

Item # 8-2

City of Carson City
Agenda Report

Date Submitted: August 21, 2009

Agenda Date Requested: September 3, 2009

Time Requested: Consent

To: Mayor and Supervisors

From: Purchasing & Contracts

Subject Title: Action to amend Contract No. 0809-195 Conflict Counsel Attorney Services provided by the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker by removing J. Thomas Susich from the consortium and adding Thomas R. Armstrong as a provider under the consortium.

Staff Summary: On August 10, 2009, J. Thomas Susich submitted a letter to the First Judicial District Court judges formally resigning from his contractual position as Conflict Counsel effective 5:00 p.m. on September 30, 2009 and accepting a full time position with the State of Nevada. Thomas R. Armstrong has accepted being added to the consortium and existing Contract No. 0809-195 for Conflict Counsel Attorney Services.

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 amend Contract No. 0809-195 Conflict Counsel Attorney Services provided by the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker by removing J. Thomas Susich from the consortium and adding Thomas R. Armstrong as a provider under the consortium.

Explanation for Recommended Board Action: The District and Justice Courts held a discussion with Kay Ellen Armstrong and Robert B. Walker for the possibility of absorbing J. Thomas Susich' caseload. Both attorneys agreed and stated that they would not be able to absorb the caseload on a long-term basis but were willing to assist until another attorney could be contracted. For the past three years, the Conflict Counsel consortium has consisted of three attorneys.

NRS 332.115 Contracts not adapted to award by competitive bidding; purchase of equipment by local law enforcement agency, response agency or other local governmental agency; purchase of goods commonly used by hospital.

1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(b) Professional services;

are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

(Added to NRS by 1975, 1538; A 1987, 296, 1484; 1991, 337, 349, 648, 1934, 1935; 1997, 132; 1999, 889, 1684; 2001, 1317; 2003, 620, 2262; 2005, 226, 2554)

Applicable Statue, Code, Policy, Rule or Regulation: NRS 332.115 subsection 1 (b)

Fiscal Impact:

Funding Source: General Fund

Supporting Material: Letter from J. Thomas Susich dated August 10, 2009, Amendment to Contract 0809-195 and Executed Contract 0809-195.

Prepared By: Sandy Scott, Purchasing & Contracts Coordinator

Reviewed By: <u><i>James T. Russell</i></u>	Date: <u>8/20/09</u>
(James T. Russell, First Judicial District Court Judge, Dept I)	
<u><i>James E. Wilson Jr.</i></u>	Date: <u>8/20/09</u>
(James E. Wilson Jr., First Judicial District Court Judge, Dept II)	
<u><i>Robey B. Willis</i></u>	Date: <u>8/20/09</u>
(Robey B. Willis, Justice and Municipal Courts Judge, Dept I)	
<u><i>John Patro</i></u>	Date: <u>8/20/09</u>
(John Patro, Justice and Municipal Court Judge, Dept II)	
<u><i>[Signature]</i></u>	Date: <u>8/25/09</u>
(City Manager)	
<u><i>Margaret Bukett</i></u>	Date: <u>8-25-09</u>
(District Attorney)	
<u><i>Mark Brumback</i></u>	Date: <u>8-25-09</u>
(Finance Director)	

Board Action Taken:

Motion: _____

1) _____	Aye/Nay
2) _____	_____

(Vote Recorded By)

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

THIS AMENDMENT is made and entered into this 3rd day of September, 2009, by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**", and the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker qualified and professional attorneys, licensed in the State of Nevada, hereinafter referred to as the "**CONTRACTOR**", and is made to amend the existing contract known as **CONTRACT # 0809-195** to add Thomas R. Armstrong and remove J. Thomas Susich from the consortium.

WITNESSETH:

WHEREAS, the **CITY** desires to amend sub-sections of Sections 3.1.1. of the original contract to include that which is contained herein; and

WHEREAS, it is deemed that said amendment is both necessary and in the best interests of the **CITY**.

NOW, THEREFORE, in consideration of the aforesaid, the parties agree as follow:

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

1. Amend Paragraph 3.1.1 of **CONTRACT** Notice as follows:

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

Kay Ellen Armstrong
415 West Second Street
Carson City, NV 89703
775-883-3990 / FAX #775-882-8854
klhatty@pyramid.net

Robert B. Walker
415 West Second Street
Carson City, NV 89703-4231
775-882-8851 / FAX #775-882-8854
benwalkeratty@aol.com

Thomas R. Armstrong
209 N. Pratt
Carson City, NV 89701
775-560-7705
Tarmstrong@armstrong-law.net

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

IT IS ALSO AGREED, that all unaffected conditions, requirements, and restrictions of the Original Contract document remain in full force and effect for the duration of the Contract term.

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

ACKNOWLEDGMENT AND EXECUTION:

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

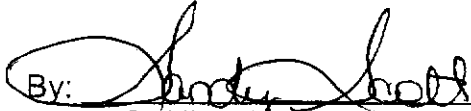
CARSON CITY

Finance Director
Attn: Sandy Scott, Purchasing &
Contracts Management Assistant
201 North Carson Street Suite 11
Carson City, Nevada 89701
Telephone: 775-887-2133 ext. 30137
Fax: 775-887-2107
SScott@ci.carson-city.nv.us

CITY'S LEGAL COUNSEL

Neil A. Rombardo, District Attorney

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

By: 
SANDY SCOTT

By: 
Deputy District Attorney

DATED 8-25-09

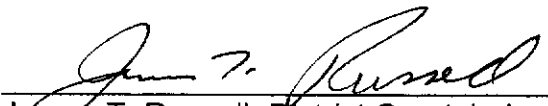
DATED 8-25-09

CITY'S ORIGINATING DEPARTMENT

BY: James T. Russell, District Court Judge
First Judicial District Court, Dept. I
885 East Musser Street, Suite 3061
Carson City, NV 89701
Telephone: 775-882-1996
Fax: 775-887-2272
JRussell@ci.carson-city.nv.us

CITY'S ORIGINATING DEPARTMENT

BY: James E. Wilson Jr., District Court Judge
First Judicial District Court, Dept. II
885 East Musser Street, Suite 3057
Carson City, NV 89701
Telephone: 775-882-1619
Fax: 775-887-2296
JWilson@ci.carson-city.nv.us


James T. Russell, District Court Judge


James E. Wilson Jr., District Court Judge

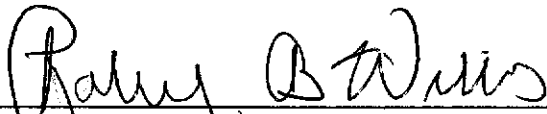
DATED this 21 day of August, 2009.

DATED this 21 day of August, 2009.

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

CITY'S ORIGINATING DEPARTMENT

BY: Robey B. Willis, Judge
Justice and Municipal Court, Dept. I
885 East Musser Street, Suite 2069
Carson City, NV 89701
Telephone: 775-887-2121
Fax: 775-887-2351
RWillis@ci.carson-city.nv.us

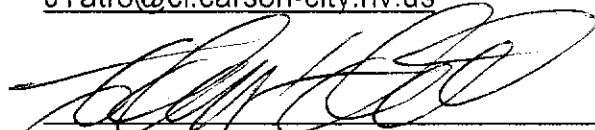


Robey B. Willis, Judge

DATED this 20th day of August, 2009.

CITY'S ORIGINATING DEPARTMENT

BY: John Tatro, Judge
Justice and Municipal Court, Dept. II
885 East Musser Street, Suite 2069
Carson City, NV 89701
Telephone: 775-887-2378
Fax: 775-887-2351
JTatro@ci.carson-city.nv.us



John Tatro, Judge

DATED this 20 day of August, 2009.

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

Thomas R. Armstrong being first duly sworn, deposes and says: That he is the **CONTRACTOR**; that he has read the foregoing Amendment and Contract No. 0809-195; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR
BY: Thomas R. Armstrong
TITLE: Attorney at Law
CARSON CITY BUSINESS LICENSE #: 09-00027020
Address: 209 N. Pratt
City: Carson City **State:** Nevada **Zip Code:** 89701
Telephone: 775-560-7705
E-mail Address: Tarmstrong@armstrong-law.net



(Signature of **CONTRACTOR**)

DATED 8-21-2009

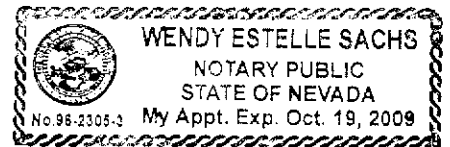
STATE OF Nevada)
County of Carson City) ss

On this 21st day of August, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared Thomas R. Armstrong, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs
Notary's Signature

L.S.

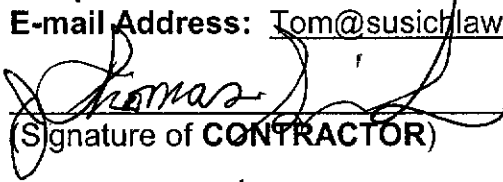


My Commission Expires: October 19, 2009

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

J. Thomas Susich being first duly sworn, deposes and says: That he is the **CONTRACTOR**; that he has read the foregoing Amendment; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR
BY: J. Thomas Susich
BUSINESS LICENSE #: 09-00025956
Address: PO BOX 2385
City: Carson City **State:** NV **Zip Code:** 89703
Telephone: 775-882-4600/ **Fax #:** 775-882-4644
E-mail Address: Tom@susichlaw.net


(Signature of **CONTRACTOR**)

DATED this 21 day of August, 2009.

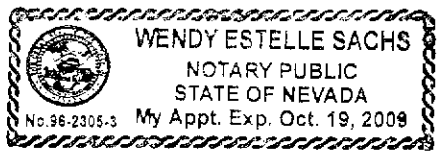
STATE OF Nevada)
County of Carson City) ss

On this 21st day of August, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared J. Thomas Susich, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs
Notary's Signature

L.S.




My Commission Expires: Oct. 19, 2009

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

Kay Ellen Armstrong being first duly sworn, deposes and says: That she is the **CONTRACTOR**; that she has read the foregoing Amendment; and that she understands the terms, conditions, and requirements thereof.

CONTRACTOR
BY: Kay Ellen Armstrong
BUSINESS LICENSE #: 09-00005324
Address: 415 West Second Street
City: Carson City **State:** NV **Zip Code:** 89703
Telephone: 775-883-3990/ **Fax #:** 775-882-8854
E-mail Address: klratty@pyramid.net



(Signature of **CONTRACTOR**)

DATED this 21st day of August, 2009.

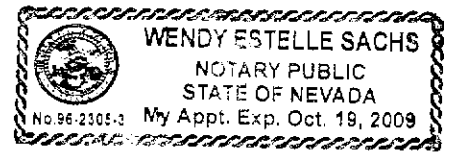
STATE OF Nevada)
County of Carson City) **ss**

On this 21st day of August, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared Kay Ellen Armstrong, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs
Notary's Signature

L.S.



My Commission Expires: Oct. 19, 2009

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1**

Contract No. 0809-195 Conflict Legal Services

Robert B. Walker being first duly sworn, deposes and says: That he is the **CONTRACTOR**; that he has read the foregoing Contract; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR

BY: Robert B. Walker

BUSINESS LICENSE #: 09-00001123

Address: 415 West Second Street

City: Carson City **State:** NV **Zip Code:** 89703-8854

Telephone: 775-883-3990/ **Fax #:** 775-882-8854

E-mail Address: benwalkeratty@aol.com

Robert B. Walker

(Signature of **CONTRACTOR**)

DATED this 21ST day of August, 2009.

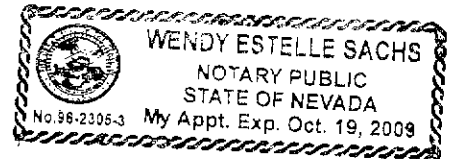
STATE OF Nevada)
County of Carson City) **ss**

On this 21st day of August, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared Robert B. Walker, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs
Notary's Signature

L.S.



My Commission Expires: Oct. 19, 2009

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
AMENDMENT No. 1
Contract No. 0809-195 Conflict Legal Services**

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of approved Amendment No. 1 for **CONTRACT No. 0809-195**. 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 ____ day of _____, 2009.

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this ____ day of _____, 2009.

J. Thomas Susich
Attorney at Law

304 South Minnesota Street
P.O. Box 2385
Carson City, Nevada 89702
(775) 882-4600
(775) 882-4644 (Fax)
tom@susichlaw.net

August 10, 2009

The Honorable James T. Russell
The Honorable James E. Wilson, Jr.
District Judges
885 East Musser Street
Carson City, NV 89701

Dear Judges Russell and Wilson:

This letter is to confirm my former verbal notification that I will be resigning my contractual position as Conflict Counsel effective at 5:00 p.m. on September 30, 2009. I am taking a full time position with the Nevada Department of Employment, Training and Rehabilitation.

I want to thank you and all of the rest of the courts' staff for the professional courtesy you have shown toward me over the last nine years. I leave reluctantly, however the work load combined with my other professional responsibilities, has become more than I can handle.

I know of two persons who are interested in taking over my portion of the contract. They are:

Thomas Armstrong, Esq.
304 South Minnesota Street
Carson City, NV 89703
(775) 560-7705

Maria Pence, Esq.
2197 Manhattan Drive
Carson City, NV 89703
(775) 220-0884

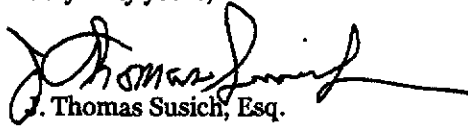
I am sure you are aware of Tom's experience and qualifications. Maria is currently a part time staff attorney with the Nevada Supreme Court. I am informed that she served as a Deputy Federal Public Defender in San Diego before coming to Nevada. She is fluent in Spanish.

I highly recommend both of these candidates. I would also request that the Court try to have a replacement selected by September 15, 2009, in order to allow me some time to go over the files with my replacement and familiarize him or her with my cases before that person takes over.

Please feel free to contact me if you have any questions or concerns.

Once again, thank you for allowing me to serve the people of Carson City in the capacity of conflict counsel.

Very truly yours,


J. Thomas Susich, Esq.

cc. Judge John Tatro
Judge Robey Willis
Judge David Nielsen
Kay Ellen Armstrong, Esq.
Ben Walker, Esq.
Diane Crow, Nevada State Public Defender
Neil A. Rombardo, District Attorney
Maxine Cortez, Court Administrator

★ CLERK ★
FILED

Time Hillier

18(A)

JUN 04 2009

City of Carson City
Agenda Report

By V. King
Deputy
Carson City, Nevada

Date Submitted: May 20, 2009

Agenda Date Requested: June 4, 2009
Time Requested: 5 Minutes

To: Mayor and Supervisors
From: Purchasing & Contracts

Subject Title: Action to determine that Contract No. 0809-195 is a contract for professional services and therefore not suitable for public bidding pursuant to NRS 332.115 and to approve Contract No. 0809-195 Conflict Counsel Attorney Services a request for professional services to be provided by the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker for Fiscal Year 2009/2010 in the amount of \$341,984.88 and for Fiscal Year 2010/2011 in the amount of \$341,984.88 from the General Fund.

Staff Summary: Contract 0708-026 Conflict Counsel Attorney Services will expire June 30, 2009.

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 determine that Contract No. 0809-195 is a contract for professional services and therefore not suitable for public bidding pursuant to NRS 332.115 and to approve Contract No. 0809-195 Conflict Counsel Attorney Services a request for professional services to be provided by the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker for Fiscal Year 2009/2010 in the amount of \$341,984.88 and for Fiscal Year 2010/2011 in the amount of \$341,984.88 from the General Fund.

Explanation for Recommended Board Action: December 3, 2003 Request for Qualifications #0304-067 Conflict Counsel Attorney Services was provided to Odessa Ramirez of V.A.R.N. who broadcast to the members of the First Judicial Bar Association and the Douglas County Bar. The **REQUEST FOR QUALIFICATIONS** was also published in the Nevada Appeal on December 7, 2003.

Statements of Qualifications were received from four (4) proposers: Kay Ellen Armstrong; Carolyn Tanner Jensen & Jason Woodbury; J. Thomas Susich; Robert W. Walker; and Kevin P. Walsh.

The Selection Committee reviewed the Statement of Qualifications and selected Kay Ellen Armstrong, Carolyn Tanner Jensen, J. Thomas Susich, Robert B. Walker, and Jason Woodbury.

March 18, 2004, the Board of Supervisors awarded Contract #0304-067 Conflict Counsel Legal Services to the consortium of Kay Ellen Armstrong, Carolyn Tanner Jensen, J. Thomas Susich, Robert B. Walker, and Jason Woodbury for \$24,000 per month through June 30, 2005, with the option to renew for two (2) additional years subject to negotiation. The yearly increase for the first renewal period of July 1, 2005, through June 30, 2006, was in accordance with the Consumer Price Index-All Urban Consumers. The yearly increase for the second renewal period of July 1, 2006, through June 30, 2007, was in accordance with the Consumer Price Index-All Urban Consumers Year Ending March 2006.

June 5, 2005, the Board of Supervisors approved the 1st renewal period through June 30, 2006, which increased the contract 4.9% to \$25,176 per month. Additionally, Jason Woodbury and Carolyn Tanner Jensen withdrew from the consortium effective June 30, 2005, the consortium currently consists of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker

June 15, 2006, the Board of Supervisors approved the 2nd renewal period through June 30, 2007, which increased the contract 6.7% to \$26,862.79 per month.

June 21, 2007, Staff negotiated a two-year contract with the consortium that allowed for a 3% increase each year. For the period of July 1, 2007, through June 30, 2008, the 3% increased the contract to \$27,668.68 per month. For the period of July 1, 2008, through June 30, 2009, the 3% increased the contract from to \$28,498.74 per month.

A two-year contract has been negotiated in the amount of \$28,498.74, per month for Fiscal Year 2009/2010 and \$28,498.74, per month for Fiscal Year 2010/2011, subject to review at the discretion of the City after a review of the Consumer Price Index, available funding, and a review of any increase in case load assignments to the Contractor.

Pursuant to NRS 332.115 subsection 1 (b), staff is requesting the Board of Supervisors declare that this contract is not adapted to award by competitive bidding.

NRS 332.115 Contracts not adapted to award by competitive bidding; purchase of equipment by local law enforcement agency, response agency or other local governmental agency; purchase of goods commonly used by hospital.

1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(b) Professional services;

are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

(Added to NRS by 1975, 1538; A 1987, 296, 1484; 1991, 337, 349, 648, 1934, 1935; 1997, 132; 1999, 889, 1684; 2001, 1317; 2003, 620, 2262; 2005, 226, 2554)

Applicable Statue, Code, Policy, Rule or Regulation: NRS 332.115 subsection 1 (b)

Fiscal Impact: \$341,948.88 for FY 2009/2010 and \$341,948.88 for FY 2010/2011

Funding Source: General Fund

Supporting Material: Contract 0809-195

Prepared By: Sandy Scott, Purchasing & Contracts Coordinator

Reviewed By:

(James T. Russell, First Judicial District Court Judge, Dept I)

James T. Russell

Date: _____

(James E. Wilson Jr., First Judicial District Court Judge, Dept II)

James E. Wilson Jr.

Date: 6/2/09

(Nobey B. White, Justice and Municipal Court Judge, Dept I)

Nobey B. White

Date: 6/2/09

(John Talar, Justice and Municipal Court Judge, Dept II)

John Talar

Date: _____

(City Manager)

Melanie Ruskotta

Date: 5/26/09

(District Attorney)

Nancy Paulson

Date: 5-26-09

(Finance Director)

Date: 5/26/09

Board Action Taken:

Motion: App.

- 1) RW
- 2) PL

50
Aye/Nay

AS

(Vote Recorded By)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0809-195
Conflict Legal Services

THIS CONTRACT, made and entered into this 4th day of June, 2009, by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**", and the consortium of Kay Ellen Armstrong, J. Thomas Susich, and Robert B. Walker, qualified and professional attorneys, licensed in the State of Nevada, hereinafter referred to as the "**CONTRACTOR**".

W I T N E S S E T H :

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

WHEREAS, this Contract is entered into pursuant to the provisions of Chapter 260 of the Nevada Revised Statutes and Chapter 8.40 of the Carson City Municipal Code; and

WHEREAS, it is deemed that the services of **CONTRACTOR** for **CONTRACT No. 0809-195 Conflict Counsel Legal Services** are both necessary and in the best interests of the **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 July 1, 2009, subject to Carson City Board of Supervisors' approval (anticipated to be June 4, 2009) to June 30, 2011, unless sooner terminated by either party as specified in **Section 7 Contract Termination**.

2.2 This Contract may be amended in writing by the parties only after giving ninety (90) days advance written notice to the other party.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0809-195
Conflict Legal Services

For P&C Use Only			
	Armstrong	Susich	Walker
BL expires	_____	_____	_____
GL expires	_____	_____	_____
PL expires	_____	_____	_____
WC expires	_____	_____	_____

3 NOTICE:

3.1 Unless otherwise specified, termination shall not be effective until ninety (90) calendar days after a party has served written notice of default, or without cause upon the other party. 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 with simultaneous regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

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

Kay Ellen Armstrong
415 West Second Street
Carson City, NV 89703
775-883-3990 / FAX #775-882-8854
knatty@pyramid.net

J. Thomas Susich
PO BOX 2385
Carson City, NV 89703
775-882-4600 / FAX #775-882-8854
Tom@susichlaw.net

Robert B. Walker
415 West Second Street
Carson City, NV 89703-4231
775-882-8851 / FAX #775-882-8854
benwalkerattv@aol.com

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0809-195
Conflict Legal Services

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

Carson City Purchasing & Contracts
Sandy Scott, Purchasing & Contracts Coordinator
201 North Carson Street Suite 3
Carson City, NV 89701
775-887-2027 extension 30137 / FAX 887-2107
SScott@ci.carson-city.nv.us

FIRST JUDICIAL DISTRICT COURT, DEPT. I
Judge James T. Russell
885 East Musser Street, Suite 3061
Carson City, NV 89701

FIRST JUDICIAL DISTRICT COURT, DEPT. II
Judge James E. Wilson Jr.
885 East Musser Street, Suite 3057
Carson City, NV 89701

JUSTICE AND MUNICIPAL COURT, DEPT. I
Judge Robey B. Willis
885 East Musser Street, Suite 2069
Carson City, Nevada 89701

JUSTICE AND MUNICIPAL COURT, DEPT. II
Judge John Tatro
885 East Musser Street, Suite 2069
Carson City, Nevada 89701

4 **SCOPE OF WORK:**

4.1 The parties agree that the scope of work for the **CONTRACTOR** shall be as follows:

4.1.1 The City contracts the **CONTRACTOR** to provide the professional and legal services of an attorney for the conflict cases and when the court for cause is required to disqualify the State Public Defender.

4.1.2 The **CONTRACTOR** shall provide all required professional services as necessary to satisfy the intended purposes of this Contract.

4.1.3 Such services shall be performed in accordance with this Contract and shall not be altered except by written consent of both parties.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0809-195
Conflict Legal Services

4.1.4 The professional services described in the succeeding paragraphs must be performed in a professional, competent and effective manner given the law applicable to the particular matter for which legal services are being rendered and the applicable rules and standards of professional responsibility.

4.1.5 The City is contracting for the professional services of the **CONTRACTOR**.

4.1.6 If **CONTRACTOR** practices law with a law firm, another lawyer within the firm may appear for **CONTRACTOR** at any stage of the proceeding.

4.1.7 However, no additional compensation shall be paid to the **CONTRACTOR** or the other lawyer in **CONTRACTOR'S** firm by virtue of this change.

4.1.8 **CONTRACTOR'S SERVICES:**

4.1.8.1 **GENERAL:**

4.1.8.1.1 The **CONTRACTOR** hereby agrees to perform the services of an attorney in the defense of indigent adults charged with a public offense and when the court for cause is required to disqualify the State Public Defender.

4.1.8.1.2 The **CONTRACTOR** agrees to perform the services of an attorney for a child alleged to be delinquent or in need of supervision where the Court orders the appointment of an attorney in accord with NRS 62.085 and when the Court for cause is required to disqualify the State Public Defender.

4.1.8.1.3 The **CONTRACTOR** agrees to perform the services of an attorney for a parent or other person responsible for a child's welfare when that parent or other person is alleged to have abused or neglected that child and the court orders the appointment of **CONTRACTOR** pursuant to NRS 432B.420 and when the court for cause is required to disqualify the State Public Defender.

4.1.8.1.4 The **CONTRACTOR** agrees to perform the services of an attorney for a person against whom proceedings are commenced to revoke any probation which was granted to that person, provided that the Court appoints **CONTRACTOR** on the matter to represent that person at the probation revocation proceedings and the person is indigent and when the Court for cause is required to disqualify the State Public Defender.

4.1.8.1.5 The **CONTRACTOR** agrees to perform the duties required by NRS 260.050 (County public defenders).

4.1.8.1.6 The **CONTRACTOR** agrees to perform the services of an attorney to represent a child or parent in any proceeding for terminating parental rights, or any rehearing or appeal

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where the Court orders the appointment of an attorney in accord with NRS 128.100 and when the Court for cause is required to disqualify the State Public Defender.

4.1.8.2 SCOPE OF WORK:

4.1.8.2.1 In performing the professional services described in Section 4.1.8, the Scope of Work to be performed by the **CONTRACTOR** under this Contract shall be as follows:

4.1.8.2.1.1 Conduct interviews;

4.1.8.2.1.2 Perform or supervise the performance of necessary investigation;

4.1.8.2.1.3 Conduct necessary preparation;

4.1.8.2.1.4 Appear at all Court hearings concerning the assigned matter including, but not limited to, preliminary hearing, arraignment, pretrial writ or motion hearings, trial and sentencing as required to provide a full professional defense of the matter;

4.1.8.2.1.5 Be required to represent the person in the assigned matter on any appeal to the First Judicial District Court or Nevada Supreme Court whether based upon a preliminary matter, final judgment, or other matters required in this Contract.

4.1.8.2.1.6 Conflict counsel shall represent indigent defendants on all matters deemed appropriate by the Court and any other pending or trailing matter that the State Public Defender was previously appointed.

4.1.8.2.2 The **CONTRACTOR** agrees to staff and maintain an office in Carson City, Nevada and furnish to the Justice Courts, District Courts, Drug Court, Sheriff's Department and District Attorney a telephone number for use after normal office hours in any emergency that may arise where the **CONTRACTOR'S** services are requested pursuant to the terms of this contract.

4.1.8.3 PROCEDURAL PROVISIONS:

4.1.8.3.1 If, in the interests of justice, the **CONTRACTOR** is required to substitute out of an assigned case, the **CONTRACTOR** shall petition the Court for approval of the substitution.

4.1.8.3.2 The Court will make reasonable efforts to appoint and substitute in one of the **CONTRACTORS** in the City's contracted consortium of law firms.

4.1.8.3.3 **CONTRACTOR** shall be allowed to substitute out of an assigned case if the Defendant of the assigned case has sought to retain **CONTRACTOR** prior to, or before knowledge of, the assignment. **CONTRACTOR** shall notify the Court in writing of the conflict,

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and the Court will make reasonable efforts to appoint and substitute in one of the **CONTRACTORS** in the City's contracted consortium of law firms.

4.1.8.3.4 If the City's other contract **CONTRACTORS** cannot properly be substituted in to the **CONTRACTOR'S** assigned case, the Court may appoint and order the compensation of another non-contract lawyer in the manner provided in NRS 7.115 - to 7.165, inclusive.

4.1.8.3.5 The Court may request periodic time summaries from the **CONTRACTOR** in a form prescribed by the Court.

4.1.8.3.6 These time summaries will report the amount of time necessary and reasonable spent for travel, investigation, research, trial preparation and hearings as well as trials.

4.1.8.3.7 These time summaries will be filed with the Court at the conclusion of each assigned case and sealed by the Clerk of Court until requested by the Court.

4.1.8.3.8 These time reports may be made available by the Clerk of Court for audit by the City's representative.

4.1.8.3.9 Nothing in this paragraph shall be construed in a manner that violates the confidence of the client or the attorney-client privilege contained in Court rules or statutes.

4.1.8.4 ARBITRATION:

4.1.8.4.1 Claims, disputes, or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof shall be subject to and decided by binding arbitration when requested by either party to this contract.

4.1.8.4.2 Demand for arbitration shall be filed in writing with the other party to this Contract.

4.1.8.4.3 A demand for arbitration shall be made to the other party of this Contract and to the American Arbitration Association within a reasonable time after the claim, dispute, or other matter in question has arisen.

4.1.8.4.4 In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statutes of limitations.

4.1.8.4.5 A party dissatisfied with the decision of the arbitrator has the absolute right to bring an action to vacate the arbitrator's award in accordance with NRS Chapter 38.

4.1.8.4.6 The failure of a party to file such action for judicial review within the time limits of NRS 38.145 shall constitute a full and complete waiver of an appeal and a full acceptance of the arbitrator's's decision.

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4.1.8.4.7 No arbitration arising out of or relating to this Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Contract, except by written consent containing a specific reference to this Contract signed by the City, **CONTRACTOR**, and any other person or entity sought to be joined.

4.1.8.4.8 Consent to arbitration involving additional person or entity shall not constitute consent to arbitration of any claim, dispute, or other matter in question not described in the written consent or with a person or entity not named or described therein.

4.1.8.4.9 Any agreement to arbitrate with an additional person or entity duly consented to by the parties to his Contract shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

4.1.8.4.10 The award rendered by the arbitrator or arbitrators is final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

4.1.9 MISCELLANEOUS PROVISIONS:

4.1.9.1 The City and the **CONTRACTOR** acknowledge that the City may contract with other lawyers in the same manner and for the same purposes as **CONTRACTOR**.

4.1.9.2 It is agreed by the City and the **CONTRACTOR** that this Contract, if entered into, will enable appointments to be made by the Court, on a rotating basis and to eliminate appointment of **CONTRACTOR** in a matter that would create a conflict of interest for **CONTRACTOR** in a particular matter.

4.1.9.3 Causes of action between the parties to this Contract pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of completion for acts or failures to act occurring prior to completion, or the date of final payment, to the **CONTRACTOR** in a particular manner.

4.1.9.4 The City and the **CONTRACTOR**, respectively, bind themselves, their partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

4.1.9.5 **CONTRACTOR** may engage in the private practice of law which does not conflict with **CONTRACTOR'S** professional services as Conflict Counsel Pursuant to this Contract.

4.1.9.6 If **CONTRACTOR** is required to substitute out of an assigned case, **CONTRACTOR** shall comply with Section 4.1.8.3 Procedural Provisions of this Contract.

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4.1.9.7 This Contract represents the entire and integrated agreement between the City and **CONTRACTOR** and supersedes all prior negotiations, representations, contracts, or agreements, either written or oral.

4.1.9.8 This Contract may be amended only by written instrument signed by both the City and the **CONTRACTOR**.

4.1.9.9 Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the City or **CONTRACTOR**.

5 CONSIDERATION:

5.1 Monthly Payments:

5.1.1 First Year – for the period of July 1, 2009 through June 30, 2010. - The City agrees to pay the **CONTRACTOR** and the **CONTRACTOR** agrees to accept as full compensation for the performance of legal services under this contract the sum of Twenty-Eight Thousand Four Hundred Ninety-Eight Dollars and Seventy-Four Cents (\$28,498.74) per month.

5.1.2 Second Year – for the period of July 1, 2010 through June 30, 2011 - The City agrees to pay the **CONTRACTOR** and the **CONTRACTOR** agrees to accept as full compensation for the performance of legal services under this contract the sum of Twenty-Eight Thousand Four Hundred Ninety-Eight Dollars and Seventy-Four Cents (\$28,498.74) per month. The **CITY** agrees to review the compensation provided under the terms of this agreement for a possible increase prior to the commencement of the Second Year of the contract. The awarding of any increase in compensation is at the discretion of the **CITY**, after taking into consideration a review of the Consumer Price Index, available funding, and a review of any increase in case loads assigned to the **CONTRACTOR**.

5.2 The **CONTRACTOR** will submit a billing to the First Judicial District Court, Attention: Carin Fisher, 885 Musser Street, Suite 3031, Carson City, NV 89701.

5.2.1 In the event that a billing is for services provided to an inmate of the Nevada State Prison system, the billing shall state this information so that the **CITY** will be able to obtain reimbursement from the State of Nevada pursuant to NRS 212.070.

5.3 The City will pay such billing within thirty (30) days of submission provided the **CONTRACTOR** complies with NRS 7.145.

5.4 Case assignments shall be managed by one member of the group.

5.5 That the billing statement include:

5.5.1 The monthly billing costs, and

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5.5.2 Hours and rates for special cases pursuant to NRS 7.125 and that have been approved by the Judge.

5.6 The compensation specified in Section 5.1 Monthly Payments is in lieu of the statutorily prescribed fees codified in NRS 7.125.

5.7 However, the Court can, for reasons specified in NRS 7.125 (4) (a)-(d), award extraordinary fees to **CONTRACTOR** in a particular matter which are over and above the compensation specified in Section 5.1 Monthly Payments, provided that the statutorily prescribed procedures contained in NRS 7.125 (4) are complied with.

5.8 The City must receive from **CONTRACTOR** notice of a request to the court for extraordinary fees when such a request is made. The **CITY** and **COURT** recognize NRS 7.145, which states that a claim for compensation and expenses made pursuant to NRS 7.125 or 7.135 must not be paid unless it is submitted within 60 days after the appointment is terminated to: a) The magistrate in cases in which the representation was rendered exclusively before him; and b) The district court in all other cases. It is hereby agreed by **CONTRACTOR**, **CITY** and **COURT** that **CONTRACTOR** shall submit notice of a request for extraordinary fees pursuant to 5.10 and 6.1. These provisions allow the **CITY** to adhere to minimum accounting standards and to properly budget and account for these services.

5.9 The **CONTRACTOR** may secure reimbursement from the **CITY** for extraordinary investigative costs, required to secure expert or other services necessary for the adequate defense in any assigned matter, in the statutorily prescribed manner codified in NRS 7.135, 7.145 and 7.155.

5.10 The **CITY** must receive from **CONTRACTOR** notice of any claim or request to secure reimbursement for extraordinary services ten (10) ten days prior to such request being made to the Court.

5.11 The **CONTRACTOR** may secure reimbursement from the **CITY** for minor investigative, expert or other services necessary for adequate defense in the statutorily prescribed manner for court-appointed counsel for costs up to \$500.00. If extraordinary investigative fees are needed, a separate request should be submitted.

5.12 The expense of office space, furniture, equipment, supplies, routine investigative costs and secretarial services suitable for the conduct of the **CONTRACTOR'S** practice as required by this contract are the responsibility of the **CONTRACTOR** and part of **CONTRACTOR'S** compensation paid pursuant to Section 5.1 Monthly Payments of this contract and as provided in NRS 260.040 (5).

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5.13 Mileage and travel expenses of the **CONTRACTOR** are the responsibility of the **CONTRACTOR** and are part of the compensation paid pursuant to Section 5.1 Monthly Payments.

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

6 TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to the Contract and recognize that the **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 the **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject the **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to the **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the **CONTRACTOR**.

7 CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.2 Termination for Nonappropriation:

7.2.1 The continuation of this Contract beyond June 30, 2011 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the **Carson City Board of Supervisors**. The **CITY** may terminate this Contract, and **CONTRACTOR** waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding is not appropriated or is withdrawn, limited, or impaired.

7.3 Cause Termination for Default or Breach:

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

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

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7.3.2.1 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

7.3.2.2 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

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

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

7.3.2.5 If it is found by the **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 the **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

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

7.4 Time to Correct:

7.4.1 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 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

7.5 Winding Up Affairs Upon Termination:

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

7.5.1.1 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;

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

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

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

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, that the party awarded fees may only present a claim for attorneys' fees at the rate of \$125 per hour. The **CITY** may set off consideration against any unpaid obligation of the **CONTRACTOR** to the **CITY**.

9 LIMITED LIABILITY:

9.1 The **CITY** will not waive and intends to assert available NRS 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 the Contract after the intervening cause ceases.

11 INDEMNIFICATION:

11.1 To the fullest extent permitted by law, **CONTRACTOR** shall indemnify, hold harmless and defend (at **CITY'S** option), not excluding the **CITY'S** right to participate, the **CITY** from and

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against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent, willful, or unlawful acts or omissions of **CONTRACTOR**, its officers, employees, agents, representatives, volunteers, and any others performing work for **CONTRACTOR**.

11.2 To the fullest extent permitted by law, **CITY** shall indemnify, hold harmless and defend, not excluding the **CONTRACTOR'S** right to participate, the **CONTRACTOR** from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent, willful, or unlawful acts or omissions of **CITY**, its officers, employees, agents, representatives, volunteers, and any others performing work for **CITY**.

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 mutual agreed that **CONTRACTOR** is associated with the **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 the **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.

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

13 INSURANCE REQUIREMENTS:

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13.1 Unless expressly waived in writing by the **CITY, CONTRACTOR**, as an independent contractor and not an employee of the **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. The **CITY** shall have no liability except as specifically provided in the Contract. The **CONTRACTOR** shall not commence work before:

13.1.1 **CONTRACTOR** has provided the required evidence of insurance to Carson City Purchasing & Contracts, and

13.1.2 **CITY** has approved the insurance policies provided by the **CONTRACTOR**. Prior approval of the insurance policies by the **CITY** shall be a condition precedent to any payment of consideration under this Contract and the **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 the **CITY** to timely approve shall not constitute a waiver of the condition.

13.2 **Insurance Coverage:**

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

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

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

13.2.2 Any insurance or self-insurance available to the **CITY** shall be 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 the **CITY**, **CONTRACTOR** shall provide the **CITY** with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the 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 the **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.3 **General Requirements:**

13.3.1 **Certificate Holder:** Each liability insurance policy shall list Carson City Purchasing & Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701 as a certificate holder.

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13.3.2 **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 insured for all liability arising from the Contract.

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

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

13.3.5 **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 the **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 the Carson City Risk Management Division.

13.3.6 **Policy Cancellation:** Except for ten days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) 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 mailed to Carson City Purchasing & Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701.

13.3.7 **Approved Insurer:** Each insurance policy shall be:

13.3.7.1 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

13.3.7.2 Currently rated by A.M. Best as "A-VII" or better.

13.3.8 **Evidence of Insurance:** Prior to the start of any Work, **CONTRACTOR** must provide the following documents to Carson City Purchasing & Contracts, 201 North Carson Street Suite 3, Carson City, NV 89701:

13.3.8.1 **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**.

13.3.8.2 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to

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Carson City Purchasing & Contracts to evidence the endorsement of the CITY as an additional insured per Section 13.3.2 Additional Insured.

13.3.8.3 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.

13.3.9 **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 the 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 the CITY or others, and shall be in addition to and not in lieu of any other remedy available to the CITY under this Contract or otherwise. The 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 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate

14.1.3 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 PROFESSIONAL LIABILITY INSURANCE:

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

15.2 Retroactive date: Prior to commencement of the performance of the contract

15.3 Discovery period: Three (3) years after termination date of contract.

15.4 A certified copy of this policy may be required.

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16 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

16.1 **CONTRACTOR** shall provide proof of worker's compensation insurance as required of Nevada Revised Statutes Chapters 616A through 616D inclusive.

16.2 Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

16.3 **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 NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

17 BUSINESS LICENSE:

17.1 **CONTRACTOR** shall obtain a Carson City business license and provide a copy of same to Carson City Purchasing & Contracts, 201 North Carson Street Suite 3, Carson City, NV 89701 prior to commencing work.

18 COMPLIANCE WITH LEGAL OBLIGATIONS:

18.1 **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 taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS 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. The **CITY** may set-off against consideration due any delinquent government obligation.

19 WAIVER OF BREACH:

19.1 Failure to declare a breach or the actual waiver of any particular breach of the 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.

20 SEVERABILITY:

20.1 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

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Conflict Legal Services

nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

21 ASSIGNMENT/DELEGATION:

21.1 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 the **CITY**.

22 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

22.1 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 the 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 the **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 the **CITY**. Notwithstanding the foregoing, the **CITY** shall have no proprietary interest in any materials licensed for use by the **CITY** that are subject to patent, trademark or copyright protection.

23 PUBLIC RECORDS:

23.1 Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. The **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 NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend the **CITY** for honoring such a designation. The failure to so label any document that is released by the **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

24 CONFIDENTIALITY:

24.1 **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.

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25 FEDERAL FUNDING:

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

25.1.1 **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.

25.1.2 **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.

25.1.3 **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 offer for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

26 LOBBYING:

26.1 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:

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

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

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

27 GENERAL WARRANTY:

27.1 **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,

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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.

28 PROPER AUTHORITY:

28.1 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 the Carson City Board of Supervisors and only for the period of time specified in the 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**.

29 GOVERNING LAW; JURISDICTION:

29.1 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.

30 ENTIRE CONTRACT AND MODIFICATION:


30.1 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 the Carson City Board of Supervisors.

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31 ACKNOWLEDGMENT AND EXECUTION:

31.1 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: Sandy Scott, Purchasing & Contracts
Coordinator
201 North Carson Street Suite 3
Carson City, Nevada 89701
Telephone: 775-887-2133 extension 30137
Fax: 775-887-2107
SScott@ci.carson-city.nv.us

By: 
Purchasing & Contracts Coordinator

DATED this 12th day of ~~June~~^{May}, 2009.

CITY'S LEGAL COUNSEL
Neil A. Rombardo, District Attorney

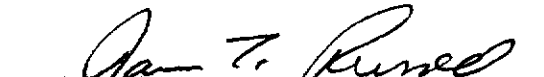
I have reviewed this Contract and approve as to its legal form.

By: 
Deputy District Attorney

DATED this 16th day of ~~June~~^{May}, 2009.


CITY'S ORIGINATING DEPARTMENT
BY: James T. Russell, District Court Judge
First Judicial District Court, Dept. I
885 East Musser Street, Suite 3061
Carson City, NV 89701
Telephone: 775-882-1996
Fax: 775-887-2272

JRussell@ci.carson-city.nv.us


DATED this 6th day of ~~June~~^{May}, 2009.

CITY'S ORIGINATING DEPARTMENT
BY: James E. Wilson Jr. District Court
Judge First Judicial District Court, Dept. II
885 East Musser Street, Suite 3057
Carson City, NV 89701
Telephone: 775-882-1619
Fax: 775-887-2296

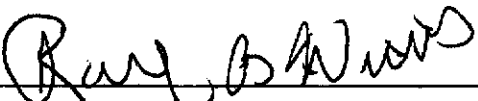
JWilson@ci.carson-city.nv.us


DATED this 11 day of ~~June~~^{May}, 2009.

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CITY'S ORIGINATING DEPARTMENT

BY: Robey B. Willis, Judge
Justice and Municipal Court, Dept. I
885 East Musser Street, Suite 2069
Carson City, NV 89701
Telephone: 775-887-2121
Fax: 775-887-2351
RWillis@ci.carson-city.nv.us



DATED this 19th day of ~~June~~, 2009.
May

CITY'S ORIGINATING DEPARTMENT

BY: John Tatro, Judge
Justice and Municipal Court, Dept. II
885 East Musser Street, Suite 2069
Carson City, NV 89701
Telephone: 775-887-2378
Fax: 775-887-2351
JTatro@ci.carson-city.nv.us



DATED this 19th day of June, 2009.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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Kay Ellen Armstrong being first duly sworn, deposes and says: That she is the **CONTRACTOR**; that she has read the foregoing Contract; and that she understands the terms, conditions, and requirements thereof.

CONTRACTOR

BY: Kay Ellen Armstrong
BUSINESS LICENSE #: 09-00005324
Address: 415 West Second Street
City: Carson City **State:** NV **Zip Code:** 89703
Telephone: 775-883-3990 **Fax #:** 775-882-8854
E-mail Address: klnatty@pyramid.net



(Signature of **CONTRACTOR**)

DATED this 6th day of May, 2009.

STATE OF Nevada)
County of Carson City) ss

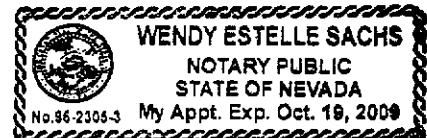
On this 6th day of May, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared Kay Ellen Armstrong, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs

Notary's Signature

L.S.



My Commission Expires: October 19, 2009

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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J. Thomas Susich being first duly sworn, deposes and says: That he is the **CONTRACTOR**; that he has read the foregoing Contract; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR

BY: J. Thomas Susich

BUSINESS LICENSE #: 09-00025956

Address: PO BOX 2385

City: Carson City **State:** NV **Zip Code:** 89703

Telephone: 775-882-4600/ **Fax #:** 775-882-4644

E-mail Address: Tom@susichlaw.net



(Signature of **CONTRACTOR**)

DATED this 6th day of ~~June~~ ^{May}, 2009.

STATE OF Nevada)
County of Carson City) ss

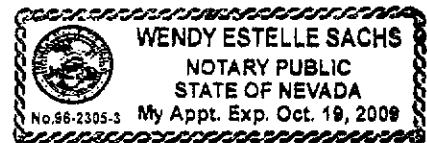
On this 6th day of ~~June~~ ^{May}, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared J. Thomas Susich, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs

Notary's Signature

L.S.



My Commission Expires: October 19, 2009

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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Robert B. Walker being first duly sworn, deposes and says: That he is the **CONTRACTOR**; that he has read the foregoing Contract; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR

BY: Robert B. Walker

BUSINESS LICENSE #: 09-00001123

Address: 415 West Second Street

City: Carson City **State:** NV **Zip Code:** 89703-8854

Telephone: 775-883-3990/ **Fax #:** 775-882-8854

E-mail Address: benwalkeratty@aol.com



(Signature of **CONTRACTOR**)

DATED this 6TH day of ^{MAY} ~~June~~, 2009.

STATE OF Nevada)
County of Carson City) ss

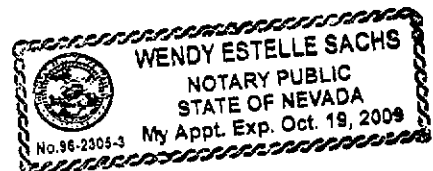
On this 6th day of ^{May} ~~June~~, in the year 2009, before me, Wendy Sachs / Notary Public, personally appeared Robert B. Walker, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Wendy Estelle Sachs
Notary's Signature

L.S.

My Commission Expires: October 19, 2009



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CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of June 4, 2009 approved the acceptance of **CONTRACT No. 0809-195**. 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 4th day of June, 2009.

ATTEST:


ALAN GLOVER, CLERK-RECORDER

DATED this 6th day of ~~June~~ June, 2009.