

JUL 06 2010

Division of Environmental Protection  
CONTRACT REVIEW COVER SHEET

Contract Control #: DI-P 06-074-4

**A. CONTRACT INFORMATION:**

1. ORIGINATING BUREAU:  BAQ  BMRR  BWQP  BWPC  BCA  BWM  BFF  ADM

2. BUREAU CONTRACT COORDINATOR: Clifford Lawson  
Name

687-9435  
Ext #

3. TYPE:  New  Amendment - AMENDMENT INFORMATION

a. Attach copy of the Original Contract

Time Amendment: Original Contract Expiration Date: 4/11/07

As Amended: 6-30-11

Budget Amendment: Original Budget: Prior

Amendment Amount: \_\_\_\_\_

New Total: \_\_\_\_\_

Have there been any other amendments to this contract?

No

Yes

If yes, how many? 3

c. Justification for Amendment:

Rasner Consulting, Inc. agreed to continue work on Nevada's Individual Sewage Disposal System (ISDS) program enhancements. This requires additional time and money. This effort is essential to NDEP for effective prevention of future groundwater crises such as that experienced by Spanish Springs. Also, policy and regulations will be developed for the sand/oil water interceptor and source water protection database information will be collected.

4. KIND:  Cooperative Agreement

Interlocal Contract

Independent Contractor

Board of Examiners Info: Budget Office Deadline Date: N/A - time extension

BOE Meeting Date: N/A - time extension

**5. GENERAL INFORMATION:**

Contractor's Name: Rasner Consulting, Inc.

Name of Project: Regulation and Program Development

Purpose: ISDS Program enhancement, including regulation development and guidance documents.

**B. BUDGET/GRANT INFORMATION:**

1. Contract \$ 45,000.00 (original) + \$170,000.00 (amend #2) + \$97,000.00 (amend #3)  
Amount = **\$312,000.00 New contract total amount**

2. Contract is:  100% Federally Funded  100% State Funded  
 100% Fee Funded  Other (Specify) \_\_\_\_\_

Match Amount: N/A

3. Name of Grant/Program to be charged: NA

4. Grant Assistance ID Number: NA

Div.#: 78

Match Div.#: N/A

6. Contract Budget Period (From/To): 4/25/06 - 6/30/11

5. Grant Budget Period (From/To): N/A

7. Match Budget Period (From/To): N/A

8. STATE BUDGET INFO: Budget Acct. #: 3186

Category #: 78 GL #: 7060

State FY \_\_\_\_\_ Authorized Contractual Authority: \_\_\_\_\_

Less YTD Obligations: \_\_\_\_\_

This Action (+/-) \_\_\_\_\_

Balance: \_\_\_\_\_

Is this contract included in your approved State budget?  Yes  No

**9. FEDERAL BUDGET INFO:**

Fed. FY \_\_\_\_\_ Authorized Contractual Authority: \_\_\_\_\_

Less YTD Obligations: \_\_\_\_\_

This Action (+/-) \_\_\_\_\_

Balance: \_\_\_\_\_

Is this contract included in your approved grant award?  Yes  No

**C. SIGNATURES:**

Clifford Lawson  
Bureau Contract Coordinator

Date: 6-8-2010

John Palmer  
Office of Fiscal and Personnel Mgmt.

Bureau Chief Approval

Date: 6-10-10

Date: 6-8-10

*Updated for Reconciliation  
Contract log  
7-9-10*

Time Extension Only

Time Extension Only

**CONTRACT SUMMARY**

(This form must accompany all contracts submitted to the Board of Examiners (BOE) for review and approval)

**I. DESCRIPTION OF CONTRACT**1. Contract Number: **CONV2890**Amendment Number: **4**Legal Entity Name: **RASNER CONSULTING INC**Agency Name: **ENVIRONMENTAL PROTECTION**Contractor Name: **RASNER CONSULTING INC**Agency Code: **709**Address: **3994 WESTWOOD DRIVE**Appropriation Unit: **3186-78**Is budget authority available?: **Yes**City/State/Zip: **CARSON CITY, NV 89701**If "No" please explain: **Not Applicable**Contact/Phone: **DARRYL RASNER 7758827122**Vendor No.: **T32000289**NV Business ID: **NV20051780068**To what State Fiscal Year(s) will the contract be charged? **2006-2010**

What is the source of funds that will be used to pay the contractor? Indicate the percentage of each funding source if the contractor will be paid by multiple funding sources.

General Funds	0.00 %	X	Fees	100.00 %	Water Permit fees
Federal Funds	0.00 %		Bonds	0.00 %	
Highway Funds	0.00 %		Other funding	0.00 %	

Agency Reference #: **DEP 06-074**

2. Contract start date:

a. Effective upon final approval? **No** or b. other effective date **04/25/2006**Retroactive? **No**

If "Yes", please explain

**Not Applicable**3. Previously Approved Termination Date: **06/30/2010**Contract term: **4 years and 67 days**4. Type of contract: **Contract**Contract description: **Professional Services**

5. Purpose of contract:

**This is an amendment to the original contract, which Rasner Consulting, Inc. is developing regulations for the Storm Water Program and develop Pre-treatment Program and supporting regulations. This amendment extends the termination date from June 30, 2010 to June 30, 2011.**

6. CONTRACT AMENDMENT

1. The maximum amount of the original contract:	\$45,000.00
2. Total amount of any previous contract amendments:	\$267,000.00
3. Amount of current contract amendment:	\$0.00
4. New maximum contract amount:	\$312,000.00

**II. JUSTIFICATION**

7. What conditions require that this work be done?

**RECEIVED**  
**JUN 22 2010**  
 DEPARTMENT OF ADMINISTRATION  
 OFFICE OF THE DIRECTOR  
 BUDGET AND PLANNING DIVISION

**Amended Scope of Work:**

NDEPs ISDS program has been impacted by recent legislature that increased NDEPs responsibility to include regulatory oversight of all commercial septic systems. This resulted in small capacity commercial septic systems that were previously regulated by BHPS to be transferred to NDEP. NDEP must modify its regulations to accommodate for this new responsibility. NDEP has determined this is an opportunity to also provide technical guidance to community engineers responsible for the design and construction of non-conventional septic systems which will allow NDEP to better serve the public. This guidance will also serve as a mechanism for NDEP to approve new technology septic systems without the need for modifying the regulations as technology improves/changes.

Rasner Consulting, Inc. will enhance the Groundwater Protection program by developing policy and regulations for sand/oil/water interceptors consistent with federal Class V well regulations.

Source Water Protection inspections will be conducted to complete the information necessary to promulgate ground water quality standards. These water quality standards will benefit all who discharge into the ground surface, including the mining industry and oil/gas industry.

Ensure Nevada Counties (Building Depts, Public Works, etc.), NACO, Nevada Taxpayers Association, Nevada Manufacturing Association, etc. are kept informed and educated on agency actions that may impact them.

**8. Explain why State employees in your agency or other State agencies are not able to do this work:**

NDEP does not have the staff available to complete these duties in a reasonable timeframe due to existing workload as well as position vacancies. It is necessary to complete these tasks in a relatively quick timeframe to ensure strong, protective programs are developed and maintained that sufficiently address the current needs of the regulated community and public. Rasner Consulting Inc. has over 29 years of environmental regulatory experience that will allow these important efforts to be completed in an efficient and thoughtful manner.

- 9. Were quotes or proposals solicited? No
- Was the solicitation (RFP) done by the Purchasing Division? No

a. If yes, list the names of vendors that submitted proposals:

Not Applicable

b. Solicitation Waiver. **Sole Source Contract (As Approved by Chief of Purchasing)**

**Approval #: 090308**

**Approval Date: 04/02/2010**

c. Why was this contractor chosen in preference to other?

A sole source contract was approved. The Purchasing Division approved the justification for proceeding with this process via sole source. The contractor being requested has in-depth knowledge of the State regulation development process as well as in-depth knowledge of the ISDS program, Groundwater Protection/Source Water Protection programs and has vast knowledge and familiarity with county management and processes as they relate to State government. Also, this contractor is familiar with the regulated community and consultants that will be impacted by the necessary environmental enhancements.

d. Last bid date: Anticipated re-bid date:

- 10. Does the contract contain any IT components? No

**III. OTHER INFORMATION**

- 11. a. Is the contractor a consultant that is providing an opinion or advice as defined in S.A.M. Chapter 300? (S.A.M. states "a consultant is a person that provides information, an opinion, or advice for a fee")

Yes No

b. Is the contractor a current employee of the State of Nevada?

No If "Yes", is contractor planning to render services while on annual leave, compensatory time, sick leave, or on his own time? (Please explain)

Not Applicable

c. Was the contractor formerly employed by the State of Nevada within the past one (1) year?

No If "Yes", please provide employment termination date.

d. Is the contractor employed by any of Nevada's political subdivisions or by any other government?

No If "Yes", please explain

Not Applicable

- 12. Has the contractor ever been engaged under contract by any State agency?

Yes If "Yes", specify when and for which agency and indicate if the quality of service provided to the identified agency has been verified as satisfactory:

1977 1996, State Health Division Above Standard on all evaluations  
1996 Present, Nevada Division of Environmental Protection, Bureau of Water Pollution Control Above Standards on all evaluations.

- 13. Is the contractor currently involved in litigation with the State of Nevada?

No . If "Yes", please provide details of the litigation and facts supporting approval of the contract.

Not Applicable

14. The contractor is not registered with the Nevada Secretary of State's Office because the legal entity is a:  
Sole Proprietor

15. a. Is the Contractor Name the same as the legal Entity Name?  
Yes

16. a. Does the contractor have a current Nevada State Business License (SBL)?  
Yes

17. Not Applicable

18. Agency Field Contract Monitor:

19. Contract Status:

Contract Approvals:

Approval Level	User	Signature Date
Budget Account Approval	sneudaue	06/08/2010 14:45:30 PM
Division Approval	sneudaue	06/08/2010 14:45:34 PM
Department Approval	sneudaue	06/22/2010 16:07:04 PM
Contract Manager Approval	sneudaue	06/22/2010 16:11:47 PM



RECEIVED

APR 06 2010

JIM GIBBONS  
Governor

ENVIRONMENTAL PROTECTION

STATE OF NEVADA  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
515 East Musser Street, Suite 300  
Carson City, Nevada 89701  
Phone (775) 684-0170 • Fax (775) 684-0188

Purchasing Use Only:  
# 090308  
Amendment 4

ANDREW K. CLINGER  
Director

GREG SMITH  
Purchasing Administrator

## SOLICITATION WAIVER REQUEST FORM

1. a. Identify State agency and the contact person's name, title, telephone number and email address for this request: Nevada Division of Environmental Protection,  
Bureau of Water Pollution Control  
Clifford Lawson, P.E., Technical Services Branch Supervisor  
775-687-9435, Email: [Clawson@ndep.nv.gov](mailto:Clawson@ndep.nv.gov)
- b. Vendor contact information: Rasner Consulting, Inc.  
Darrell W. Rasner, P.E.  
3994 Westwood Drive, Carson City, NV 89703  
775-882-7122, Email: [razzcon@sbcglobal.net](mailto:razzcon@sbcglobal.net)
- c. Type of waiver requested:  Sole or single source  Professional Service Exemption

2. Description of work/services to be performed or commodity/good to be purchased:

**Previous Amendment Language:**

- Development of regulations for the Storm Water program, which falls under the Clean Water Act. This program is required by EPA.
- Development of Pre-treatment program and supporting regulations, which falls under the Clean Water Act. This program is required by EPA.
- Professional Engineer review and inspection of plans and projects funded via the federal stimulus package that require an expeditious response to ensure Nevada projects get approved for the federal funding and continued contracted scope of work to facilitate the enhancement of BWPC programs.

**This Amendment Request:**

Request is to extend the Expiration Date of the Contract to June 30, 2011. See text above.

- There is no Change to the previously approved Scope of Work.
- There will be no increase in the approved contract authority.

3. Describe the unique qualification required for the service or good to be purchased:

**Previous Amendment Language:**

- In-depth knowledge of State's regulation development process.
- Federal and State Storm Water program-specific requirements
- Working knowledge of Clean Water Act regarding the Storm Water program and Pre-Treatment

- In-depth knowledge of Nevada's wastewater treatment facilities with respect to over-all facility operation and regulator criteria.
- Knowledge and experience specifically related to storm water and wastewater inspections.
- Knowledge and experience with administration of federal funds and associated reviews/inspections.

**This Amendment Request:**

This request is to extend the Expiration Date of the Contract to June 30, 2011. See text above.

4. Explain why this service or good cannot be competitively bid; if an emergency purchase please justify:

**Previous Amendment Language:**

- Nevada's Storm Water Program is a delegated program and Nevada largely relies upon federal regulations to manage it. This makes the program weak. Nevada must develop its own regulatory authority to ensure a strong, protective program. Contractors at large do not have the program-specific knowledge with respect to both federal and State management requirements nor do they possess the State's regulation development experience and knowledge required for successfully optimizing Nevada's delegated Storm Water Program.
- The Pre-Treatment program is a new program the State is developing to ensure regulatory oversight at the State level as opposed to the federal level. Contractors at large do not possess in-depth knowledge of Nevada's Water Pollution program as it relates to Nevada's wastewater treatment facilities. A standard contractor will not readily understand the necessary measures required for a successful Pre-Treatment program that folds smoothly into Nevada's existing program.
- Storm Water and Pre-Treatment inspection experience is critical to the successful development of these programs and regulations. Expertise in both areas is difficult, in not impossible, to find.
- This contractor has many years of experience in administering federal funds through the State Revolving Fund process, which is how the federal Stimulus Package will be administered at the State level. To find a different engineer with this level of expertise and also expertise in engineer reviews and inspections would be difficult, if at all possible.

**This Amendment Request:**

This request is to extend the Expiration Date of the Contract to June 30, 2011. See text above.

5. What are the potential consequences to the State of Nevada if the waiver request is denied and the service or good is competitively bid:

**Previous Amendment Language:**

- NDEP may not be able to respond to the many anticipated Nevada projects applying for federal funding via the Stimulus Package in a timely manner that would allow the projects to be funded and Nevada would not maximize its opportunities to utilize the available federal funding.

**This Amendment Request:**

Contract 06-074 with Rasner Consulting was created to assist the Nevada Division of Environmental Protection (NDEP), Bureau of Water Pollution Control in a number of activities. One in activity in particular is to provide assistance with the Federal Infrastructure Stimulus Package Administration. The associated work with that activity has not been completed due to delays in startup activity for construction for several projects.

Nevada has committed to perform certain inspections and associated reporting as a condition of acceptance of the funds. Using NDEP staff to conduct the tasks will reduce the available field presence as we conduct our additional Statutory obligations. Keeping the contract in effect will provide a continued benefit to the State without additional monetary benefit to the consultant, beyond what was previously approved.

6. What market research was conducted to substantiate that there is no competition for the service or good? Please include an evaluation of other items considered, and provide documentation.

**Previous Amendment Language:**

- There are no other vendors that can provide the exhaustive experience and knowledge gained from having worked 10 years as supervisor in the specific programs that are in need of enhancement.
- Mr. Rasner provides the exact requirements necessary to perform the necessary work. There is no other vendor that can provide the insight necessary to expediently and successfully develop the respective programs, therefore, it would be a waste of State resources to solicit a different vendor or search for another individual whom could provide the same level of value.
- Again, Mr. Rasner provides the exact requirements necessary to perform the necessary Stimulus Package work. There is no other vendor that can provide the insight necessary to understand the process and expediently and successfully address the anticipated project plans requiring engineer reviews and inspections.

**This Amendment Request:**

This request is to extend the Expiration Date of the Contract to June 30, 2011. See text above.

7. How did your agency determine that the price/cost is fair or reasonable absent a competitive solicitation?

- The rates utilized are the accepted professional rates pursuant to Nevada guidelines.

8. What is the estimated value and length of the contract, amendment or request.

a. New contract Y  N

b. Amendment Y  N  Amendment No. 4  
{provide copy of previous waiver(s)}

**Previous Amendment Language:**

- The anticipated length of the contract is 1 year.
- The anticipated length for this contract is 1 year. Increasing budget by \$97,000.00.

**This Amendment Request:**

This request is to extend the Expiration Date of the Contract to June 30, 2011.

- There is no Change to the previously approved Scope of Work.
- There will be no increase in the approved contract authority.

NDEP, Bureau of Water Pollution Control hereby requests approval for  
Requesting agency

Rasner Consulting, Inc.  
Proposed vendor

to provide the service/good for the amount and term as described above.

By signing below I hereby certify that the information provided in this form is true and accurate to the best of my knowledge.

Signed:

X <i>[Signature]</i>	APRIL 1, 2010
Agency Representative Initiating Request	Date
X <i>[Signature]</i>	4-1-10
Agency Head/Division Chief/Authorized Designee	Date

In an effort to avoid possible conflict with any equipment, system or process already installed or in place by the State of Nevada, State Purchasing has solicited a review of your request from another agency/entity. The signature below indicates that agency/entity has reviewed the information submitted. This signature does not exempt your agency from any other processes that may be required.

Signed:

X	
Reviewing Agency/Entity Signature	Date

Please consider this memo as my approval of your request. This exemption is granted pursuant to NAC 333.150(2)(a)(b) and NRS 333.400. This exemption may be rescinded in the event reliable information becomes available upon which the Purchasing Administrator determines that the service or good sought may in fact be contracted for in a more effective manner. Pursuant to NRS 284.173(6), contracts for services do not become effective without the prior approval of the State Board of Examiners (BOE).

If you have any questions or concerns please contact the Purchasing Division at 775-684-0170.

Signed:

X	
<i>[Signature]</i>	4/2/2010
Administrator, Purchasing Division	Date

AMENDMENT #4 TO CONTRACT DEP 06-074

Between the State of Nevada  
Acting By and Through Its

Nevada Department of Conservation and Natural Resources,  
Division of Environmental Protection  
901 S. Stewart Street, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856  
and  
Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703

1. AMENDMENTS. For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original contract dated April 25, 2006, amended July 14, 2006, February 13, 2007, April 14, 2009, attached hereto as Exhibit A, (consisting of 45 pages) remain in full force and effect with the exception of the following:

a. The expiration date is changed from **June 30, 2010 to June 30, 2011**.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and 1-3 amendments consisting of 45 pages) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

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

David R  
Contractor's Signature

PRESIDENT  
Contractor's Title  
6/9/10  
Date

Colleen Cripps  
Agency Signature ~~Tom Porta~~ Colleen Cripps

Acting Administrator-NDEP  
Title  
6/14/10  
Date

Clifford M. Lawson  
Bureau Signature, Clifford M. Lawson, P.E.

Technical Service Supervisor  
Title  
6-9-10  
Date

APPROVED BY BOARD OF EXAMINERS  
for Andrew K. Clinger

Signature - Board of Examiners

On 6/24/10  
(Date)

Approved as to form by:

Deputy Attorney General  
Deputy Attorney General for Attorney General

On 6-16-10  
(Date)

DEP 06-074-4

Grant Number: NA

Grant Expiration Date: NA

# **EXHIBIT A**

**Original Contract**

**And**

**Amendment #1**

**Amendment #2**

**Amendment #3**

AMENDMENT #3 TO CONTRACT DEP 06-074

Between the State of Nevada  
Acting By and Through Its

Nevada Department of Conservation and Natural Resources,  
Division of Environmental Protection  
901 S. Stewart Street, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856  
and  
Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703

1. AMENDMENTS. For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original contract dated April 25, 2006, amended July 14, 2006, February 13, 2007, attached hereto as Exhibit A, (consisting of 36 pages) remain in full force and effect with the exception of the following:

- a. The contract amount of \$215,000.00 is increased by \$97,000.00 for a new contract maximum amount of \$312,000.00.
- b. The expiration date stated in paragraph 3 of the original contract (Page 1) is changed from June 30, 2009 to June 30, 2010.
- c. Attachment A "Scope of Work" of the original contract is hereby modified, by the attached and is made a part of this amendment consisting of 5 pages.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and first amendment) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

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

[Signature]  
Contractor's Signature

President 3/14/09  
Contractor's Title Date

[Signature]  
Agency Signature Leo Drozloff

Administrator-NDEP 3/16/09  
Title Date

[Signature]  
Bureau Signature, Valerie King

Enforcement Branch Supervisor 3/12/09  
Title Date

APPROVED BY BOARD OF EXAMINERS

[Signature]  
Signature - Board of Examiners

On 4-14-09  
(Date)

Approved as to form by:

[Signature]  
Deputy Attorney General for Attorney General

On 17 March 09  
(Date)

DEP 06-074-3

Grant Number: NA

Grant Expiration Date: NA

#165



RECEIVED

STATE OF NEVADA  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
515 East Musser Street, Suite 300  
Carson City, Nevada 89701  
Phone (775) 684-0170 • Fax (775) 684-0188

Purchasing Use Only:  
# 090308  
Amendment #3  
ANDREW K. CLINGER  
Director

JIM GIBBONS  
Governor

GREG SMITH  
Purchasing Administrator

### SOLICITATION WAIVER REQUEST FORM

1. a. Identify State agency and the contact person's name, title, telephone number and email address for this request: Nevada Division of Environmental Protection, Bureau of Water Pollution Control  
Valerie King, Enforcement Branch Supervisor  
775-687-9427, Email: [Vking@ndep.nv.gov](mailto:Vking@ndep.nv.gov)
- b. Vendor contact information: Rasner Consulting, Inc.  
Darrell W. Rasner, P.E.  
3994 Westwood Drive, Carson City, NV 89703  
775-882-7122, Email: [razzcon@sbcglobal.net](mailto:razzcon@sbcglobal.net)
- c. Type of waiver requested:  Sole or single source  Professional Service Exemption
2. Description of work/services to be performed or commodity/good to be purchased:
  - Development of regulations for the Storm Water program, which falls under the Clean Water Act. This program is required by EPA.
  - Development of Pre-treatment program and supporting regulations, which falls under the Clean Water Act. This program is required by EPA.

**\*\*\*Professional Engineer review and inspection of plans and projects funded via the federal stimulus package that require an expeditious response to ensure Nevada projects get approved for the federal funding and continued contracted scope of work to facilitate the enhancement of BWPC programs.**
3. Describe the unique qualification required for the service or good to be purchased:
  - In-depth knowledge of State's regulation development process.
  - Federal and State Storm Water program-specific requirements
  - Working knowledge of Clean Water Act regarding the Storm Water program and Pre-Treatment program requirements.
  - In-depth knowledge of Nevada's wastewater treatment facilities with respect to over-all facility operation and regulator criteria.
  - Knowledge and experience specifically related to storm water and wastewater inspections.

**\*\*\* Knowledge and experience with administration of federal funds and associated reviews/inspections.**
4. Explain why this service or good cannot be competitively bid; if an emergency purchase please justify:

regulations to manage it. This makes the program weak. Nevada must develop its own regulatory authority to ensure a strong, protective program. Contractors at large do not have the program-specific knowledge with respect to both federal and State management requirements nor do they possess the State's regulation development experience and knowledge required for successfully optimizing Nevada's delegated Storm Water Program.

- The Pre-Treatment program is a new program the State is developing to ensure regulatory oversight at the State level as opposed to the federal level. Contractors at large do not possess in-depth knowledge of Nevada's Water Pollution program as it relates to Nevada's wastewater treatment facilities. A standard contractor will not readily understand the necessary measures required for a successful Pre-Treatment program that folds smoothly into Nevada's existing program.

- Storm Water and Pre-Treatment inspection experience is critical to the successful development of these programs and regulations. Expertise in both areas is difficult, in not impossible, to find.

**\*\*\*\*This contractor has many years of experience in administering federal funds through the State Revolving Fund process, which is how the federal Stimulus Package will be administered at the State level. To find a different engineer with this level of expertise and also expertise in engineer reviews and inspections would be difficult, if at all possible.**

5. What are the potential consequences to the State of Nevada if the waiver request is denied and the service or good is competitively bid:

**\*\*\*\*NDEP may not be able to respond to the many anticipated Nevada projects applying for federal funding via the Stimulus Package in a timely manner that would allow the projects to be funded and Nevada would not maximize its opportunities to utilize the available federal funding.**

6. What market research was conducted to substantiate that there is no competition for the service or good? Please include an evaluation of other items considered, and provide documentation.

- There are no other vendors that can provide the exhaustive experience and knowledge gained from having worked 10 years as supervisor in the specific programs that are in need of enhancement.

- Mr. Rasner provides the exact requirements necessary to perform the necessary work. There is no other vendor that can provide the insight necessary to expediently and successfully develop the respective programs, therefore, it would be a waste of State resources to solicit a different vendor or search for another individual whom could provide the same level of value.

**\*\*\*\*Again, Mr. Rasner provides the exact requirements necessary to perform the necessary Stimulus Package work. There is no other vendor that can provide the insight necessary to understand the process and expediently and successfully address the anticipated project plans requiring engineer reviews and inspections.**

7. How did your agency determine that the price/cost is fair or reasonable absent a competitive solicitation?

**\*\*\*\*the rates utilized are the accepted professional rates pursuant to Nevada guidelines.**

8. What is the estimated value and length of the contract, amendment or request.

a. New contract Y  N

b. Amendment Y  N  Amendment No. 3

- The anticipated length of the contract is 1 year.

\*\*\*\*The anticipated length for this contract is 1 year. Increasing budget by \$97,000.00.

NDEP, Bureau of Water Pollution Control hereby requests approval for  
Requesting agency

Rasner Consulting, Inc.  
Proposed vendor

to provide the service/good for the amount and term as described above.

By signing below I hereby certify that the information provided in this form is true and accurate to the best of my knowledge.

Signed:

X	<i>Valerie G King</i>	
	Agency Representative Initiating Request	Date <i>3/3/09</i>
X	<i>Jacqui Palmer</i>	
	Agency Head/Division Chief/Authorized Designee	Date <i>3-3-09</i>

In an effort to avoid possible conflict with any equipment, system or process already installed or in place by the State of Nevada, State Purchasing has solicited a review of your request from another agency/entity. The signature below indicates that agency/entity has reviewed the information submitted. This signature does not exempt your agency from any other processes that may be required.

Signed:

X	<i>Leo M. Proch</i>	
	Reviewing Agency/Entity Signature	Date <i>3/3/09</i> <i>error</i>

Please consider this memo as my approval of your request. This exemption is granted pursuant to NAC 333.150(2)(a)(b) and NRS 333.400. This exemption may be rescinded in the event reliable information becomes available upon which the Purchasing Administrator determines that the service or good sought may in fact be contracted for in a more effective manner. Pursuant to NRS 284.173(6), contracts for services do not become effective without the prior approval of the State Board of Examiners (BOE).

If you have any questions or concerns please contact the Purchasing Division at 775-684-0170.

Signed:

X		
	<i>Ang Smith</i>	<i>3.9.09</i>
	Administrator, Purchasing Division	Date

*By my signature in this memo I am following this contract.*

**Scope of Work  
Rasner Consulting, Inc.  
FY 2010**

**Individual Permits**

Rasner Consulting, Inc. will assist NDEP in developing a streamlined individual permit tailored to specific discharges that will help reduce backlog in the Permits Branch.

Duties include:

- Reduce individual permit volume by including boilerplate requirements into regulations.
- Develop a framework for different categories of individual permits based on discharge.
- Draft/renew permits to address backlog.

**Gray Water Regulation Development**

Rasner Consulting, Inc. will assist NDEP in developing Gray Water regulations for residential and or commercial facilities.

Duties include:

- Develop regulations consistent with BDR 48-394 for gray water reuse in Nevada.
- Develop guidance documents for gray water reuse.

**Underground Injection Control Program**

Rasner Consulting, Inc. will assist NDEP in developing a policy and regulations for sand/oil/water interceptors consistent with Class V well regulations.

Duties include:

- Develop regulations for sand/oil/water interceptors
- Develop a permit, fact sheet and NOI for sand/oil/water interceptors
- Develop policy and guidance documents for sand/oil/water interceptors.
- Perform inspections.

## **Subdivisions**

Rasner Consulting, Inc. will review current subdivision regulations, and if necessary, draft new regulations to ensure they are current with environmental law and policy.

Duties include:

- Review current regulations to determine if they address public health and environmental laws and regulations.
- If necessary, draft new regulations.
- Gather input from building departments, developers, etc.
- Perform engineering plan reviews, if requested.

## **Source Water Protection Program**

Rasner Consulting, Inc. will assist NDEP in conducting Source Water Protection visits to drinking water sources throughout Nevada to inspect the source for protection and obtain coordinates (longitude and latitude) for inclusion into the agency database.

Duties include:

- Visit designated drinking water sources and perform a sanitary survey (if requested) and/or determine legal description of source utilizing an agency prescribed global positioning unit.
- If sanitary survey is performed, forward inspection results to the Bureau of Drinking Water for their records.

## **Marinas**

Rasner Consulting, Inc. will assist NDEP in developing Marina regulations to address fuel stations, sewage disposal from boats and marina structures, etc.

Duties include:

- Draft regulations
- Develop a General Permit, NOI form and fact sheet.
- Work with marina owners to address their concerns.

## **State Revolving Fund/ Stimulus Package**

Rasner Consulting, Inc. will assist NDEP in providing oversight for Drinking Water and Wastewater State Revolving Loan Fund (SRF) construction projects.

Duties include:

- Perform engineering plan reviews of SRF projects.
- Inspect construction sites to ensure projects are in conformance with NDEP approved plans and specifications.
- Provide detailed reports (with photo documentation) on findings.

## **Miscellaneous Duties**

Rasner Consulting, Inc. will assist NDEP in Water Pollution Control issues such as, but not limited to:

- Perform engineering plan reviews.
- Inspections of all permitted facilities as well as field visits of non-permitted facilities for documentation.
- Policy development.
- Drafting regulations.
- Draft/renew permits.
- Assist in program backlog reduction where necessary.
- Ensuring the Counties (Building Depts., Public Works, etc.), NACO, Nevada Taxpayers Association, Nevada Manufacturing Association, etc. are kept informed of agency actions that may affect them.
- Provide technical assistance on institutional matters (with 29+ years of regulatory experience, Rasner Consulting, Inc. specializes in this issue).
- Other duties where both parties agree to scope of work.

## Completed Items

- Pretreatment regulation review and development
- Stormwater regulation review and recommendation
- Drafted the Five-year Plan for the BWPC
- Onsite Sewage Disposal System (OSDS) regulation development, NOI form, fact sheet, public workshops statewide, etc.
- Drafted OSDS General Permit
- Developed a Guidance Manual for OSDS
- Developed Dewatering Permit, NOI form, fact sheet, etc.
- Drafted General Permit for Working in the Waters of the State, including NOI form, fact sheet, etc.
- Drafted Enforcement Matrix guidance
- Drafted agency response to 2007 Federal Farm Bill
- Drafted agency response to proposed PUC regulations regarding location of sewer laterals (docket # 07-06018)
- Attended public meetings at PUC regarding docket # 07-06018
- Inspected TG Power site and provided report
- Inspected Ackler Creek for Clean Water Act violations and provided report
- Inspected Oasis MHP and provided recommendations
- Attended Recycled water use meetings in Reno and Carson City, and provided recommendations
- Performed OSDS engineering reviews during staff shortage/absence
- Responded to requests to provide engineering support for pressing issues as they occurred.
- Drafted guidance for residential/commercial cleanup of sewer backups/spills.

**Budget Summary for Rasner Consulting, Inc.  
FY 2010**

Category	Cost
Salaries	\$ 61,170.63
Fringe Benefits	\$ 18,961.94
Overhead Costs	\$ 15,297.43
Equipment	\$ 0.00
Travel	\$ 1,570.00
Operating	\$ 0.00
<b>Total</b>	<b>\$ 97,000.00</b>

**Budget Detail**

Salaries	Rate	Estimated Cost
Principal Engineer	\$ 69.66	\$ 61,170.63

Fringe Detail	Rate	Estimated Costs
25% of Total Salaries (not to exceed)	\$ 17.42	\$ 18,961.94

Overhead Detail	Rate	Estimated Costs
24.8% of Total Salaries + Fringe Benefits (not to exceed)	\$ 21.60	\$ 15,297.43

Travel Detail	Rate	Estimated Costs
Mileage, airfare, lodging, meals	State Approved	\$ 1,570.00

Equipment Detail	Rate	Estimated Costs
None	\$ N/A	\$ N/A

Operating Detail	Rate	Estimated Costs
None	\$ N/A	\$ N/A

AMENDMENT #2 TO CONTRACT DEP 06-074-2

Between the State of Nevada  
Acting By and Through Its

Nevada Department of Conservation and Natural Resources,  
Division of Environmental Protection  
901 S. Stewart Street, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856  
and  
Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703

1. AMENDMENTS. For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original contract dated April 25, 2006 and amended July 14, 2006, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- a. The contract amount of \$45,000 is increased by \$170,000 for a new contract amount of \$215,000.
- b. The expiration date stated in paragraph 3 of the original contract (Page 1) is changed from April 11, 2007 to June 30, 2009.
- c. Attachment A "Scope of Work" of the original contract is hereby modified, by the attached and is made a part of this amendment consisting of 7 pages.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and first amendment) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

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

Dan W R  
Contractor's Signature

PRESIDENT 11/2/07  
Contractor's Title Date

Leo Drozdoff  
Agency Signature Leo Drozdoff

Administrator-NDEP 1/17/07  
Title Date

[Signature]  
Division Fiscal Signature

Budget Control 1/17/07  
Title Date

APPROVED BY BOARD OF EXAMINERS

[Signature]  
Signature - Board of Examiners

On 2-13-07  
(Date)

Approved as to form by:

January 19, 2006  
Deputy Attorney General for Attorney General

[Signature] 1/19/06  
(Date)

**Nevada Division of Environmental Protection  
Bureau of Water Pollution Control**

**Ongoing development of On Site Sewage Disposal  
System regulations/program  
and  
Source Water Protection activities**

**December 27, 2006**

**Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703  
(775) 882-7122**

## **Scope of Work**

### **On Site Sewage Disposal System Program (Ongoing)**

Rasner Consulting has completed approximately 35% of development of the On Site Sewage Disposal System (OSDS) program. To date, the regulations have undergone a first draft and are awaiting review from NDEP, Health Division and the public. Further issues to address include:

- Finish writing the draft regulations and perform necessary edits.
- Assist NDEP in statewide visits to affected parties to explain the program.
- Assist NDEP with public workshops and the Environmental Commission.
- Develop a policy to address existing OSDS (i.e. grandfathering, repairs).
- Develop a guidance manual that assists engineers and local planners/authorities to understand the purpose of the OSDS program. This manual will also provide guidance regarding the need to sewer specific areas of the state when nitrate contamination is documented. (This task will be labor intensive).
- Develop a new WTS 23 to compliment the new regulations.
- Draft the General Permit(s) to accompany the regulations.
- If necessary, develop an inventory of existing OSDS in NDEP's jurisdiction. Draft letters to affected Permittees for agency signature.
- Develop other documents for program enhancement, including, but not limited to, website development materials, guidance documents, checklists, etc.

### **Underground Injection Control Program**

Rasner Consulting, Inc. will assist NDEP in developing a policy and regulations for sand/oil/water interceptors consistent with Class V well regulations.

Duties include:

- Develop regulations for sand/oil/water interceptors

- Develop policy and guidance documents for sand, oil, water interceptors

### **Source Water Protection Program**

Rasner Consulting, Inc. will assist NDEP in conducting Source Water Protection visits to drinking water sources throughout Nevada to inspect the source for protection and obtain coordinates (longitude and latitude) for inclusion into the agency database.

Duties include:

- Visit designated drinking water sources and perform a sanitary survey (if requested) and/or determine legal description of source utilizing an agency prescribed global positioning unit.
- If sanitary survey is performed, forward inspection results to the Bureau of Drinking Water for their records.

### **Miscellaneous Duties**

Rasner Consulting, Inc. will assist NDEP in Water Pollution Control issues such as, but not limited to:

- Inspections of permitted facilities as well as field visits of non-permitted facilities for documentation.
- Policy development.
- Drafting regulations.
- Assist in program backlog reduction where necessary
- Ensuring the Counties (Building Depts., Public Works, etc.), NACO, Nevada Taxpayers Association, Nevada Manufacturing Association, etc. are kept informed/educated of agency actions that may affect them.
- Provide technical assistance on institutional matters (with 29+ years of regulatory experience, Rasner Consulting, Inc. specializes in this issue).
- Other duties where both parties agree to scope of work.
- Provide regular updates summaries to NDEP regarding above activities.

**Budget Summary for Rasner Consulting, Inc.  
FY 2007 (amended \$30,000)**

Category	Cost
Salaries	\$ 18,041.94
Fringe Benefits	\$ 4,511.78
Overhead Costs	\$ 5,594.40
Travel	\$ 1,851.88
Equipment	\$ 0.00
Operating	\$ 0.00
<b>Total</b>	<b>\$ 30,000.00</b>

**Budget Detail**

Salaries	Rate	Estimated Cost
Principal Engineer (estimated 259 hours)	\$ 69.66	\$ 18,041.94
Total Salaries		\$

Fringe Detail	Rate	Estimated Costs
25% of Total Salaries (not to exceed)	\$ 17.42	\$ 4,511.78

Overhead Detail	Rate	Estimated Costs
24.8% of Total Salaries + Fringe Benefits (not to exceed)	\$ 21.60	\$ 5,594.40

Travel Detail	Rate	Estimated Costs
Mileage, airfare, lodging, meals	State Approved	\$ 1,851.88

Equipment Detail	Rate	Estimated Costs
None	\$ N/A	\$ N/A

Operating Detail	Rate	Estimated Costs
None	\$ N/A	\$ N/A

**Budget Summary for Rasner Consulting, Inc.  
FY 2008**

Category	Cost
Salaries	\$ 42,840.90
Fringe Benefits	\$ 10,713.30
Overhead Costs	\$ 13,284.00
Travel	\$ 2,173.81
Equipment	\$ 0.00
Operating	\$ 987.99
<b>Total</b>	<b>\$ 70,000.00</b>

**Budget Detail**

Salaries	Rate	Estimated Cost
Principal Engineer (estimated 615 hours)	\$ 69.66	\$ 42,840.90
Total Salaries		\$

Fringe Detail	Rate	Estimated Costs
25% of Total Salaries (not to exceed)	\$ 17.42	\$ 10,713.30

Overhead Detail	Rate	Estimated Costs
24.8% of Total Salaries + Fringe Benefits (not to exceed)	\$ 21.60	\$ 13,284.00

Travel Detail	Rate	Estimated Costs
Mileage, airfare, lodging, meals	State Approved	\$ 2,173.81

Equipment Detail	Rate	Estimated Costs
None	\$ N/A	\$ N/A

Operating Detail	Rate	Estimated Costs
Copying, publications, etc	\$ N/A	\$ 987.99

**Budget Summary for Rasner Consulting, Inc.  
FY 2009**

<u>Category</u>	<u>Cost</u>
Salaries	\$ 42,840.90
Fringe Benefits	\$ 10,713.30
Overhead Costs	\$ 13,284.00
Travel	\$ 2,173.81
Equipment	\$ 0.00
Operating	\$ 987.99
<b>Total</b>	<b>\$ 70,000.00</b>

**Budget Detail**

<u>Salaries</u>	<u>Rate</u>	<u>Estimated Cost</u>
Principal Engineer (estimated 495 hours)	\$ 69.66	\$ 42,840.90
<b>Total Salaries</b>		<b>\$</b>

<u>Fringe Detail</u>	<u>Rate</u>	<u>Estimated Costs</u>
25% of Total Salaries (not to exceed)	\$ 17.42	\$ 10,713.30

<u>Overhead Detail</u>	<u>Rate</u>	<u>Estimated Costs</u>
24.8% of Total Salaries + Fringe Benefits (not to exceed)	\$ 21.60	\$ 13,284.00

<u>Travel Detail</u>	<u>Rate</u>	<u>Estimated Costs</u>
Mileage, airfare, lodging, meals	State Approved	\$ 2,173.81

<u>Equipment Detail</u>	<u>Rate</u>	<u>Estimated Costs</u>
None	\$ N/A	\$ N/A

<u>Operating Detail</u>	<u>Rate</u>	<u>Estimated Costs</u>
Copying, publications, etc	\$ N/A	\$ 987.99

Contract:  
Amended amount for FY 2007      \$ 30,000  
Amount for FY 2008                \$ 70,000  
Amount for FY 2009                \$ 70,000  
    \$170,000

# CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract Between the State of Nevada  
Acting By and Through Its

Department of Conservation and Natural Resources, Division of Environmental Protection  
901 S. Stewart Street, Suite 4001, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856

and  
Rasner Consulting, Inc.  
3994 Westwood Drive, Carson City, Nevada 89701  
Federal Tax ID # 203738778

WHEREAS, NRS 284.173 authorizes elective officers, heads of departments, boards, commissions or institutions to engage subject to the approval of the Board of Examiners, services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada;

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

- 1. REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.
- 2. DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS §41.0307. "Independent Contractor" means a person or entity that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
- 3. CONTRACT TERM.** This Contract shall be effective from BOE approval date to April 11, 2007 unless sooner terminated by either party as specified in paragraph (10).
- 4. NOTICE.** Unless otherwise specified, termination shall not be effective until 10 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 telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.
- 5. INCORPORATED DOCUMENTS.** The parties agree that the scope of work shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence; a Contractor's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract:

ATTACHMENT A: SCOPE OF WORK (consisting of 3 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

- 6. CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph (5) at a cost of \$ NA per NA (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: monthly, not to exceed \$ 45,000.00. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
- 7. ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
- 8. TIMELINESS OF BILLING SUBMISSION.** The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later

than the first Friday in August of the same year. A billing submitted after the first Friday in August, which forces the State to process the billing as a state claim pursuant to NRS 353.097, 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 State of processing the billing as a state claim and that this amount will be deducted from the state claim payment due to the Contractor.

#### **9. INSPECTION & AUDIT.**

a. **Books and Records.** Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. **Inspection & Audit.** Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise) including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect the requirements of this paragraph.

c. **Period of Retention.** All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

#### **10. CONTRACT TERMINATION.**

a. **Termination Without Cause.** 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.

b. **State Termination for Nonappropriation.** The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State 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 Contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

c. **Cause Termination for Default or Breach.** A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

i. 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

ii. 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

iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

iv. If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or

v. If it is found by the State 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 State of Nevada 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

vi. If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. **Time to Correct.** Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), 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.

e. **Winding Up Affairs Upon Termination.** In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. 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 provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
  - ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if requested by the Contracting Agency;
  - iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if requested by the Contracting Agency;
  - iv. Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with paragraph (21).
11. **REMEDIES.** 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. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys. The State may set off consideration against an unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190.
12. **LIMITED LIABILITY.** The State 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 State 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. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.
13. **FORCE MAJEURE.** 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.
14. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State 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 or willful acts or omissions of Contractor, its officers, employees and agents.
15. **INDEPENDENT CONTRACTOR.** Contractor is associated with the State 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. 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 State whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the State. The State and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

*This space blank intentionally*

Contractor's Initials

YES NO

- 1. Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?
- 2. Will the Contracting Agency be providing training to the independent contractor?
- 3. Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?
- 4. Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?
- 5. Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?
- 6. Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?
- 7. Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?

\_\_\_\_\_ NO

**16. INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor, as an independent contractor and not an employee of the State, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The State shall have no liability except as specifically provided in the Contract. The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and
  - 2) The State has approved the insurance policies provided by the Contractor.
- Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State'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 State to timely approve shall not constitute a waiver of the condition.

**Insurance Coverage:** 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 State, 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:

- 1. Final acceptance by the State of the completion of this Contract; or
  - 2. Such time as the insurance is no longer required by the State under the terms of this Contract.
- Any insurance or self-insurance available to the State 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 State, Contractor shall provide the State 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 State and immediately replace such insurance or bond with an insurer meeting the requirements.

**Workers' Compensation and Employer's Liability Insurance**

- 1) Contractor shall provide proof of worker's compensation insurance as required of Nevada Revised Statutes Chapters 616A through 616D inclusive.
- 2) Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

If this contract is for temporary or leased employees, an *Alternate Employer endorsement* must be attached to the Contractor's workers' compensation insurance policy.

- 3) If the Contractor qualifies as a sole proprietor as defined in NRS Chapter 616A.310, and has elected to not purchase industrial insurance for himself/herself, the sole proprietor must submit to the contracting State agent a fully executed "Affidavit of Rejection of Coverage Under NRS 616B62" and NRS 617.210" form.

**Commercial General Liability Insurance**

- 1) Minimum Limits required:
- |                       |   |
|-----------------------|---|
| <u>\$2,000,000.00</u> | General Aggregate                         |
| \$ _____              | Products & Completed Operations Aggregate |
| \$ _____              | Personal and Advertising Injury           |
| <u>\$1,000,000.00</u> | Each Occurrence                           |
- 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).

**Business Automobile Liability Insurance**

- 1) Minimum Limit required: \$Waived Each Occurrence for bodily injury and property damage.
- 2) Coverage shall be for "any auto" (including owned, non-owned and hired vehicles).  
The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

**Professional Liability Insurance**

- 1) Minimum Limit required: \$Waived Each Claim
- 2) Retroactive date: Prior to commencement of the performance of the contract
- 3) Discovery period: Three (3) years after termination date of contract.
- 4) A certified copy of this policy may be required.

**Umbrella or Excess Liability Insurance**

- 1) May be used to achieve the above minimum liability limits.
- 2) Shall be endorsed to state it is "As Broad as Primary Policy"

**Commercial Crime Insurance**

Minimum Limit required: \$Waived Per Loss for Employee Dishonesty  
This insurance shall be underwritten on a blanket form amending the definition of "employee" to include all employees of the Vendor regardless of position or category.

**Performance Security**

Amount required: \$ Waived

- 1) Security may be in the form of surety bond, Certificate of Deposit or Treasury Note payable to the State of Nevada, only.
- 2) The security shall be deposited with the contracting State agency no later than ten (10) working days following award of the Contract to Contractor.
- 3) Upon successful Contract completion, the security and all interest earned, if any, shall be returned to the Contractor.

**General Requirements:**

- a. **Additional Insured:** By endorsement to the general liability insurance policy evidenced by Contractor, *The State of Nevada, (the agency), its officers, employees and immune contractors* as defined in NRS41.0307 shall be named as additional insureds for all liability arising from the Contract.
- b. **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.
- c. **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. **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 State. 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 Risk Management Division.

- e. 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 the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide the notices required by this paragraph shall be sent by certified mail to the address shown below.
- f. Approved Insurer: Each insurance policy shall be:
- 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurer acceptable to the State and having agents in Nevada upon whom service of process may be made, and
  - 2) Currently rated by A.M. Best as "A- VII" or better.

**Evidence of Insurance:**

- Prior to the start of any Work, Contractor must provide the following documents to the contracting State agency:
- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor.
  - 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, Subsection a above.
  - 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.

**Review and Approval**: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State 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 State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

Mail all required insurance documents to the Contracting Agency Identified on page one of the contract.

17. **COMPLIANCE WITH LEGAL OBLIGATIONS**. 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 required by 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 State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.
18. **WAIVER OF BREACH**. 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.
19. **SEVERABILITY**. 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.
20. **ASSIGNMENT/DELEGATION**. 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 State, 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 consent of the State.
21. **STATE OWNERSHIP OF PROPRIETARY INFORMATION**. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is 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 State and all such materials shall be delivered into State 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 State. Notwithstanding the foregoing, if the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark or copyright protection.

22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. **CONFIDENTIALITY.** 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.

24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:

a. 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.

b. 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.

c. 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.)

25. **LOBBYING.** 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:

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

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

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

26. **WARRANTIES.**

a. **General Warranty.** 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 set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. **System Compliance.** Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century. Pursuant to NRS 41.0321, the State is immune from liability due to any failure of any incorrect date being produced, calculated or generated by a computer or other information system.

27. **PROPER AUTHORITY.** 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 as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners 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.

28. **GOVERNING LAW; JURISDICTION.** 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. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

**29. ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless a 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 Office of the Attorney General and the State Board of Examiners.

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

[Signature]  
Signature Independent Contractor

4/21/06 President  
Date Independent's Contractor's Title

[Signature]  
Signature Leo Drozdoff

3/9/06 Administrator, Division of Environmental Protection  
Date Title

[Signature]  
Signature Division Fiscal Office

3/9/06 Budget Analyst II  
Date Title

[Signature]  
Signature - Board of Examiners

APPROVED BY BOARD OF EXAMINERS

On 4-25-06  
(Date)

Approved as to form by:

[Signature]  
Deputy Attorney General for Attorney General

On 10 March 2006  
(Date)

**Nevada Division of Environmental Protection  
Bureau of Water Pollution Control**

**Development of Statewide Pretreatment Program  
and  
Development of Storm Water Regulations**

**March 8, 2006**

**Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703  
(775) 882-7122**

## Scope of Work

### Pretreatment Program

Rasner Consulting, Inc. is pleased to assist the Nevada Division of Environmental Protection (NDEP) in developing a statewide Pretreatment Program. The Pretreatment Program provides control over a wide variety of industrial waste streams to prevent interference or pass through of municipal treatment system processes.

Duties include:

Develop agency guidelines to encourage Public Owned Treatment Works (POTW's) to integrate pollution prevention.

- Conduct research to identify most effective and reasonable approach for establishing State Pre-Treatment program.
- Develop supportive regulations for the Pre-Treatment program.

### Storm Water Program

Rasner Consulting will assist NDEP in developing Stormwater regulations that address the specific needs of the State of Nevada. As the most arid state in the nation, one-size-fits-all regulations do not adequately address Nevada's concerns.

Duties include:

- Develop regulations that support and are as stringent as the federal Clean Water Act regulations, yet provide flexibility for the unique situations found in Nevada.

### List of Deliverables and Schedule

- A proposed Pre-Treatment program with supportive regulations along with proposed Storm Water regulations that meet federal criteria will be completed by April 11, 2007.

**Nevada Division of Environmental Protection  
Proposed Contract Budget  
Pretreatment activities**

**BUDGET SUMMARY FOR RASNER CONSULTING, INC**

Category	Cost
Salaries	\$ 28,432.00
Fringe Benefits	\$ 7,108.00
Overhead Costs	\$ 8,815.00
Travel	\$ 645.00
Equipment	\$ 0.00
Operating	\$ 0.00
<b>Total</b>	<b>\$ 45,000.00</b>

**Budget Detail**

Salaries	Rate	Estimated Cost
Senior Engineer (estimated 415 hours)	\$68.51	\$ 28,432.00
<b>Total Salaries</b>		<b>\$ 28,432.00</b>

Fringe Detail	Rate	Estimated Cost
25% of Total Salaries (not to exceed)	\$17.13	\$ 7,108.00

Overhead Detail	Rate	Estimated Cost
24.803% of Total Salaries + Fringe Benefits (not to exceed)	\$21.24	\$ 8,815.00

Travel Detail	Rate	Estimated Cost
Mileage, airfare, lodging, meals	State approved	\$ 645.00

Equipment Detail	Rate	Estimated Cost
None	\$	\$ 0

Operating Detail	Rate	Estimated Cost
	\$	\$ 0

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS  
TO CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR  
CONTRACT CONTROL # DEP06074

1. For contracts utilizing federal funds, the Nevada Division of Environmental Protection (NDEP) shall pay no more compensation per individual (including any subcontractors) than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits): currently \$68.51 per hour. This limitation does not apply to contracts with firms for services.
2. NDEP shall only reimburse the Contractor for actual cash disbursed. Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the contract, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Contractor to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Contractor shall provide with each invoice a detailed fiscal summary that includes the approved contract budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Contractor shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Contract amount.
3. The Contractor shall, as part of its approved scope of work and budget under this Contract, provide third party match funds of not less than \$NA. If match funds are required, the Contractor shall comply with additional record-keeping requirements as specified in 48 CFR 31.2 and Attachment NA (Third Party Match Record-Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Contract.
4. Unless otherwise provided in Attachment A (Scope of Work), the Contractor shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.
5. All payments under this Contract are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Contract, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Contract. If funds are not received from either source for the specific purposes of this Contract, NDEP is under no obligation to supply funding for this Contract. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Contract. Nothing in this Contract shall be construed to provide the Contractor with a right of payment over any other entity. If any payments that are otherwise due to the Contractor under this Contract are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Contractor if sufficient funds later become available.
6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.
7. Any funds obligated by NDEP under this Contract that are not expended by the Contractor shall automatically revert back to NDEP upon the completion, termination or cancellation of this Contract. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Contractor. The Contractor shall have no claim of any sort to such unexpended funds.
8. The Contractor, to the fullest extent possible, shall make available a minimum of 21.79% (consisting of 6.28% Minority Business Enterprise (MBE) and 15.51% Woman Business Enterprise (WBE)) of federal funds for prime contracts of subcontracts for supplies, construction, equipment or services to organizations owned or controlled by socially or economically disadvantaged individuals, women, and historically black college and universities. The Contractor agrees and is required to utilize the following six affirmative steps:
  - a. Include qualified Small Business Enterprises (SBEs), Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation list.

- b. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- c. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of SBEs, MBEs, and WBEs;
- d. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- e. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of Commerce as appropriate; and
- f. If a subcontractor awards contracts procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Contractor shall complete and submit to NDEP a Minority Business Enterprise Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Contract is in effect and within fifteen (15) calendar days after the termination date of this Contract. The Contractor will disregard the reference to \$10,000.00 in paragraph (D) of the Instructions for Standard Form 334 (see footnote at the bottom of page one of the Instructions).

10. The books, records, documents and accounting procedures and practices of the Contractor or any subcontractor relevant to this Contract shall be subject to inspection, examination and audit by the State of Nevada, the Division of Environmental Protection, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States or any authorized representative of those entities.

11. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Contractor in the performance of its obligations under this Contract shall be the exclusive property of NDEP. Such items must be retained by the Contractor for a minimum of three (3) years and for five (5) years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Contractor, at the Contractor's expense, to NDEP. The Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of the Contractor's obligations under this Contract without the prior written consent of NDEP. If the Contractor wishes to use any of these materials for purposes other than the performance of the Contractor's obligations under this Contract, the Contractor must make a written request to NDEP. NDEP shall review the request and respond in writing to the Contractor, with either approval or denial of the request within sixty (60) days.

12. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Contract, the Contractor shall clearly state that funding for the project or program was provided through a contract with the Nevada Division of Environmental Protection. The Contractor will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

13. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Contract is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Contract or after the conclusion of the use of the property for the purposes of this Contract during its term, be returned to NDEP at the Contractor's expense. Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Contractor shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Contract purposes unless otherwise agreed to in writing by NDEP. For any unauthorized use of such property by the Contractor, NDEP may elect to terminate the Contract and to have the property immediately returned to NDEP by the Contractor at the Contractor's expense. To the extent authorized by law, the Contractor shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Contractor or the Contractor's agents or employees or any subcontractor or their agents or employees.

14. The Contractor shall use recycled paper for all reports that are prepared as part of this Contract and delivered to NDEP. This requirement does not apply to standard forms.
15. The Contractor, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Contract by the Contractor or the Contractor's agents or employees or any subcontractor or their agents or employees. NDEP, to the extent provided by Nevada law, shall indemnify and save and hold the Contractor, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Contract by NDEP or NDEP's agents or employees.
16. The Contractor and any subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the work plan (Attachment A). The property owner will be informed of the program, the type of data to be gathered, and the reason for the requested access to the property.
17. This Contract shall be construed and interpreted according to the laws of the State of Nevada and conditions established in OMB Circular A-102. Nothing in this Contract shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this contract shall be brought in the First Judicial District Court of the State of Nevada. The Contractor and any of its subcontractors shall comply with all applicable local, state and federal laws in carrying out the obligations of this Contract, including all federal and state accounting procedures and requirements established in OMB Circular A-87 and A-133. The Contractor and any of its subcontractors shall also comply with the following:
- a. 40 CFR Part 7 - Nondiscrimination In Programs Receiving Federal Assistance From EPA
  - b. 40 CFR Part 29 - Intergovernmental Review Of EPA Programs And Activities.
  - c. 40 CFR Part 31 - Uniform Administrative Requirements For Grants And Cooperative Agreements To State and Local Governments;
  - d. 40 CFR Part 32 - Governmentwide Debarment And Suspension (Nonprocurement) And Governmentwide Requirements For Drug-Free Workplace (Grants);
  - e. 40 CFR Part 34 - Lobbying Activities;
  - f. 40 CFR Part 35, Subpart O - Cooperative Agreements And Superfund State Contracts For Superfund Response Actions (Superfund Only); and
  - g. The Hotel And Motel Fire Safety Act of 1990.
18. The Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of NDEP.

# CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract Between the State of Nevada  
Acting By and Through Its

Department of Conservation and Natural Resources, Division of Environmental Protection  
901 S. Stewart Street, Suite 4001, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856

and  
Rasner Consulting, Inc.  
3994 Westwood Drive, Carson City, Nevada 89701  
Federal Tax ID # 203738778

WHEREAS, NRS 284.173 authorizes elective officers, heads of departments, boards, commissions or institutions to engage subject to the approval of the Board of Examiners, services of persons as independent contractors; and  
WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada;  
NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

- 1. REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board Examiners.
- 2. DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS §41.0307. "Independent Contractor" means a person or entity that performs service and/or provides goods for the State under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
- 3. CONTRACT TERM.** This Contract shall be effective from BOE approval date to April 11, 2007 unless sooner terminated by either party as specified in paragraph (10).
- 4. NOTICE.** Unless otherwise specified, termination shall not be effective until 10 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 telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.
- 5. INCORPORATED DOCUMENTS.** The parties agree that the scope of work shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence; a Contractor's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract:

ATTACHMENT A: SCOPE OF WORK (consisting of 3 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

- 6. CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph (5) at a cost of \$ NA per NA (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: monthly, not to exceed \$ 45,000.00. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal not changing the overall contract term or a termination as the results of legislative appropriation may require.
- 7. ASSENT.** The parties agree that the terms and conditions listed in incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
- 8. TIMELINESS OF BILLING SUBMISSION.** The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later

than the first Friday in August of the same year. A billing submitted after the first Friday in August, which forces the State to process the billing as a state claim pursuant to NRS 353.097, 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 State of processing the billing as a state claim and that this amount will be deducted from the state claim payment due to the Contractor.

9 **INSPECTION & AUDIT.**

a. **Books and Records.** Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. **Inspection & Audit.** Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise) including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, final statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect the requirements of this paragraph.

c. **Period of Retention.** All books, records, reports, and statements relevant to this Contract must be retained a minimum of three years and for five years if any federal funds are used in the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or complete any administrative and judicial litigation which may ensue.

10. **CONTRACT TERMINATION.**

a. **Termination Without Cause.** 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.

b. **State Termination for Nonappropriation.** The continuation of this Contract beyond the current biennium is subject to an appropriation of contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State 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 Contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

c. **Cause Termination for Default or Breach.** A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

i. 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

ii. 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

iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

iv. If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or

v. If it is found by the State 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 State of Nevada 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

vi. If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. **Time to Correct.** Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), 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.

e. **Winding Up Affairs Upon Termination.** In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those who undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of work provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) requested by the Contracting Agency;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract requested by the Contracting Agency;
- iv. Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with paragraph (21).

**11. REMEDIES.** Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, a damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' shall include without limitation \$125 per hour for State-employed attorneys. The State may set off consideration against unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190.

**12. LIMITED LIABILITY.** The State will not waive and intends to assert available NRS chapter 41 liability limitations in 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 State 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. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

**13. FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing a part 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.

**14. INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses of Contractor, its officers, employees and agents, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.

**15. INDEPENDENT CONTRACTOR.** Contractor is associated with the State 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. 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 State whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the State. The State and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

*This space blank intentionally*

Contractor's Initials

	YES	NO
1. Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?		_____ <i>DK</i>
2. Will the Contracting Agency be providing training to the independent contractor?		_____ <i>DK</i>
3. Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?	<i>DK</i>	_____
4. Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?		_____ <i>DK</i>
5. Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?		_____ <i>DK</i>
6. Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?		_____ <i>DK</i>
7. Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?		_____ <i>DK</i>

16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor, as an independent contractor, not an employee of the State, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The State shall have no liability except as specifically provided in the Contract. The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and
  - 2) The State has approved the insurance policies provided by the Contractor.
- Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under the Contract and the State'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 State to timely approve shall not constitute a waiver of the condition.

**Insurance Coverage:** 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 State, 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:

1. Final acceptance by the State of the completion of this Contract; or
  2. Such time as the insurance is no longer required by the State under the terms of this Contract.
- Any insurance or self-insurance available to the State 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 State, Contractor shall provide the State 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 State and immediately replace such insurance or bond with an insurer meeting the requirements.

**Workers' Compensation and Employer's Liability Insurance**

- 1) Contractor shall provide proof of worker's compensation insurance as required of Nevada Revised Statutes Chapters 615A through 615D inclusive
  - 2) Employer's Liability Insurance with a minimum limit of \$50,000 each employee per accident for bodily injury by accident or disease.
- If this contract is for temporary or leased employees, an *Alternate Employer* endorsement must be attached to the Contractor's workers' compensation insurance policy.

- 3) If the Contractor qualifies as a sole proprietor as defined in NRS Chapter 616A.310, and has elected to purchase industrial insurance for himself/herself, the sole proprietor must submit to the Contracting State a fully executed "Affidavit of Rejection of Coverage Under NRS 616B627 and NRS 617.210" form.

**Commercial General Liability Insurance**

- 1) Minimum Limits required:

\$2,000,000.00 General Aggregate  
 \$ \_\_\_\_\_ Products & Completed Operations Aggregate  
 \$ \_\_\_\_\_ Personal and Advertising Injury  
\$1,000,000.00 Each Occurrence

- 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).

**Business Automobile Liability Insurance**

- 1) Minimum Limit required: \$Waived Each Occurrence for bodily injury and property damage.

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

**Professional Liability Insurance**

- 1) Minimum Limit required: \$Waived Each Claim  
 2) Retroactive date: Prior to commencement of the performance of the contract  
 3) Discovery period: Three (3) years after termination date of contract.  
 4) A certified copy of this policy may be required.

**Umbrella or Excess Liability Insurance**

- 1) May be used to achieve the above minimum liability limits.  
 2) Shall be endorsed to state it is "As Broad as Primary Policy"

**Commercial Crime Insurance**

Minimum Limit required: \$Waived Per Loss for Employee Dishonesty  
 This insurance shall be underwritten on a blanket form amending the definition of "employee" to include all employees of the Vendor regardless of position or category.

**Performance Security**

Amount required: \$ Waived

- 1) Security may be in the form of surety bond, Certificate of Deposit or Treasury Note payable to the State of Nevada, only.  
 2) The security shall be deposited with the contracting State agency no later than ten (10) working days following award of the Contract to Contractor.  
 3) Upon successful Contract completion, the security and all interest earned, if any, shall be returned to the Contractor.

**General Requirements:**

- a. **Additional Insured:** By endorsement to the general liability insurance policy evidenced by Contractor. *The State of Nevada, (the agency), its officers, employees and immune contractors* as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.  
 b. **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.  
 c. **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.  
 d. **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 State. 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 Risk Management Division.

- e. **Policy Cancellation:** Except for ten days notice for non-payment of premium, each insurance policy shall be ended to state that; without thirty (30) days prior written notice to the State of Nevada, the Contracting Agency, the policy shall not be canceled, non-renewed or coverage and or limits reduced or materially altered, and shall provide notices required by this paragraph shall be sent by certified mailed to the address shown below.
- f. **Approved Insurer:** Each insurance policy shall be:
- 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
  - 2) Currently rated by A.M. Best as "A- VII" or better.

**Evidence of Insurance:**

Prior to the start of any Work, Contractor must provide the following documents to the contracting State agency:

- 1) **Certificate of Insurance:** The Acor 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor.
- 2) **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26) signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per **General Requirements**, Subsection a above.
- 3) **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limit a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

**Review and Approval:** Documents specified above must be submitted for review and approval by the State prior to commencement of work by Contractor. Neither approval by the State 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-contractor employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

Mail all required insurance documents to the Contracting Agency identified on page one of the contract.

**17. COMPLIANCE WITH LEGAL OBLIGATIONS.** 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 required by 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 State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

**18. WAIVER OF BREACH.** 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.

**19. SEVERABILITY.** 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.

**20. ASSIGNMENT DELEGATION.** 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 State, 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 consent of the State.

**21. STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is 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 State and all such materials shall be delivered into State 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 State. Notwithstanding the foregoing, the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark or copyright protection.

22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. **CONFIDENTIALITY.** 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.

24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:

- 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 whole or in part from federal funds.

- 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.

- 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.)

25. **LOBBYING.** 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:

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

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

26. **WARRANTIES.**

- General Warranty.** 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 set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

- System Compliance.** Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century. Pursuant to NRS 41.0321, the State is immune from liability due to any failure of any incorrect date being produced, calculated or generated by a computer or other information system.

27. **PROPER AUTHORITY.** 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 as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners 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.

28. **GOVERNING LAW, JURISDICTION.** 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. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

**29. ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Under integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract. If 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 Office of the Attorney General and the State Board of Examiners.

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

*D. W. R.*  
Signature Independent Contractor

3/2/06 PRESIDENT  
Date Independent Contractor's Title

*L. Drozdoff*  
Signature Leo Drozdoff

3/2/06 Administrator, Division of Environmental Protection  
Date Title

*Kami Reen*  
Signature Division Fiscal Office

3/9/06 Budget Analyst II  
Date Title

*[Signature]*  
Signature - Board of Examiners

APPROVED BY BOARD OF EXAMINERS

On 4-25-06  
(Date)

Approved as to form by:

*Janet Hess*  
Deputy Attorney General for Attorney General

On 12 March 2006  
(Date)

**Nevada Division of Environmental Protection  
Bureau of Water Pollution Control**

**Development of Statewide Pretreatment Program  
and  
Development of Storm Water Regulations**

**March 8, 2006**

**Rasner Consulting, Inc.  
3994 Westwood Drive  
Carson City, Nevada 89703  
(775) 882-7122**

## Scope of Work

### Pretreatment Program

Rasner Consulting, Inc. is pleased to assist the Nevada Division of Environmental Protection (NDEP) in developing a statewide Pretreatment Program. The Pretreatment Program provides control over a wide variety of industrial waste streams to prevent interference or pass through of municipal treatment system processes.

Duties include:

Develop agency guidelines to encourage Public Owned Treatment Works (POTW's) to integrate pollution prevention.

- Conduct research to identify most effective and reasonable approach for establishing State Pre-Treatment program.
- Develop supportive regulations for the Pre-Treatment program.

### Storm Water Program

Rasner Consulting will assist NDEP in developing Stormwater regulations that address the specific needs of the State of Nevada. As the most arid state in the nation, one-size-fits-all regulations do not adequately address Nevada's concerns.

Duties include:

- Develop regulations that support and are as stringent as the federal Clean Water Act regulations, yet provide flexibility for the unique situations found in Nevada.

### List of Deliverables and Schedule

- A proposed Pre-Treatment program with supportive regulations along with proposed Storm Water regulations that meet federal criteria will be completed by April 11, 2007.

**Nevada Division of Environmental Protection  
Proposed Contract Budget  
Pretreatment activities**

**BUDGET SUMMARY FOR RASNER CONSULTING, INC**

Category	Cost
Salaries	\$ 28,432.00
Fringe Benefits	\$ 7,108.00
Overhead Costs	\$ 8,815.00
Travel	\$ 645.00
Equipment	\$ 0.00
Operating	\$ 0.00
<b>Total</b>	<b>\$ 45,000.00</b>

**Budget Detail**

Salaries	Rate	Estimated Cost
Senior Engineer (estimated 415 hours)	\$68.51	\$ 28,432.00
<b>Total Salaries</b>		<b>\$ 28,432.00</b>

Fringe Detail	Rate	Estimated Cost
25% of Total Salaries (not to exceed)	\$17.13	\$ 7,108.00

Overhead Detail	Rate	Estimated Cost
24.803% of Total Salaries + Fringe Benefits (not to exceed)	\$21.24	\$ 8,815.00

Travel Detail	Rate	Estimated Cost
Mileage, airfare, lodging, meals	State approved	\$ 645.00

Equipment Detail	Rate	Estimated Cost
None	\$	\$ 0

Operating Detail	Rate	Estimated Cost
	\$	\$ 0

**ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS  
TO CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR  
CONTRACT CONTROL # DEP06074**

1. For contracts utilizing federal funds, the Nevada Division of Environmental Protection (NDEP) shall pay no more compensation per individual (including any subcontractors) than the federal Executive Service Level 4 (L-4 Code) daily rate (exclusive of fringe benefits): currently \$68.51 per hour. This limitation does not apply to contracts with firms for services.
2. NDEP shall only reimburse the Contractor for actual cash disbursed. Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the contract, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Contractor to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Contractor shall provide with each invoice a detailed fiscal summary that includes the approved contract budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Contractor shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Contract amount.
3. The Contractor shall, as part of its approved scope of work and budget under this Contract, provide third party match funds of not less than \$NA. If match funds are required, the Contractor shall comply with additional record-keeping requirements as specified in 48 CFR 31.2 and Attachment NA (Third Party Match Record Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Contract.
4. Unless otherwise provided in Attachment A (Scope of Work), the Contractor shall submit quarterly reports and other deliverables within ten (10) calendar days after the end of each quarter.
5. All payments under this Contract are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Contract, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Contract. If funds are not received from either source for the specific purposes of this Contract, NDEP is under no obligation to supply funding for this Contract. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Contract. Nothing in this Contract shall be construed to provide the Contractor with a right of payment over any other entity. If any payments that are otherwise due to the Contractor under this Contract are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Contractor if sufficient funds later become available.
6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.
7. Any funds obligated by NDEP under this Contract that are not expended by the Contractor shall automatically revert back to NDEP upon the completion, termination or cancellation of this Contract. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Contractor. The Contractor shall have no claim of any sort to such unexpended funds.
8. The Contractor, to the fullest extent possible, shall make available a minimum of 21.79% (consisting of 6.28% Minority Business Enterprise (MBE) and 15.51% Woman Business Enterprise (WBE)) of federal funds for prime contracts or subcontracts for supplies, construction, equipment or services to organizations owned or controlled by socially or economically disadvantaged individuals, women, and historically black college and universities. The Contractor agrees and is required to utilize the following six affirmative steps:
  - a. Include qualified Small Business Enterprises (SBEs), Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation lists;

- b. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- c. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of SBEs, MBEs, and WBEs;
- d. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- e. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of Commerce as appropriate; and
- f. If a subcontractor awards contracts procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Contractor shall complete and submit to NDEP a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Contract is in effect and within fifteen (15) calendar days after the termination date of this Contract. The Contractor will disregard the reference to \$10,000.00 in paragraph (D) of the Instructions for Standard Form 334 (see footnote at the bottom of page one of the Instructions).

10. The books, records, documents and accounting procedures and practices of the Contractor or any subcontractor relevant to this Contract shall be subject to inspection, examination and audit by the State of Nevada, the Division of Environmental Protection, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States or any authorized representative of those entities.

11. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Contractor in the performance of its obligations under this Contract shall be the exclusive property of NDEP. Such items must be retained by the Contractor for a minimum of three (3) years and for five (5) years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Contractor, at the Contractor's expense, to NDEP. The Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of the Contractor's obligations under this Contract without the prior written consent of NDEP. If the Contractor wishes to use any of these materials for purposes other than the performance of the Contractor's obligations under this Contract, the Contractor must make a written request to NDEP. NDEP shall review the request and respond in writing to the Contractor, with either approval or denial of the request within sixty (60) days.

12. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Contract, the Contractor shall clearly state that funding for the project or program was provided through a contract with the Nevada Division of Environmental Protection. The Contractor will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

13. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Contract is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Contract or after the conclusion of the use of the property for the purposes of this Contract during its term, be returned to NDEP at the Contractor's expense. Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Contractor shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Contract purposes unless otherwise agreed to in writing by NDEP. For any unauthorized use of such property by the Contractor, NDEP may elect to terminate the Contract and to have the property immediately returned to NDEP by the Contractor at the Contractor's expense. To the extent authorized by law, the Contractor shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Contractor or the Contractor's agents or employees or any subcontractor or their agents or employees.