

**City of Carson City
Agenda Report**

Date Submitted: June 24, 2011

Agenda Date Requested: July 7, 2011

Time Requested: Consent

To: Mayor and Supervisors

From: Max Cortes, Court Administrator

Chief Rory Planeta, Department of Alternative Sentencing

Subject Title: For Possible Action: To approve and authorize the mayor to sign renewal of the "Collection Agency Services" Contract No. 0809-208 with Alliance One Receivables Management for the collection of outstanding court fines and fees retroactively from July 1, 2010 to June 20, 2013.

Staff Summary: The Board of Supervisors approved contract 0809-208 "Collection Agency Services" effective October 1, 2009. However, cases sent to the collection agency were minimal due to needed procedures and programming of the State sponsored case management system. With the reduction of staffing levels and competing projects, this project was significantly delayed. Policy and procedures have since been created and successfully implemented. The case management system has been programmed. Since May of 2011, delinquent fines and fees in the Justice/Municipal Court are being sent to the collection agency on a daily basis.

Type of Action Requested: (check one)

☐ Resolution

☐ Ordinance

☒ Formal Action/Motion

☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve renewal of the "Collection Agency Services" Contract No. 0809-208 to contract with Alliance One Receivables Management for the collection of outstanding court fines and fees retroactively from July 1, 2010 to June 20, 2013.

Explanation for Recommended Board Action: Courts across the state are reviewing their collection practices and implementing the use of collection agencies and other methods. Alliance One Receivables Management is currently contracted with the State of Nevada and Reno Municipal Court and is highly recommended by both agencies. There is no cost to the Courts or Carson City for the services of Alliance One Receivables Management. Pursuant to NRS 176.064 the collection fee can be imposed and the defendant is responsible to pay.

NRS 176.064 Collection fee for unpaid administrative assessment, fine, fee or restitution; use of collection agency; report to credit agencies; attachment or garnishment; suspension of driver's license; imprisonment.

1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any

other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

- (a) Not more than \$100, if the amount of the delinquency is less than \$2,000.
- (b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.
- (c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

- (a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.
- (b) Request that the court take appropriate action pursuant to subsection 3.
- (c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

(a) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

(b) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of his driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

(c) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury.

The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a Justice Court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

(Added to NRS by 1997, 899; A 1999, 425; 2001, 2569)

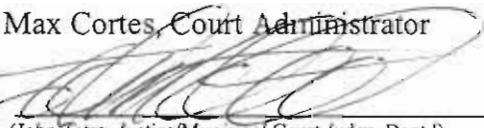
Applicable Statue, Code, Policy, Rule or Regulation: NRS 176.064.

Fiscal Impact: None

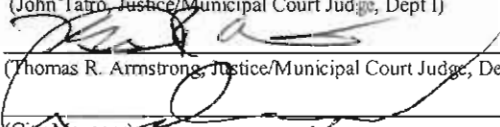
Supporting Material: Contract 0809-208 "Collection Agency Services"

Prepared By: Max Cortes, Court Administrator

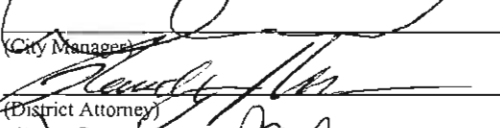
Reviewed By:


(John Tatro, Justice/Municipal Court Judge, Dept I)

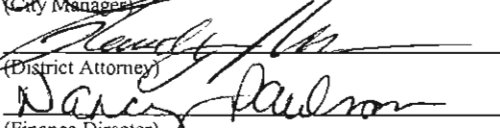
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(Thomas R. Armstrong, Justice/Municipal Court Judge, Dept II)

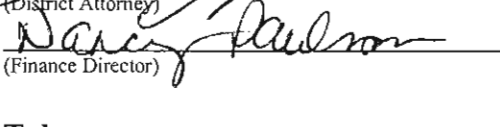
Date: 6/28/11


(City Manager)

Date: 6/28/11


(District Attorney)

Date: 6/28/11


(Finance Director)

Date: 6/28/11

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0809-208
Collection Services Agreement

Contract is made by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**" on behalf of the **Carson City Justice/Municipal Courts and the Department of Alternative Sentencing**, and Alliance One Receivables Management, Inc. hereinafter referred to as the "**CONTRACTOR**".

CONTRACT TERM:

1.1 This Contract shall be effective retroactively from July 1, 2010 to June 30, 2014 unless sooner terminated by either party in accordance with its terms. All work performed consistent with the terms of this contract during the retroactive period is ratified upon approval of this contract.

NOTICE:

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

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

Renee Linnabary, Executive Vice President
Alliance One Receivables Management, Inc.
6565 Kimball Drive, Suite 200
Gig Harbor, Washington 98335
(253)620-2204/FAX (253)620-7359
renee.linnabary@allianceoneinc.com

Copy to:

Harry Neerenberg, CFO
AllianceOne Receivables Management, Inc.
4850 E. Street Road, Suite 300
Trevose, PA 19053
866-568-9235 / 215-354-5514 Fax
Harry.Neerenberg@AllianceOneInc.com

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

Carson City Purchasing & Contracts
Kim Belt, Purchasing & Contracts Manager
201 North Carson Street Suite 3
Carson City, NV 89701
775-283-7362 / FAX 775-887-2107
KBelt@carson.org

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

SCOPE OF WORK:

1.3 **CONTRACTOR** shall provide and perform the standard collection activity upon receipt of accounts from the CITY "**SERVICES**".

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

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

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

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

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

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

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

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

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

1.7.5 **CONTRACTOR** agrees to notify the Fines and Fees Office staff at (775) 887-2064 or by email (CITY to provide contact email addresses) daily when contact has been established with a Defendant for repayment on assigned accounts for collection services. **CONTRACTOR** agrees to advise Defendant of any pertinent information applicable to the assigned account (court case).

CONSIDERATION:

Pursuant to Nevada Revised Statute (NRS) 176.064, the Courts will impose fees for collection services on delinquent accounts at the time the account is found to be delinquent, and in the amounts described below. The parties agree that **CONTRACTOR** will provide the **SERVICES** specified in **Section 3 Scope of Work** and **CITY** and **CONTRACTOR** agree that Compensation (also known as Contract Sum) to **CONTRACTOR** is based on the total amount owed (per account) and is paid as follows:

A. Contempt Cases

CONTRACTOR to be paid per account:

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1. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is less than or equal to \$250, the collection fee paid to the **CONTRACTOR** is \$50.
2. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$250 but less than or equal to \$2,000, the collection fee paid to the **CONTRACTOR** is \$100.
3. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$2,000 but less than or equal to \$5,000, the collection fee paid to the **CONTRACTOR** is \$500.
4. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$5,000; the collection fee paid to the **CONTRACTOR** is ten percent of the amount of the delinquency.

B. Failure to Appear Cases

CONTRACTOR to be paid per account:

1. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is less than or equal to \$250, the collection fee paid to the **CONTRACTOR** is \$50.
2. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$250 but less than or equal to \$2,000, the collection fee paid to the **CONTRACTOR** is \$100.
3. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$2,000 but less than or equal to \$5,000, the collection fee paid to the **CONTRACTOR** is \$500.
4. If the fine, administrative assessment fee, fee or restitution that is owed by the Defendant is greater than \$5,000; the collection fee paid to the **CONTRACTOR** is ten percent of the amount of the delinquency.

C. Full Payment on an Account

If an account is assigned to the **CONTRACTOR** and a Defendant pays the account directly to the Fines and Fees Office after (2) days of assignment to the **CONTRACTOR**, the **CONTRACTOR** will be paid for its collection services in accordance with the Collection Fee Scale. The **CONTRACTOR** must submit an invoice to the Fines and Fees Office for payment.

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If a Defendant pays the Fines and Fees Office within the first (2) days of assignment to CONTRACTOR, the Fines and Fees Office will notify the CONTRACTOR and no collection fee will be paid. If the Defendant is arrested and appears in court, no collection fee will be paid.

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

1.9 **CONTRACTOR** must remit outstanding collected fees from assigned accounts to the Fines and Fees Office on a weekly basis. **CONTRACTOR** will submit a statement with the remittance that includes: Court case number, defendant's first and last name, amount received, balance due (if partial payment), and amount due to **CONTRACTOR**.

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

1.11 The continuation of this Contract beyond June 30, 2014 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the Carson City Board of Supervisors.

CONTRACT TERMINATION:

1.12 Termination Without Cause:

1.12.1 This Contract may be terminated by either party without cause by giving the other party forty-five (45) calendar days written notice of the intent to terminate and specifying the date upon which the termination will be effective.

1.13 Cause Termination for Default or Breach:

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

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

1.13.2.1 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

1.13.2.2 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

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

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

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

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

1.14 Time to Correct:

1.14.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in **Section 2 Notice**, and the subsequent failure of the defaulting party within ten (10) calendar days of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

1.15 Winding Up Affairs Upon Termination:

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

1.15.1.1 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;

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

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

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

REMEDIES:

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

LIMITED LIABILITY:

1.17 **CITY** will not waive and intends to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. Except for the claims of third parties, neither party shall be entitled to any indirect, special, consequential, exemplary or punitive damages against the other, including but not limited to damages described as lost profits or sales, or loss of reputation. In all cases except those involving the claims of third parties, or failure to remit amounts collected and/or due for services, and to the extent any claim does not assert the claim of a third party, or failure to remit amounts collected and/or due for services, neither party's damages shall exceed the amount of **CONTRACTOR**'s revenues under this Agreement for the one year preceding a party's assertion of a claim.

FORCE MAJEURE:

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

INDEMNIFICATION:

1.19 To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's

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fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this paragraph. To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, such obligation includes but is not limited to the following:

1.19.2 By **CITY**: (i) the failure or alleged failure of **CITY** to comply with any applicable federal, state or local laws, acts, ordinances, rules or regulations, or any administrative, executive or judicial rulings or orders; (ii) the breach or failure to comply by **CITY** of or with any term, provision, covenant, warranty or representation contained in this Agreement or in any other document, instrument or other agreement provided in connection with this Agreement, including but not limited to the breach of any confidentiality provisions, and the furnishing of erroneous account information to **CITY**; (iii) **CONTRACTOR** complying with the instructions or requirements of **CITY**, including the use by **CONTRACTOR** of any notices, forms or scripts provided by or required by **CITY**; (iv) the infringement by **CITY** of any Intellectual Property rights of any third party; (v) bodily injury or death caused by **CITY**.

1.19.3 By **CONTRACTOR**: (i) the alleged failure of **CONTRACTOR**, its agents, servants and employees, to comply with any applicable federal, state or local laws, acts, ordinances, rules or regulations, or any administrative, executive or judicial rulings or orders regarding its business activities; (ii) the breach or failure of **CONTRACTOR**, its agents, servants, and employees to comply with any term, provision, covenant, warranty or representation contained in this Agreement or in any other document, instrument or other agreement provided in connection with this Agreement, including but not limited to the breach of any confidentiality provisions; (iii) the infringement by **CONTRACTOR** of any Intellectual Property rights of any third party; or (iv) bodily injury or death caused by **CONTRACTOR** or its agents, servants and employees.

1.20 Except as otherwise provided in Subsection 10.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

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

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

1.21 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs

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provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

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

INDEPENDENT CONTRACTOR:

1.23 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.

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

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

1.26 **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.

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

INSURANCE REQUIREMENTS:

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

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

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

1.31 Insurance Coverage:

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

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

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

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

1.32 **General Requirements:**

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

1.32.2 **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 this Contract.

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

1.32.4 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention.

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

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

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

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

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

1.32.7.3 **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.

1.32.8 **Review and Approval:** Documents specified above must be submitted for review and approval by Carson City Purchasing & Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or

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agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

COMMERCIAL GENERAL LIABILITY INSURANCE:

1.33 Minimum Limits required:

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

1.33.2 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate

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

1.34 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).

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

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

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

BUSINESS LICENSE:

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

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

COMPLIANCE WITH LEGAL OBLIGATIONS:

1.39 **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 Nevada Revised Statutes 361.157 and 361.159. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

WAIVER OF BREACH:

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

SEVERABILITY:

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

ASSIGNMENT/DELEGATION:

1.42 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**, which approval shall not be unreasonably withheld.

CITY OWNERSHIP OF PROPRIETARY INFORMATION:

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

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

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

1.46 All Intellectual Property Rights belonging to either **CONTRACTOR** or **CITY**, respectively, at the commencement date of the Agreement, shall remain at all times **CONTRACTOR'S** or **CITY'S** property as appropriate, and any Intellectual Property developed by either Party during this Agreement shall remain the developing Party's property except as provided above. Neither Party will acquire any right, title and/or interest in the other Party's Intellectual Property as a result of this Agreement except the rights to use the other Party's Intellectual Property for the purpose of carrying out their respective obligations under this Agreement.

1.47 During the term of this Agreement (including any ramp-down or termination-of-service period), each Party hereby grants the other Party a non-exclusive, non-transferable, royalty-free license to its Intellectual Property for the sole purpose of, and to the extent necessary for, performing their respective obligations under this Agreement. Neither Party shall make any other use of the other Party's Intellectual Property Rights.

1.48 Neither party, in the performance of this Agreement, will infringe the Intellectual Property rights of any person.

PUBLIC RECORDS:

1.49 Pursuant to Nevada Revised Statute 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to

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

CONFIDENTIALITY:

1.50 **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.

FEDERAL FUNDING:

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

1.51.1 **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.

1.51.2 **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.

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

LOBBYING:

1.52 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:

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

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

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

GENERAL WARRANTY:

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

PROPER AUTHORITY:

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

ARBITRATION:

1.55 Any controversy of claims arising out of or relating to this Contract, or the breach thereof, provided both parties agree, may be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

GOVERNING LAW; JURISDICTION:

1.56 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.

REPRESENTATIONS AND WARRANTIES OF CITY:

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1.57 CITY represents and warrants that (a) it has the power and authority to execute and perform the obligations described in this Agreement; (b) it has obtained all requisite authorizations, approvals, consents or permits required to perform obligations; (c) there exists no litigation or governmental action materially affecting its ability to execute the Agreement and perform its obligations; (d) it is in material compliance with all applicable laws; (e) entering into this Agreement will not cause it to be in material breach of any other of its contracts or obligations; (f) every account referred for collection by the Carson City Justice/Municipal Courts (CCJMC) will be, to the best of CCJMC's knowledge, a just debt due and owing, and will not be subject to any valid defense, set-off or counterclaim, including that such account or the obligor of such account will not be subject to any bankruptcy proceeding, stay or discharge as of the time of referral; (g) CCJMC will promptly inform CONTRACTOR, in writing, of any notice CCJMC receives concerning any bankruptcy filings by debtors; and (h) every account referred for collection will contain accurate information, including information regarding the identity of the debtor and the balance of the account.

BENEFICIARIES TO CONTRACT:

1.58 This Agreement is entered into for the benefit of CITY and CONTRACTOR, and no other parties are entitled to enforce its terms. No third-party beneficiaries are intended to be created or are created hereunder, and no other party can derive any benefit or right herefrom.

CALLING WIRELESS NUMBERS:

1.59 CITY recognizes that CONTRACTOR cannot contact wireless devices (such as cellular phones) using an automated dialer or a pre-recorded or artificial voice, unless the owner of such wireless device has given prior express consent. If CITY desires that CONTRACTOR contact any wireless devices using an automated dialer or a pre-recorded or artificial voice, CITY will designate any numbers for such wireless devices it provides to CONTRACTOR as eligible to be automatically dialed. For any number designate as eligible to be automatically dialed, CITY warrants that it has obtained the prior express consent, as that term is interpreted under the Telephone Consumer Protection Act, of the owner of such number to call or contact the wireless device manually or by automated means, and to call or contact the wireless device using a pre-recorded or artificial voice, and that CITY will supply proof of such prior express consent to CONTRACTOR upon request.

ENTIRE CONTRACT AND MODIFICATION:

1.60 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

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specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by Carson City Purchasing & Contracts.

ACKNOWLEDGMENT AND EXECUTION:

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

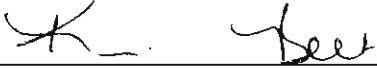
CARSON CITY

Finance Director
Attn: Kim Belt, Purchasing &
Contracts Manager
201 North Carson Street Suite 3
Carson City, Nevada 89701
Telephone: 775-283-7362
Fax: 775-887-2107
KBelt@carson.org

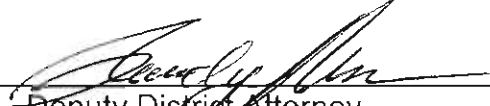
CITY'S LEGAL COUNSEL

Neil A. Rombardo, District Attorney

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

By: 
KIM BELT

DATED 6/28/11

By: 
Deputy District Attorney

DATED 6/28/11

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

BY: Maxine Cortes, Court Administrator
Carson City District/Justice/Muni Courts
885 East Musser Street, Suite 2007
Carson City, NV 89701
Telephone: 775-887-2121 Ext. 30249
Fax: 775-887-2297
mcortes@carson.org

BY: Rory Planeta, Chief
Department of Alternative Sentencing
885 East Musser Street, Suite 2063
Carson City, NV 89701
Telephone: 775-887-2528
rplaneta@carson.org

By: 

By: 

DATED June 23, 2011

DATED 6-23-2011

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

CONTRACTOR

BY: Harry Neerenberg

TITLE: Chief Financial Officer

FIRM: Alliance One Receivables Management, Inc.

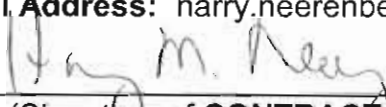
CARSON CITY BUSINESS LICENSE #: _____

Address: 4850 Street Road, Level C

City: Trevoise **State:** PA **Zip Code:** 19053

Telephone: (484) 531-5004 **Fax #:** (484) 531-5057

E-mail Address: harry.neerenberg@allianceoneinc.com



(Signature of **CONTRACTOR**)

DATED _____

