists and was not disclosed to the County, it may terminate the Contract with or without cause in accordance with ¶ 10.

In the event Contractor (or any of its officers, partners, principals, or employees acting with its authority) is convicted of a crime involving a public official arising out or in connection with the procurement of work to be done or payments to be made under this Contract, County may terminate the Contract with or without cause accordance with ¶ 10. Upon termination, Contractor shall refund to the

County any profits realized under this Contract, and Contractor shall be liable to the County for any costs incurred by the County in completing the work described in this contract. At the discretion of the County, these sanctions shall also be applicable to any such conviction obtained after the expiration or completion of the Contract.

Contractor warrants that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Contractor to any officer or employee of the County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Contract. If County determines that such gratuities were or offered or given, it may terminate the Contract at will or for cause in accordance with ¶ 10.

The rights and remedies of this section shall in no way be considered for be construed as a waiver of any other rights or remedies available to the County under this Contract or at law.

29. Third Party Interests and Liabilities.

The County and Contractor, including any of their respective agents or employees, shall not be liable to third parties for any act or omission of the other Party. This Contract is not intended to create any rights, powers, or interest in any third party and this agreement is entered into for the exclusive benefit of the County and Contractor.

30. Survival of Rights and Obligations.

The rights and obligations of the Parties which by their nature survive termination or completion of this Contract shall remain in full force and effect.

31. Severability.

In the event that any provision of this Contract is rendered invalid or unenforceable by any valid act of Congress or of the Nevada legislature or any court of competent jurisdiction, or is found to be in violation of state statutes or regulations, the invalidity or unenforceability of any particular provision of this Contract shall not affect any other provision, the Contract shall be construed as if such invalid or unenforceable provisions were omitted, and the parties may renegotiate the invalid or unenforceable provisions for sole purpose of rectifying the invalidity or unenforceability.

32. Modification of Contract and Entire Agreement.

This Contract constitutes the entire understanding and agreement between the County and Contractor. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth in this Contract. No changes, amendments, or modifications of any terms or conditions of the Contract shall be valid unless reduced to writing and signed by both Parties.



EXHIBIT B

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PG- 7864
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0799937

March 12, 2012

Carl Ruschmeyer
Public Work Director
Douglas County
PO Box 218
Minden, NV 89423

Re: Issue Paper - Sewer System Availability Charges

Dear Carl:

FCS GROUP is pleased to provide this engagement letter to provide an issue paper for the County documenting the pros, cons, methodologies, industry practices, and case law regarding availability charges, specifically for the County's sewer system. The Scope of Work, Budget, and Terms of Agreement are provided herein.

SCOPE OF WORK

The following scope of work identifies the activities that FCS GROUP will provide:

Task 1 – Data Collection

Prepare a data request identifying the information that will be needed for the analysis. This will include County ordinances, codes, and/or other documentation citing utility system connection requirements; number of potential "availability service" lots; existing utilization and total capacity of treatment plant; EDUs, existing sewer rates and connection charges; and cost of capital. Review and evaluate data for use in preparing the analysis and issue paper.

Task 2 – Industry / Legal Research

Conduct research regarding industry practices and legal precedence related to availability charges. We will draw upon our existing library of information and supplement that information with web research and direct surveys of utilities on the west coast. We estimate direct contact with up to 10 utilities.

Task 3 – Technical Analysis

Prepare a rough-order-of-magnitude analysis to estimate a potential range for the level of availability charges and potential revenues generated for the County's sewer system under alternative calculation methodologies. This analysis will rely on the County's existing sewer system connection charges, budget detail, and equivalent dwelling unit (EDU) data.

Task 4 – Documentation

Document findings in an issue paper, submit to County staff, and review results via teleconference. At a minimum, the paper will describe the purpose and rationale for availability charges; alternative calculation methodologies; pros, cons, and risks associated with the charges; and consultant

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recommendations. The research findings and technical analysis will be summarized and documented in the paper.

Task 5 – Project Administration

Perform miscellaneous project set up activities, work paper documentation, invoicing, and other miscellaneous project administration activities.

BUDGET

FCS GROUP will perform the Scope of Work at a cost not to exceed \$7,470, using our standard billing rates shown below:

Task	Managing Principal K. Johnson	Analyst K. Shirley	Admin. Support	Total Estimated Hours	Total Budget
<i>Hourly Billing Rates:</i>	<i>\$200</i>	<i>\$100</i>	<i>\$70</i>		
Task 1 - Data Collection	2	4		6	\$ 800
Task 2 - Industry / Legal Research	2	20		22	\$ 2,400
Task 3 - Technical Analysis	2	8		10	\$ 1,200
Task 4 - Documentation	8	12		20	\$ 2,800
Task 5 - Project Administration	1		1	2	\$ 270
Total	15	44	1	60	\$ 7,470

TERMS OF AGREEMENT

FCS GROUP will submit the Issue Paper to County staff no later than April 18, 2012. We will bill monthly for the services based on actual hours worked and hourly billing rates as shown in the exhibit above. The County will make payment within 30 days of receipt and approval of invoices.

AUTHORIZATION

Please authorize this Engagement Letter by your signature and date, and return one signed copy to Karyn Johnson at FCS GROUP. Questions regarding this letter should be directed to Ms. Johnson at 425-867-1802 ext. 241.

FCS GROUP

Douglas County, NV

 Karyn Johnson
 Principal

 Carl Ruschmeyer
 Public Works Director

Date: _____

Date: _____

COPY

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: Mar 29 2012
Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas.
By: [Signature] Deputy