



**CARSON CITY CONSOLIDATED MUNICIPALITY  
NOTICE OF MEETING OF THE  
CARSON CITY AUDIT COMMITTEE**

**Day:** Tuesday  
**Date:** November 20, 2012  
**Time:** Beginning at 3:00 p.m.  
**Location:** Community Center, Sierra Room  
851 East William Street  
Carson City, Nevada

## **Agenda**

**1. Call to Order**

**2. Roll Call**

**3. Public Comments and Discussion:**

The public is invited at this time to comment on and discuss any topic that is relevant to, or within the authority of, the Carson City Audit Committee. In order for members of the public to participate in the Committee's consideration of an agenda item, the Committee strongly encourages members of the public to comment on an agenda item during the item itself. No action may be taken on a matter raised under public comment unless the item has been specifically included on the agenda as an item upon which action may be taken.

**4. For Possible Action: Approval of Minutes - October 10, 2012**

**5. For Possible Action: Adoption of Agenda**

**6. For Possible Action: Presentation, discussion and acceptance of the DRAFT audit results prepared by Kafoury Armstrong and Co. for the year ending June 30, 2012.**

Summary: Kafoury Armstrong has been appointed by the Board of Supervisors to provide external audit services to Carson City as required by NRS 354.624. Representatives from Kafoury Armstrong will be presenting their DRAFT findings to the audit committee.

**7. For Possible Action: Presentation, discussion and acceptance of the Public Defender Cost and Utilization Study prepared by Moss Adams.**

Summary: Moss Adams has been contracted by the Carson City Audit Committee and the Board of Supervisors to provide Internal Audit Services to Carson City. Representatives from Moss Adams will be presenting the Public Defender Cost and Utilization Study.

**8. For Possible Action: Presentation, discussion and acceptance of the Community Facility Cost Recovery Study prepared by Moss Adams.**

Summary: Moss Adams has been contracted by the Carson City Audit Committee and the Board of Supervisors to provide Internal Audit Services to Carson City. Representatives from Moss Adams will be presenting the Community Facility Cost Recovery Study.

9. For Possible Action: Discussion and possible action to recommend to the Board of Supervisors that the contract of Moss Adams be amended to provide internal audit services to Carson City through June 30, 2014.

Summary: Moss Adam's contract to provide internal audit services to Carson City is set to expire on December 31, 2012. Staff is recommending the contract be adjusted through June 30, 2014 at the current fiscal year budgeted amount of \$110,000. We are estimating that we have \$62,564 remaining for FY 2013 and will have \$110,000 for FY 2014.

10. For Possible Action: Discussion and possible action to consider recommendations for possible internal audits and make a recommendation to the Board of Supervisors for consideration.

Summary: Based on the presentation of the Enterprise Risk Assessment for Carson City by Moss Adams, and possible public discussion, recommendations will be made for possible audits to the Carson City Board of Supervisors.

11. For Possible Action: To schedule the next meeting of the Carson City Audit Committee.

12. **Public Comment** - The public is invited at this time to comment on any matter that is not specifically included on the agenda as an action item. No action may be taken on a matter raised under this item of the agenda.

**13. For Possible Action: To Adjourn**

.....  
*Agenda Management Notice - Items on the agenda may be taken out of order; the public body may combine two or more agenda items for consideration; and the public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.*  
.....

*Titles of agenda items are intended to identify specific matters. If you desire detailed information concerning any subject matter itemized within this agenda, you are encouraged to call the responsible agency or the City Manager's Office. You are encouraged to attend this meeting and participate by commenting on any agenda item.*  
.....

*Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the City Manager's Office in writing at 201 North Carson Street, Carson City, NV, 89701, or by calling (775)887-2100 at least 24 hours in advance.*  
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*This meeting can be viewed on Channel 226. For specific dates and times - [www.bactv.org](http://www.bactv.org).*  
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*This agenda and backup information are available on the City's website at [www.carson.org](http://www.carson.org)*  
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This notice has been posted at the following locations:  
Community Center 851 East William Street  
Public Safety Complex 885 East Musser Street  
City Hall 201 North Carson Street  
Carson City Library 900 North Roop Street  
Business Resource & Innovation Center (BRIC) 108 East Proctor Street

Date: November 14, 2012

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**DRAFT**

A regular meeting of the Carson City Audit Committee was scheduled for 1:00 p.m. on Wednesday, October 10, 2012 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Chairperson Michael Bertrand  
Vice Chairperson William Prowse  
Member Kenneth Brown  
Member John McKenna  
Member Robert Parvin

**STAFF:** Larry Werner, City Manager  
Nickolas Providenti, Finance Department Director  
Randal Munn, Chief Deputy District Attorney  
Kathleen King, Deputy Clerk / Recording Secretary

**NOTE:** A recording of these proceedings, the committee's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

**1 - 2. CALL TO ORDER AND ROLL CALL (1:02:13)** - Chairperson Bertrand called the meeting to order at 1:02 p.m. Roll was called; a quorum was present.

**3. PUBLIC COMMENTS AND DISCUSSION (1:02:32)** - Chairperson Bertrand entertained public comment. (1:03:03) Deputy District Attorney Mark Krueger introduced himself for the record, and advised of having been informed that item 8 would be deferred to a future meeting.

**4. POSSIBLE ACTION ON APPROVAL OF MINUTES - August 14, 2012 (1:03:31)** - Member Parvin moved to approve the minutes. Member McKenna seconded the motion. Motion carried 5-0.

**5. POSSIBLE ACTION TO ADOPT THE AGENDA (1:04:14)** - Chairperson Bertrand reiterated that item 8 would be deferred to a future meeting. He entertained a motion to adopt the agenda with that modification. **Member McKenna so moved. Member Brown seconded the motion. Motion carried 5-0.**

**6. PRESENTATION AND DISCUSSION ON THE DEVELOPMENT PROCESSES AND REPORTING REGARDING FRAUD, WASTE, AND ABUSE (1:04:57)** - Chairperson Bertrand introduced this item and, at his request, Vice Chairperson Prowse provided background information and reviewed the agenda materials. He advised of having met with Moss-Adams, LLP representatives and that "a general approach toward preparing this proposal" has been "roughed out." He invited the participation of one other committee member. Chairperson Bertrand entertained public comment; however, none was forthcoming.

**7. PRESENTATION AND DISCUSSION OF THE COMMUNITY FACILITY COST RECOVERY STUDY STATUS REPORT, AS PREPARED BY MOSS ADAMS, LLP (1:08:01)** - Chairperson Bertrand introduced this item. Mark Steranka, of Moss-Adams, LLP, provided background information and a status report on the studies which are the subject of items 7, 8, and 9. Chairperson Bertrand entertained public and committee member comments. None were forthcoming.

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**8. PRESENTATION AND DISCUSSION OF THE PUBLIC DEFENDER COST AND UTILIZATION STUDY DRAFT REPORT PREPARED BY MOSS-ADAMS, LLP - Deferred.**

**9. PRESENTATION, DISCUSSION AND POSSIBLE ACTION ON ACCEPTANCE OF THE EAGLE VALLEY GOLF COURSE COST RECOVERY STUDY PREPARED BY MOSS ADAMS, LLP (1:10:49)** - Chairperson Bertrand introduced this item. Mr. Steranka reviewed the draft report included in the agenda materials. Chairperson Bertrand entertained committee member questions or comments. Vice Chairperson Prowse expressed disappointment that the auditors were not permitted to examine the payroll records, and the opinion that the auditors should have full access to financial records. He expressed the further opinion, "It's impossible to do a fair and just audit without having access to the information." Vice Chairperson Prowse inquired as to the possibility of "the City exercis[ing] some effort to get ... compliance. Even after the fact, it might be beneficial. It would certainly give a better understanding of the golf course's financial status."

Mr. Providenti offered to request the information. He acknowledged the refusal to provide the payroll records is in violation of the lease, but suggested there are other violations. "It just depends on what we want to do about it. ... that's really the question." Vice Chairperson Prowse suggested the refusal "indicates a lack of cooperation and ... should be considered relative to the Board and their consideration of the recommendations and any other actions they may want to take." Mr. Werner pointed out that the Carson City Municipal Golf Corporation ("CCMGC"), as a private, non-profit organization, is independent of the City. "We're just contracting with them to provide us with the information. ... they do give us their financial information in terms of salaries spent, in terms of services provided ..." Mr. Werner questioned the City's right to "go into their books in absolute detail as a private, non-profit corporation." He offered to work with the CCMGC Board to "see if we can get the amount of details that we need if that detailed information is absolutely essential to the way it works today." Mr. Werner suggested that modifying the lease such that the City would assume budget preparation responsibility, "we have a much stronger position ..." Discussion followed, and Mr. Werner advised that should the City become involved in budget preparation, "we would know, in detail, what's going on with every expense item, not just that." He reiterated the offer to request the information. Mr. Steranka explained that the reason for requesting the payroll information was not "so much a concern that ... they were paying too much. We don't know that to be the case either way. ... what we have in the report, and ... were able to identify is that their payroll has been reduced over the past three years which is good. That's a good sign. Just a question ... becomes is there additional opportunity to do that. And the best example would be if they're paying a bonus in times when they can't meet their obligation to the City. ... as the City's representative, I wouldn't expect to see that happening. ... that's the type of question ... that, collectively, we should want to be able to answer."

In response to a question, Mr. Steranka expressed the belief that the increase in players from 2010 to 2011 does not represent a trend. National information "has tended to show that golf has ... leveled out ... Certainly, the economy has impacted golf as slightly more of a luxury recreational sport." In response to a question, Eagle Valley Golf Course Manager Jim Keplar clarified statistical information included in the table at page 8 of the report included in the agenda materials.

Chairperson Bertrand entertained additional questions or comments of the committee members. In response to a question, Mr. Werner reviewed the method by which recommendations will be forwarded to the Board with a time table for implementation and periodic status reports. He acknowledged that the committee will

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be included in periodic status reports. Chairperson Bertrand discussed concerns over the lease default and the need to “come up with a working plan ... that everybody agrees with.”

Chairperson Bertrand entertained comments of the committee members relative to additions or revisions to the draft report prior to forwarding it to the Board of Supervisors. **Vice Chairperson Prowse moved to forward the report, in its entirety, to the Board of Supervisors for consideration.**

Chairperson Bertrand entertained public comment. (1:43:52) CCMGC Board President Gordon Allen advised of having operated a Carson City business for the past 37 years. He further advised that he is well acquainted with the economic downturn which has taken place over the past four or five years. “Before the [CCMGC] Board was enacted in 1997, ... this was a nightmare situation for the [Board of Supervisors.] That’s why [former] Mayor [Teixeira] ... put this together.” Mr. Allen advised of having served as a CCMGC Board member for the past six years. “But back in the heyday, we were doing 90,000 to 100,000 rounds of golf. ... We’re down to 50,000 rounds of golf. Part of that is due to the fact that we’ve had competition which ... when everything’s blooming, it’s wonderful. The roses look great. So we had actually two and a half, three golf courses added, plus we had Carson Valley, we had Dayton ... There was Thunder Canyon. All of these things put in place a downturn in play at Eagle Valley Golf. ... so basically, we had the addition of the golf courses. We had a period of five years or so that everybody was doing wonderful. People were all happy and making lots of money. Eagle Valley was doing okay under the [CCMGC] Board and then we had a downturn in the economy. So what we’ve done on the [CCMGC] Board, is we look at all those numbers. We dropped \$200,000+ in revenue. What did we do? We reduced our costs and, if you look at these numbers, just on page 19, we’ve dropped our ... costs commensurate with our drop in revenue. We’re running it like a business now. And I will tell you, before I was on the [CCMGC] Board, it was not run like a business. ... Unfortunately, for a period of time, it was run ... like a good ol’ boys club. It’s not like that anymore. It’s run like a business. Now, unfortunately, we’ve been strapped with this debt for the City that, when ... everything was running great, we were able to make those payments. We now have hit a brick wall in a sense, but because we made these adjustments, we’re making it better and better and better. So our numbers are coming back ... because we’ve improved the product of the golf course. So we’re getting all this revenue coming in again and I’m seeing it as an increase. Not great, but it’s increasing. ... We’re here to take care of our community, do the best possible job, provide the best possible product at a fair price for our citizens. That’s why we have the 80 and over get free. I think that’s a wonderful thing.” Mr. Allen advised of having solicited business from around the area “at the same time as we improve the product.” He discussed positive feedback for the 50-Mile Club and for the golf course in general.

Mr. Allen expressed the opinion that the CCMGC is “doing a heck of a job.” He discussed the drawback of the bond, and expressed a willingness “to pay every penny to the City that we owe.” He discussed problems with infrastructure which the CCMGC has addressed in order to improve the product. He listed other benefits to the community “beyond just paying a bond for \$120,000. ... It’s a big deal.” Mr. Allen advised that Mr. Keplar “gets paid less than most golf course superintendents do by a substantial margin. ... He was brought in to bring it back to where it was ... and he’s improved the product.” Mr. Allen suggested that the City “should be thankful.” He expressed gratitude “because the other two guys that were before me that were running that golf course were going downhill quick. ... they took advantage of their situation.” Mr. Allen invited questions, and advised that he “sign[s] every check that goes out of that place.”

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In response to a question, Mr. Allen advised that the payroll information was not provided “because it’s not ... mandated ... in our contract. ... We run it on a fiscally smart basis. I look at every single penny ... and I’ve been doing it ever since I’ve been on the [CCMGC] Board.” Mr. Allen explained that when Mr. Keplar was first hired, “we gave him a base salary and then if he brought in certain tournaments, then he got a little bit of that tournament as a bonus. ... And this is common practice in the golf industry. But now, ... he hasn’t had much of a bonus ... because things have gone down.” Mr. Allen advised that small bonuses were provided to golf course employees last Christmas. In response to a comment, he expressed understanding for the auditors wanting to know the specifics. He assured the committee that “we shopped and we made sure we got the best guy for the job in Carson City and he’s doing an awesome job.”

In response to a question, Mr. Allen advised of having reviewed the draft report. He acknowledged the legitimacy of the questions posed to Mr. Keplar, and advised that they had “brought up some things that ... were good ideas. We do have some revenue streams that we can look into.” He expressed a willingness to pay a \$10 cart fee “or whatever it is because that’s okay. That ... helps us take care of the carts.” He expressed reluctance to “start charging [his] 80-year-old friends to play golf.” He expressed the opinion that Eagle Valley Golf Course fees are competitive, and advised that he and Mr. Keplar have discussed increasing fees for certain passes. He noted the CCMGC’s mandate to “keep it affordable ...” He acknowledged general agreement with the recommendations in the final report. “There’s a lot of things that we’ve been doing that has cost us money ...; infrastructure ..., irrigation systems, things like that. ... We’ve had to fix, in the last five or six years, a lot of problems.”

Member Parvin reviewed public comment indicating concern with regard to the City “subsidizing” the Eagle Valley Golf Course to the detriment of private area courses. Mr. Allen reviewed the history of the Eagle Valley Golf Course relative to development of Empire Ranch Golf Course and Silver Oak Golf Course. He suggested that the private developers “made a business decision ... If you’re willing to compete with a public entity and you can do a better job or a good job, so be it.” He reviewed statistical information relative to the average number of golf rounds per year at the Eagle Valley Golf Course. “We’re doing everything we can for Carson City to keep it fair, affordable, best we can.” Member Brown expressed appreciation for Mr. Allen’s optimism, and the opinion “it would have benefitted your case to provide the payroll analysis.” Mr. Allen advised that the “bulk analysis” provided indicates 40 percent of the revenue is allocated to payroll. “... on a cost basis, if you look at an average golf course, that’s below the average by about seven or eight percent. ... We’re below, on a par basis, across the country with costs ...” Mr. Allen advised of having recently made the first cut for the season. “As the season winds down, ... we’ll get down to a skeleton crew, probably 10 to 12 people, from 50.” Mr. Allen acknowledged that the report does not reflect a \$2 million bond.

Chairperson Bertrand suggested that the issue “comes down to ... a contract that the City has awarded and, if ... the Golf Course is able to meet those obligations. And, if not, it really needs to be renegotiated.” In response to a question, Mr. Allen expressed the opinion that “with the economic situation that it is today, it’s unreasonable. If we make the adjustments, some of the recommendations that they’ve come up with, ... starting next season, ... it’s probably a doable number.” He suggested a graduated payment scale until such time as the golf course is able to get back to paying the \$120,000 per year. He expressed a willingness to adjust the fee structure, but was unable to commit to paying \$120,000 to the City next year. Extensive discussion took place regarding the purpose of golf course revenues to pay off the bonds which constructed the golf courses, and the current default situation.

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Chairperson Bertrand entertained additional public comment. (2:08:38) Doug Sever provided background information on his previous work experience, and commended Moss-Adams, LLP on their comprehensive report. He expressed agreement with many of the “well-thought out” recommendations outlined in the report, and read a prepared statement into the record. He concluded his remarks by strongly urging the committee to recommend keeping the golf course open “by any means.”

Chairperson Bertrand entertained additional public comment and, when none was forthcoming, a second on the pending motion. Following a brief discussion, Vice Chairperson Prowse restated his motion, as follows: **move to accept the Moss-Adams cost recovery study on the Eagle Valley Golf Course, and forward it to the Board of Supervisors for action. Member Brown seconded the motion.** Chairperson Bertrand requested Vice Chairperson Prowse to consider amending his motion to indicate “there would need to be a new operating budget detailed and agreed upon ... and that there’d be monthly reporting to the City staff, as well as a copy of that sent to this Audit Committee so that we can monitor what is happening there. And if, at any point, they’re not meeting the requirements or it appears that they’re not going to meet that budget, ... we can step in and make some changes, if need be.” Following discussion, Chairperson Bertrand acknowledged his intent to clarify the committee’s recommendation and withdrew his request for amendment. Chairperson Bertrand entertained additional discussion of the committee members and, when none was forthcoming, called for a vote on the pending motion. **Motion carried 5-0.**

**10. POSSIBLE ACTION TO SCHEDULE NEXT AUDIT COMMITTEE MEETING (2:18:28) -** Chairperson Bertrand introduced this item, and a brief discussion took place regarding future agenda items. Consensus of the committee was to schedule the next meeting for Tuesday, November 20<sup>th</sup> at 3:00 p.m.

**11. PUBLIC COMMENT (2:23:33) -** Chairperson Bertrand entertained public comment; however, none was forthcoming.

**12. ACTION TO ADJOURN (2:23:40) -** Member Brown moved to adjourn the meeting at 2:23 p.m. Vice Chairperson Prowse seconded the motion. Motion carried 5-0.

The Minutes of the October 10, 2012 Carson City Audit Committee meeting are so approved this \_\_\_\_\_ day of November, 2012.

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MICHAEL BERTRAND, Chair

**Carson City Audit Committee  
Agenda Report**

**Date Submitted:** November 6, 2012

**Agenda Date Requested:** November 20, 2012

**To:** Chair and Members

**From:** Michael Bertrand, Chairman

**Subject Title:** For Possible Action: Presentation and discussion of DRAFT audit results prepared by Kafoury Armstrong and Co. for the year ending June 30, 2012.

**Summary:** Kafoury Armstrong has been appointed by the Board of Supervisors to provide external audit services to Carson City as required by NRS 354.624. Representatives from Kafoury Armstrong will be presenting their DRAFT findings to the audit committee.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Discussion Only)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Committee Action:** I move to accept the DRAFT audit results prepared by Kafoury Armstrong and Co. for the year ending June 30, 2012.

**Explanation for Recommended Committee Action:** See Staff Summary

**Applicable Statute, Code, Policy, Rule or Regulation:** NRS 354, CCMC Chapter 2.14

**Fiscal Impact:** N/A

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** None

**Supporting Material:** Will be provided by Kafoury Armstrong and Co.

**Prepared By:** Nick Providenti, Finance Director



Reviewed By: Michael A. White  
(Finance Director)

Date: 11/8/12

**Board Action Taken:**

Motion: \_\_\_\_\_

	Member	Aye/Nay
1)	_____	_____
2)	_____	_____
3)	_____	_____
4)	_____	_____
5)	_____	_____

\_\_\_\_\_  
(Vote Recorded By)

**Carson City Audit Committee  
Agenda Report**

**Date Submitted:** November 6, 2012

**Agenda Date Requested:** November 20, 2012

**To:** Chair and Members

**From:** Michael Bertrand, Chairman

**Subject Title:** For Possible Action: Presentation, discussion and acceptance of the Public Defender Cost and Utilization Study prepared by Moss Adams.

**Summary:** Moss Adams has been contracted by the Carson City Audit Committee and the Board of Supervisors to provide Internal Audit Services to Carson City. Representatives from Moss Adams will be presenting the Public Defender Cost and Utilization Study.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Committee Action:** I move to accept the Public Defender Cost and Utilization Study and forward it to the Carson City Board of Supervisors.

**Explanation for Recommended Committee Action:** See Staff Summary

**Applicable Statute, Code, Policy, Rule or Regulation:** N/A

**Fiscal Impact:** N/A

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** None

**Supporting Material:** Public Defender Cost and Utilization Study prepared by Moss Adams

**Prepared By:** Nick Providenti, Finance Director



MOSS ADAMS<sub>LLP</sub>

**DRAFT REPORT**

**Carson City**  
Public Defender Cost and Utilization Study:

November 6, 2012

**Moss Adams LLP**

999 Third Ave, Suite 2800

Seattle, WA 98104

(206) 302-6500

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## I. EXECUTIVE SUMMARY

Carson City contracts with the Nevada State Public Defender (NSPD) to provide indigent defense services. The City also contracts with three conflict attorneys, who provide representation in the case of a conflict of interest on the part of the NSPD. Over the past three years, the City has cut costs and staffing in response to the global economic recession, while the cost of indigent defense has risen.

### A. OBJECTIVE AND SCOPE

The objective of this study is to determine the most cost-effective way for Carson City to provide public defense services. The study was conducted with the assumption that any potential change in the service delivery model must preserve the current level and quality of service being provided to indigent defendants.

This study is not an audit of public defender or conflict attorney operations. The study did not base analysis on the comparison of Carson City's costs or level of service to that of other counties.

### B. CURRENT SITUATION

Carson City is the primary customer of the NSPD, with 72% of NSPD's total county service budget assigned to Carson City in FY 11-12 (\$978,924 of \$1,363,447). Over the five-year period FY 07-08 through FY 11-12, the NSPD budget for counties increased 3.8% from \$1,313,798 to \$1,363,447, while the NSPD budget for Carson City increased 18.7% from \$824,696 to \$978,924. Over that time, annual indigent defense hours provided by NSPD have varied from 16,292 to 22,490 for counties and from 8,256 to 12,902 for Carson City. Based on budgets and hours, Carson City paid more per hour than the counties as a whole, with Carson City's cost per hour exceeding other counties' cost per hour by an average of 26.6% over the five-year period.

Three conflict attorneys are retained by the City on a flat-fee, three-year contract (July 1, 2011 through June 30, 2014) for \$341,985 per year (\$113,995 per attorney). Expenses for experts, investigations, and other items are approved on a case-by-case basis, bringing total compensation for each conflict attorney to approximately \$135,000 per year. There is no comprehensive data on hours or caseload handled by the attorneys. However, for the purposes of this study, each attorney estimated working approximately 32 hours per week on indigent defense.

### C. OPTIONS

There are three options for the provision of indigent defense services in Carson City. They include 1) a combination of NSPD and conflict attorneys (status quo); 2) a combination of a County Public Defender office and conflict attorneys, and 3) contract attorneys only. Advantages and disadvantages of each option are summarized below.

<b>NSPD and Conflict Attorneys (Status Quo)</b>		
<b>Advantages</b>	<b>Disadvantages</b>	<b>Costs</b>
Administrative simplicity of an outsourced model	Lack of City control	\$1,392,009
<b>County Public Defender and Conflict Attorneys</b>		
<b>Advantages</b>	<b>Disadvantages</b>	<b>Costs</b>
Increased City control	No cost savings Increased administrative burden on City Uncertain availability of qualified attorneys	\$1,464,949
<b>Contract Attorneys Only</b>		
<b>Advantages</b>	<b>Disadvantages</b>	<b>Costs</b>
Potential cost savings of \$240,500 to \$405,000 Increased City control	Increased administrative burden on City Increased administrative burden on Courts	\$987,000 to \$1,151,500

**D. RECOMMENDATIONS**

Based on the evaluation of alternative indigent defense service delivery models, we recommend:

- Work with the NSPD to determine how to obtain more cost effective services or pursue an all-contract attorney indigent defense model.
- Collect comprehensive case data from conflict/contract attorneys.
- Include performance standards in attorney contracts.
- Gain greater visibility by City administration of indigent defense costs paid directly by the courts.

## II. BACKGROUND, OBJECTIVE, AND METHODOLOGY

### A. BACKGROUND

The right to defense counsel in criminal proceedings is guaranteed in the Constitution, and the U.S. Supreme Court has consistently reaffirmed that right and determined that states should bear the burden of the cost of representation for indigent defendants. This right extends to juvenile and mental health cases, as well as cases involving child protection. In Nevada, counties bear the vast majority of the cost of indigent defense, with the state incurring the cost of State Supreme Court appeals.

Since the 1970s, Carson City has contracted with the Nevada State Public Defender (NSPD) to provide indigent defense services. Through its District and Justice/Municipal Courts, the City also contracts with three conflict attorneys, who provide representation in the case of a conflict of interest on the part of the NSPD. Over the past three years, the City has cut costs and staffing in response to the economic pressures, while the cost of providing indigent defense has risen.

### B. OBJECTIVE

The objective of this study is to determine the most cost-effective model for Carson City to provide public defense services. The study was conducted with the assumption that any potential change in the service delivery model must preserve the current level and quality of service provided to indigent defendants.

This study is not an audit of public defender or conflict attorney operations. The study did not base analysis on the comparison of Carson City's costs or level of service to that of other counties.

### C. METHODOLOGY

#### Interviews

Moss Adams conducted a series of interviews and work sessions with City Administration, District Attorney's Office, District and Justice/Municipal Court Judges, and Court Clerk, as well as conflict attorneys and the Nevada State Public Defender, during June through September 2012.

#### Analysis

During the course of the study, Moss Adams reviewed a number of documents in order to understand historical and current budgets, as well as related policies and procedures. In addition, external research was conducted to determine relevant standards and practices for indigent defense in Nevada and nationwide.



### Deliverables

Moss Adams provided a discussion draft report to Carson City and the NSPD to validate facts and verify the practicality of recommendations.

We based our work upon, and used the practice guidance promulgated by, The Institute of Internal Auditors, Inc. Accordingly, in so doing, we provide no opinion, attestation, or other form of assurance with respect to our work or the information upon which our work is based.

### III. HISTORY OF CARSON CITY INDIGENT DEFENSE

In Nevada, counties pay the vast majority of the cost of public defense. All counties with a population of less than 100,000 are expected to either appoint a County Public Defender or utilize the services of the Nevada State Public Defender, pursuant to NRS Chapter 180. The NSPD is a state agency located within the Department of Health and Human Services. The State Public Defender is appointed by the Governor for a four-year term. In the past, the NSPD represented all 15 eligible counties. However, a number of the counties in Nevada now work with private attorneys to serve as the public defender. The current state of indigent defense service models utilized by counties in Nevada is shown in the table below.

Counties using Contract Attorneys	Counties Using County Public Defender	Counties Using State Public Defender
Churchill	Clark	Carson City
Douglas	Elko	Eureka
Esmeralda	Humboldt	Storey
Lander	Pershing	White Pine
Lincoln	Washoe	
Lyon		
Mineral		
Nye		

The NSPD currently represents four counties, and is staffed from two offices, with eight deputy attorneys, three investigators, and five administrative staff. As a state agency, the NSPD’s budget is determined by the Legislature. Until 2005, the State paid for a set amount of the annual budget of the NSPD, with the user counties making up the difference. In 2005, the Legislature changed the funding calculation for the NSPD, requiring counties to pay by caseload. This increased the counties’ share of funding from 54% in 2004 to 81% in 2012.

The NSPD’s budgeted share for each county is estimated based on the average hours charged over the last five years. If expenditures for the year are less than budgeted, then the NSPD evaluates the caseload share for each county compared to the budget and distributes refunds. However, if a county’s caseload is more than budgeted, then the NSPD does not issue a bill for costs over budget.

Since 2007, three counties have left the NSPD. Lincoln County moved to a contracted attorney model, and Pershing and Humboldt Counties established county public defender offices. As counties have left the NSPD, Carson City’s percentage of costs has risen. For example, in FY 12-13, the NSPD budgeted 68% of total hours to Carson City, an increase from 50% in 2010, when the NSPD represented an additional county.

Over the past five years, however, the NSPD’s budget for indigent services to counties has held relatively steady, even as counties have left the NSPD. The table below shows Carson City’s budget from NSPD, actual hours provided by NSPD, and cost per hour for NSPD services compared to those of all counties served by NSPD for FY 07-08 through FY 11-12.

	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
NSPD Budgeted Carson City Costs	\$824,696	\$899,484	\$915,691	\$935,193	\$978,924
NSPD Budgeted Total County Costs	\$1,313,798	\$1,313,737	\$1,359,834	\$1,366,620	\$1,363,447
NSPD Hours for Carson City Cases (includes investigations)	10,443	8,256	11,293	12,096	12,902
NSPD Hours for All Counties Served (includes investigations)	19,899	16,292	22,490	21,779	21,734
Carson City Cost Per Hour for NSPD Services	\$78.97	\$108.95	\$81.09	\$77.31	\$75.87
All Counties Served by NSPD Cost Per Hour	\$66.02	\$80.64	\$60.47	\$62.75	\$62.73
% Difference Carson City and Total County Cost Per Hour	19.6%	35.1%	34.1%	23.2%	20.9%

Over the five-year period FY 07-08 through FY 11-12, the NSPD budget for counties has increased 3.8% from \$1,313,798 to \$1,363,447, while the NSPD budget for Carson City has increased 18.7% from \$824,696 to \$978,924. Over that time, indigent defense annual hours provided by NSPD have varied from 16,292 to 22,490 for counties and from 8,256 to 12,902 for Carson City. Based on budgets and hours, Carson City paid more per hour than the counties as a whole, with Carson City cost per hour exceeding county cost per hour by an average of 26.6% over the five-year period.

Carson City has considered changing the structure of indigent defense services twice in recent years. In 2007, the City analyzed the cost of establishing a county public defender office. In 2011, the City discussed the potential to move to an all-contract model, but the timing was too late to introduce during the upcoming legislative session.

## IV. CURRENT COST AND UTILIZATION

Indigent defense services in Carson City are currently supplied by the NSPD and three conflict attorneys. Every case is assigned to the NSPD. If the NSPD determines that a conflict exists with its office, then the case is assigned to one of three conflict attorneys on a rotating basis. The conflict pool was recently reduced from four to three attorneys. The Carson City District and Justice/Municipal Courts have determined over time that three is the appropriate number of conflict attorneys to handle potential conflict of interest cases.

The three conflict attorneys are retained by the City on a flat-fee, three-year contract (July 1, 2011 through June 30, 2014) for \$341,985 per year, or \$113,995 per year each. Expenses for experts, investigations, and other items are approved on a case-by-case basis, bringing total compensation for each conflict attorney to approximately \$135,000 per year. The contract is negotiated on behalf of the City by the District and Justice/Municipal Court judges. Theoretically, each conflict attorney should handle the same number of cases. However, since the workload can vary from one case to another, the hours spent on indigent defense can vary widely from attorney-to-attorney and from month-to-month.

The contract requires conflict attorneys to perform indigent defense services when required, with no minimum or maximum workload requirements. The conflict attorneys receive the same pay regardless of how many hours per month they work. However, the contracts are negotiated by the judges with the assumption that the contract does not provide enough compensation to maintain a full practice, and conflict attorneys need some time to work with private clients.

The NSPD recorded 12,902 hours in FY 11-12 for Carson City cases. Since the NSPD was under budget at the end of the fiscal year, it issued Carson City a refund of \$43,458. Carson City's total indigent defense budget for FY 11-12 was approximately \$1.325 million, including NSPD and conflict attorney services.

However, there are additional costs of indigent defense to the City paid directly by the Courts that are not reflected in the aforementioned costs. These additional costs include ex parte motions for expenses for expert witnesses, which can be requested by NSPD and conflict attorneys, as well as situations when neither the NSPD or conflict attorneys can be assigned due to conflicts. In that case, the Courts retain additional conflict attorneys at the cost of \$100 per hour. For FY 11-12, the City estimates these costs totaled approximately \$51,600, of which approximately \$39,300 was for conflict situations.

The hours charged to the City by the NSPD for attorneys and investigators by case type for FY 11-12 are detailed below, as reported by the NSPD.

FY 11-12 Case Type	Adult		Juvenile	
	Attorney	Investigator	Attorney	Investigator
Felony	3,141	1,430	283	15
Gross Misdemeanor	374	254	-	-
Misdemeanor	3,104	1,065	51	-
Parole Violation	309	17	102	-
Juvenile Court Appointment	280	-	-	-
432B	-	-	619	9
Administration	1,367	202	-	-
Travel		286	-	-
Other	3	1	-	-
<b>Total Hours</b>	<b>8,578</b>	<b>3,255</b>	<b>1,055</b>	<b>24</b>

Based on input from conflict attorneys and NSPD, approximately 7.0 full-time equivalent (FTE) attorneys are providing indigent defense services to Carson City. FTE estimates for conflict and NSPD attorneys are provided below.

- Conflict Attorneys –2.5 FTEs based on 32 hours per week divided by 40 hours per week and multiplied by three conflict attorneys ( $32/40 \times 3 = 2.4$  FTEs, rounded to 2.5 FTEs). There is no verifiable data for the hours charged by conflict attorneys. Each attorney provided an estimate in the range of 32 hours per week spent on indigent defense cases. In addition, the attorneys reported employing administrative staff and legal researchers to assist on cases.
- NSPD Attorneys: 4.5 FTEs of service based on four attorneys and the Chief Public Defender dedicating 0.5 FTEs to casework. We validated that estimate by dividing total NSPD attorney hours for Carson City for FY 11-12 by 1,650 hours per attorney, which resulted in 5.0 FTEs ( $8,282/1,650 = 5.0$  FTEs).

The Carson City District Attorney’s Office handles the prosecution for all types of cases, not just indigent defense cases. Other types of cases include open filed or no prosecution cases, defense of ineffective assistance of counsel, death case reviews, child death reviews, and warrants. The District Attorney’s Office provides all prosecution services with 6.5 attorney FTEs.

## V. OPTIONS FOR INDIGENT DEFENSE SERVICES

There are three options for indigent defense services provided by the City. They include 1) status quo, 2) a County Public Defender’s office with conflict attorneys, or 3) contract attorneys only. The estimated cost and advantages and disadvantages of each option are presented below.

### A. STATE PUBLIC DEFENDER AND CONFLICT ATTORNEYS (STATUS QUO)

As a state agency, the NSPD’s budget is determined by the Legislature. Carson City has no control over the amount it is charged by the NSPD. Other counties that have left the NSPD in recent years have reported travel cost savings. The NSPD is located in Carson City, so almost no travel is charged to Carson City.

#### Estimated Cost

The FY 12-13 estimated cost for the current model is shown below. This estimate does not reflect refunds, which are unpredictable, or costs paid directly by the Courts, which were not captured in the City Administration’s indigent expenditures.

Component	FY 12-13
State Public Defender Budget	\$985,024
Conflict Attorneys	\$341,985
Expenses*	\$65,000
Total Budgeted	\$1,392,009

*\*Note: Expense estimate based on FY 11-12 expenditures*

#### Advantages

**Outsourced model:** By outsourcing management of indigent defense, the City is relieved of day-to-day operations, risks, and personnel costs, and the administrative burden of another department.

#### Disadvantages

**Lack of City control:** Under the current model, the City does not have control over the budget or operations of indigent defense, which represents nearly \$1.4 million in annual expenditures. The NSPD’s budget is determined without input from Carson City, its largest customer. As counties have left the NSPD, Carson City’s costs have increased.

**B. COUNTY PUBLIC DEFENDER OFFICE AND CONFLICT ATTORNEYS**

As other counties have left the NSPD, economies of scale have diminished and the City is paying a larger portion of the costs of indigent defense services provided by NSPD. If the City wishes to have more control over the budget for these services, it could appoint a County Public Defender and establish a City office to provide indigent defense services.

**Estimated Cost**

To replicate the current NSPD level of representation, the City would require the staff identified below. The cost of retaining three conflict attorneys will remain the same. This cost estimate is based on current Carson City District Attorney Office salary data.

<b>Legal Staff</b>	<b>Annual Salary</b>	<b>Total Annual Salaries</b>
Chief County Public Defender*	\$120,000	\$120,000
Deputy Attorneys (4)	\$70,000	\$280,000
Investigators (2)	\$80,000	\$160,000
Subtotal		\$560,000
<b>Administrative Staff*</b>	<b>Annual Salary</b>	<b>Total Annual Salaries</b>
Legal Secretaries (2)	\$50,000	\$100,000
Administrative Assistant	\$40,000	\$40,000
Subtotal		\$140,000
<b>Total Salaries</b>		<b>\$700,000</b>

*\*Notes: The Chief Public Defender is assumed to dedicate 0.5 FTE to administration and management and 0.5 FTE to casework; administrative staffing levels are based on a 2007 cost estimate compiled by the District Court.*

Based on this staffing structure depicted above, the estimated total cost for a County Public Defender Office and three conflict attorneys is provided below.

Cost Components	Estimated Cost
Salaries	\$700,000
Benefits (35% of salaries)	\$245,000
Overhead*	\$113,000
Conflict Attorneys	\$341,949
Expenses*	\$65,000
<b>Total Budgeted</b>	<b>\$1,464,949</b>

*\*Notes: The 2007 cost estimate assembled by the District Court assumed \$113,000 in ongoing overhead costs. Expenses are based on FY 11-12 expenditures. Startup costs, estimated in 2007 at \$33,000, were not included in the above estimate.*

**Advantages**

**Increased City control:** Under this model, the City would provide the same services as NSPD, but those services would be completely under City control. While costs are primarily driven by an unpredictable workload, the City would have tighter control over staffing and overhead costs, as well as the level of service.

**Disadvantages**

**No cost savings:** The costs of operating a City office are about \$73,000 higher than the cost of outsourcing to NSPD. In addition, the NSPD does not charge the City for direct appeals to the State Supreme Court, which could change under this approach and is estimated at 1,200 hours. The cost of this option is slightly higher than the NSPD cost due to administrative costs incurred by the City that are not charged by the NSPD.

**Increased administrative burden on City:** Opening and running a City public defender office would increase the administrative burden on the City.

**Added risks:** The City would be exposed to risks associated with additional personnel, as well as the high-profile nature of defense counsel.



### C. CONTRACT ATTORNEYS ONLY

Based on input from the NSPD, conflict attorneys, and Carson City District Attorney's Office, it is estimated that the City would need to retain six to seven contract attorneys to meet the current need for indigent defense services. A contract model of six or seven independent attorneys should reduce conflict situations, which are more prevalent under the current model with the NSPD conflicting out as a group.

#### Estimated Cost

The cost of retaining six to seven contract attorneys a year is approximately \$987,000 to \$1,151,500, representing a savings of approximately \$240,500 to \$405,000 per year. The cost estimate is based on extrapolation of the current conflict attorney model from 32 to 40 hours per week and from three to six or seven attorneys, as shown below.

- Annual salary:  $\$113,995 \times 40/32 \text{ hours} = \$142,494$
- Annual expenses: approximately \$22,000 per year per attorney
- Total annual cost:  $(\$142,500 + \$22,000) \times 6 \text{ to } 7 = \$987,000 \text{ to } \$1,151,500$

#### Advantages

**Material cost savings:** Based on the calculation above, the cost of retaining six to seven contracted attorneys could save the City \$240,500 to \$405,000 per year. In addition, the City could save approximately \$39,300 as a result of fewer situations when both the NSPD and conflict attorneys have a conflict.

**Increased City control:** Under this model, the City would have increased control over the indigent defense budget. Even though the Courts negotiate contracts on behalf of the City, the City could set a budget for the contracts and enforce contract terms.

#### Disadvantages

**Increased administrative burden on City:** Moving from an outsourced model to individual contracts will increase the City's administrative burden. The City's purchasing and finance departments will be required to provide a higher level of contract management than the current approach requires.

**Increased administrative burden on Courts:** There are two ways an all-contract model could impact District Court administration. First, District Court judges currently negotiate conflict attorney contracts as a group on behalf of the City. The judges would have to negotiate the new contracts with a larger group of attorneys, which will likely take more time and effort than the current three-attorney contract. Second, judges currently approve expenses for the conflict attorneys on a case-by-case basis. Judicial time devoted to expense approval would also likely increase under an all-contract model.

## VI. RECOMMENDATIONS

**Work with the NSPD to determine how to obtain more cost effective services or pursue an all-contract attorney indigent defense model.** Carson City's portion of the NSPD's total cost of county indigent defense services, as determined by Carson City payments to NSPD over total county revenues budgeted by NSPD, has increased from 50% in FY 07-08 to 72% in FY 11-12. This percentage has continually increased over the past several years, while the NSPD budget for counties has increased only 3.8% FY 07-08 to FY 11-12. As a result, Carson City could be paying an increasing portion of NSPD's resource costs, which may not have been sufficiently adjusted to reflect the diminishing county client base. The City should work with NSPD to develop a new cost allocation formula that is more affordable to the City.

Alternatively, the City should inform the State that it intends to exit its contract with the NSPD and advertise for contract attorneys to provide indigent defense services for the City. It appears the City could save approximately \$240,500 to \$405,000 per year by utilizing a contract attorney model, as well as an additional \$39,300 due to fewer conflict situations.

**Collect comprehensive case data from conflict/contract attorneys.** State law (NRS 260.070) requires county public defenders to make an annual report to the Board of Supervisors covering all cases handled during the preceding year. Carson City should also require conflict/contract attorneys to provide the same type of annual reports. At a minimum, the City should collect the same data from conflict/contract attorneys that the State requires the NSPD to provide on an annual basis. This data includes:

- The number of cases that are pending
- The number of cases closed the previous year
- The total number of criminal defendants represented by case type
- The total number of criminal defendants by age group (adult or juvenile)
- The total number of hours used for travel, investigation, research, trial preparation, and hearings

Collecting this data will enable the City to develop a better understanding of the amount of service provided by all of its indigent defense attorneys and perform appropriate cost effectiveness analysis.

**Include performance standards in attorney contracts.** The current contracting process does not necessarily guarantee a certain standard of performance on the part of conflict attorneys. The contract states, "The professional services described ... must be performed in a professional, competent and effective manner given the law applicable to the particular matter for which legal services are being rendered and the applicable rules and standards of professional responsibility."

By including performance standards in contracts, such as minimum qualifications, training requirements, and procedures, the City will have an additional level of control and ability to terminate contracts if performance does not meet expectations.

**Gain greater visibility by City administration of indigent defense costs paid directly by the courts.** These costs include ex parte motions for expert witnesses, which can be requested by NSPD and conflict attorneys, as well as special situations when neither the NSPD or conflict attorneys can be assigned. For FY 11-12, the City estimates these costs totaled approximately \$51,600. The City needs to be aware of these costs so it understands the full cost of indigent defense services.



**FIRST JUDICIAL DISTRICT COURT  
CARSON CITY  
JUSTICE AND MUNICIPAL COURT**



*Maxine Cortes  
Court Administrator*

November 9, 2012

Carson City Board of Supervisors  
Audit Committee  
Larry Werner, City Manager,  
Mark Steranka, Moss Adams

Re: Carson City Public Defender Cost and Utilization Study

Thank you for your time and energy with respect to this important issue. Since being given the privilege of this position, Court Administrator in 2006, this is the third time I have participated in a review of the associated costs with respect to indigent representation. The Court maintains that there is no objection to auditing or reviewing the representation of indigent defendants in criminal, juvenile delinquency, and child protection cases. The primary concerns remain 1) To have professional and competent defense counsel, and 2) To insure that indigent defendants are afforded their Sixth Amendment right pursuant to the United States Constitution, to have assistance of counsel for their defense.

In 2007, I was asked by former City Manager Linda Ritter to review the costs of establishing a "City Public Defender's Office." The conclusion was that there was limited savings to the City to make it worth creating a "City Public Defender's Office." I provided the analysis performed to Moss Adams for their review as well as information from Elko County with respect to the costs associated with their County Public Defender's Office and Douglas County with respect to how much they pay for conflict contract attorneys.

In 2011, an effort to discontinue the services of the State Public Defender's Office was stayed until a more thorough analysis could be performed. At that time, during a Board of Supervisor meeting, I represented to the Board that I believed the best individuals to ask with respect to what it takes to defend a case are defense attorneys who have the experience. In 2012, the City hired Moss Adams services to perform the analysis and audit.

The Court was approached by the City to provide information to assist Moss Adams in their analysis/audit. Two judges, the State Public Defender, and an existing Conflict Contract Attorney, who is a former prosecutor and State Public Defender, and I, met with Moss Adams for several hours in July and August of 2012.

In addition, numerous phone calls and subsequent documentation was provided. The individuals providing information to Moss Adams have a combination of over 110 years of attorney/legal experience. Not including my own experience, having worked in the court system for 22 years. Several ideas were discussed in an effort to find ways to reduce the costs of indigent representation for Carson City.

When the first draft of the Public Defender Cost and Utilization Study dated September 27, 2012 was submitted for review, it was not surprising to read on page 12, that a Conflict Contract Only approach to indigent representation would be a savings of \$28,000 per year to Carson City and on page 11, that there would be no cost savings if Carson City established a City Public Defender's Office.

The Court has reviewed the second draft of the Public Defender Cost and Utilization Study dated November 6, 2012. Specifically page 12, a savings is now being represented to be \$240,500 to \$405,000. Although the amounts are impressive, the service level has been reduced by decreasing the number of attorneys available to perform indigent representation services. The idea of reducing the number of attorneys was discussed at length with Moss Adams and the group believed that Moss Adams had a good understanding of the pros, cons, potential risks and liability if the City made this change.

Based on the Court's discussion with Moss Adams, we are surprised with the new assessment and do not believe it correctly reflects the applicable facts. It fails to address the administration and costs of a total conflict contract program. It fails to account for the numerous activities of the State Public Defender's Office separate from direct representation of defendants to include the 5 grant funded Specialty Courts. The Court strongly supports cost savings and has reduced the Court's budgets in the past. It cannot support cost savings over a criminal defendant's constitutional right to effective assistance of counsel. A simplistic comparison, as done in the past with Elko County and Douglas County, reflects that the existing approach in Carson City is both cost effective and efficient. The numbers set forth in the Moss Adams' report dated November 6, 2012, are not realistic in light of the required existing services being provided.

In addition, on page 8, there is reference that the District Attorney's Office provides **all** prosecution services with 6.5 attorneys. This is not entirely correct. The State Attorney General's Office also prosecutes cases and the State Public Defender represents the defendants. No cost figures with respect to the number of attorneys or administration costs for these services were provided in the report.

On page 12, \$22,000 has been allocated for each contract attorney for expenses. For the past 6 years, I have seen instances where indigent defense cases could be potentially costly to the City. For example, in 2007, I advised former City Manager, Linda Ritter, to be prepared to pay \$100,000 to \$150,000 for expert witnesses for a pending criminal case that involved the death of a child. This was after I received notice that the case would not settle and was set for jury trial. I felt it my responsibility to alert the City Manager because the City was facing major fiscal challenges. Fortunately, the trial did settle and the expert witness fees were not needed.

In 2011, there was another criminal case involving child pornography before the District Court Judge where the defense attorney requested \$44,000 to refute the State's expert witness. Fortunately, the case resolved in 2012. Had the case not settled, the judge would have had to make a determination of how much to approve. \$22,000 can be allocated per conflict contract attorney for expenses, but it only takes 1 case to exhaust these funds. Drawing a conclusion that \$22,000 is all the funds needed for each contract attorney to realize a savings is not entirely correct. There could be instances when \$22,000 is more than enough however, as I have indicated, there could be instances when \$22,000 is not adequate.

In addition, on page 14, there is a reference to greater visibility by City administration of indigent defense costs paid directly by the courts.

When requests are made by attorneys for extraordinary expert witness and investigative fees which Nevada Law provides for pursuant to NRS 7.135, the attorneys are required to submit a motion and proposed order for these fees and provide a declaration that the fees are critical in the defense of their clients.

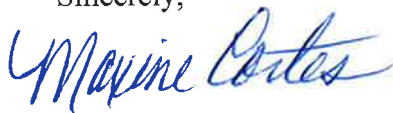
The judge presiding over the case reviews the fees and only approves the amounts when constitutionally necessary. The Courts do not approve extraordinary witness and investigative fees without careful review. The United States Supreme Court is of the opinion that the trial court judge is the appropriate authority, rather than the finance director of the executive branch, to determine if funds should be allocated for an expert.

The Courts believe that the current system and methods to provide indigent representation has been working for many years. In addition, the Courts have no knowledge of any attorney having been appointed by the Courts to provide indigent representation ever being found to be incompetent or providing an inadequate defense.

Currently, Carson City is providing the funding necessary to have constitutionally required competent indigent defense representation. Reductions to the current level of service could have severe and costly consequences to Carson City and any temporary cost savings although, attractive, could be short lived.

Thank you for the opportunity to respond to this important issue. Please do not hesitate to contact me if you have any questions.

Sincerely,



Maxine Cortes

cc: James T. Russell, District Court Judge  
James E. Wilson, Jr., District Court Judge  
John Tatro, Justice/Municipal Court Judge  
Thomas R. Armstrong, Justice/Municipal Court Judge  
Kristin Luis, Juvenile Special Master  
Neil Rombardo, District Attorney  
Diane Crow, State Public Defender  
Robert Walker, Conflict Counsel  
Kay Ellen Armstrong, Conflict Counsel  
Noel Waters, Conflict Counsel



LATE MATERIAL  
MEETING DATE AUDIT COMM. 11/20/12  
ITEM # 7

## NEVADA STATE PUBLIC DEFENDER

DIANE R. CROW  
STATE PUBLIC DEFENDER

511 E. ROBINSON STREET, SUITE 1  
CARSON CITY, NEVADA 89701-4020  
TELEPHONE (775) 687-4880  
FAX (775) 687-4993

November 11, 2012

HONORABLE MAYOR R. CROWELL  
CARSON CITY BOARD OF SUPERVISORS  
AUDIT COMMITTEE

First, I would like to thank Carson City for undertaking the process of evaluating the costs of indigent defense in the County. I was pleased to be able to participate in the audit and provide Moss-Adams all information requested.

During the last Legislature, The Carson City Manger recommended that the County consider the option of hiring contract attorneys in place of the State Public Defender. Time was at issue and with not enough information to reliably proceed, the Board of Supervisors opted to table the discussion, hire an independent auditor and to review the issue again prior to the 2013 Legislature.

We now have the Final Draft Moss-Adams report dated November 2012. I must say I was quite surprised at the recommendation considering the numerous meetings, phone calls, and emails with Moss-Adams - most importantly considering the conclusions and recommendation of the FIRST AUDIT REPORT that was issued in September. In this report, the audit recommended maintaining the status quo with the State Public Defender and the conflict contract attorneys. The auditors found that no significant savings would be realized by Carson City to either establish a County Public Defender or contract with numerous private attorneys. Under both of those scenarios, there would be increased the administrative burdens both to the City and the Courts. I have attached both reports for your consideration.

In what follows, I point out the flaws and the questionable logic, the misinterpretations of the costs and numbers, and potential legal liabilities to the City. I will suggest questions for the Committee and Board of Supervisors to pose to the auditors, before making the final decision.

Respectfully submitted,

Diane R. Crow, NSPD

## **HISTORY OF THE BUDGET PROCESS FOR THE STATE PUBLIC DEFENDER**

Prior to 2005, the State subsidized the counties indigent defense expenses with the split approximately 60% State General Fund and 40% County Fees. In the 2005 Legislature, a Letter of Intent was issued that would require the counties to begin the process of paying for the actual indigent defense services rendered by the State Public Defender. The change was to take place over a long period. Thus, the legislature decided that the county portion each biennium would be calculated on a five year average. Over time the counties would see a slow increase in costs. Since then, the costs are now at actual use amounts of 20% State and 80% county. The Legislature sets the Public Defender budget amount then calculates the 80% to be paid by all counties using the State Public Defender services. The 80% is then distributed to the counties based on their individual use percentages.

## **QUESTIONS TO CONSIDER IN THIS PROCESS**

1. What level of service does Carson City expect for its citizens?
2. What changed between the first report (September) to the second report (November)?
3. What is the current available coverage by the State Public Defender?
4. If Carson City follows the recommendation, who will cover the (currently) five specialty courts – (potentially) six?
5. Who will cover the in custody arraignments/first appearances?
6. Will all contract attorneys appear at the Pre-trial conferences?
7. Will all contract attorneys be qualified to handle a murder case or even be qualified under Nevada Supreme Court Rule 250 for Capital cases?
8. What will be the added costs to Carson City for the “extraordinary fees” allowed under NRS 7.125 and the current Conflict Counsel Contract?
9. Is \$22,000 for investigative costs per contract realistic?
10. What are the real cost savings?
11. How likely is it that Carson City will maintain the standard of indigent defense?
12. Are there sufficient QUALIFIED attorneys available and willing to contract with Carson City at the recommended amounts?
13. Does it meet the requirements of NRS 260?



**THOUGHTS TO CONSIDER IN ANSWERING THE PRECEEDING  
QUESTIONS**

**1. *What level of service does Carson City expect for its citizens?***

Both the Nevada Constitution and the US Constitution require that persons charged with a crime be provided publically funded representation, if found to be indigent.

The State Public Defender Office provides zealous representation for the citizens of Carson City. The Committee and the Board of Supervisors should consider the State Public Defender as the quality control of the criminal justice system. The State Public Defender has not been found to be ineffective by the District Court or the Nevada Supreme Court. The State Public Defender has a seat on the Supreme Court Indigent Defense Committee and regularly participates in each Legislative session (at no cost to the counties). Carson City must expect the highest level of service for its citizens. This can not be accomplished by contracting the work to six or seven private attorneys for the compensation recommended. The audit recommends a contract rate of \$142,000/yr for each of 7 attorneys. With approximately \$60,000 going to overhead of running an office, that leaves \$82,000 per year in salary and does NOT include any benefits. It DOES require 40 hours per week or 2080 hours per year; which effectively minimizes a private practice. This is NOT realistic for experienced attorneys or even for young inexperienced attorneys with significant law school debt.

**2. *What changed between the first report (September) to the second report (November)?***

**Page 1 section B. Current Situation:**

The *September* report is erroneous taking into account only FY 11-12. It reports \$997,000 paid by Carson City – in fact:

	<u>FY11</u>	<u>FY12</u>	
CC billed	\$935,192	\$978,924	
CC refunded	- \$61,357	- \$56,128	
NET NSPD cost	\$873,835	\$922,796	= 5.6% increase

The report cites FY 11 hours at 11,293 (which actually are the hours for FY 10) – in fact:

	<u>FY 11</u>	<u>FY12</u>	
CC NSPD Hours	12,096	12902	= 6.6% increase
CC cost per hour	\$72.24	\$71.52	= .996% <u>decrease</u>

**The other glaring omission in the reports is that the cost per hour INCLUDES ALL investigation.** Private investigation ranges from \$50 to \$65/hr.

The *November* report is completely inaccurate and uses the wrong numbers. It mixes county amounts with state amounts and does not include the refunds to the counties. Again, the report does not use the net dollar amounts that Carson or the other counties paid; it ignores the refunds at the end of each fiscal year. From FY 08 – FY 12, Carson City has been refunded \$308,212.12; and

average of \$61,642.42/year. And all counties benefitted from \$524,833.96 total refunds over the 5 years.

The report cites that “annual indigent defense hours provided by NSPD have varied from 16,292 to 22,490 for counties ...” These numbers actually represent the total number of defense hours for the NSPD **including State matters.**

The report does reflect hours for Carson increasing from 8256 to 12902, however, fails to point out the increase is a **56.3% increase in hours with only an increase of 19.4% increase in net fees.**

The report indicates that “Carson City paid more per hour than the counties as a whole, with Carson City’s cost per hour exceeding other counties’ cost per hour by an average of 26.6% over the five-year period.” In fact, Carson City has paid the least per hour of any other county and *costs per hour have steadily decreased as hours increase!!!*

**COST PER HOUR (INCLUDING INVESTIGATION)**

	<u>FY 12</u>	<u>FY 11</u>	<u>FY 10</u>
<b>Carson City</b>	<b>\$71.52</b>	<b>\$72.24</b>	<b>\$77.24</b>
Eureka	\$102	\$164	\$148
Storey	\$201	\$130	\$99
Wh. Pine	\$82.78	\$90.17	\$71.95

**Page 2 Pros and Cons chart of the model plans.**

The only significant difference in the two charts is in the Contract Attorney Only model.

In the September report in the Pros column there are “Cost savings, although minimal”. Compare this to the November report, which cites “Potential cost savings of \$240,500 to \$405,000”.

The question becomes, what different information did the auditor gain to make such a drastic change in the cost savings?

**Page 3 Section C. Methodology** provides the answer.

**In the September report** the auditors “conducted a series of interviews and work sessions with City Administration, District and Justice/Municipal Court Judges, Court Clerk, conflict attorneys, and the State Public Defender during June, July, and August 2012.”

**In the November report** the auditors “conducted a series of interviews and work sessions with City Administration, District Attorney’s Office, District and Justice/Municipal Court Judges, Court Clerk, conflict attorneys, and the State Public Defender during June, through September 2012.”

**The difference is clear:** in September to October of 2012 the auditor met with the District Attorney.

**The significant difference is what was the District Attorney’s input?**

Starting in 2011 when this issue first came to the City Manager’s attention and subsequently to the Board of Supervisors, the District Attorney has steadfastly maintained that Carson City should change to a Contract Attorney Only Model.

**Now return to Question Number 1 – What level of service does Carson City expect for its citizens?**

The Nevada Supreme Court issues a status report each year for the state of the judiciary. For fiscal years 2006-10 the Criminal Appeals filed within each Judicial District indicate that for the two largest counties (Washoe and Clark) 18% and 67% of cases are appealed, respectively. In the counties that the State Public Defender provides services 4% of the cases are appealed. But in counties with the all contract attorney model, only 0-2% cases were appealed. In particular, in Douglas County (the county the Carson City District Attorney suggested Carson City follow) 0% (3) cases were appealed compared to the State Public Defender in Carson City 39 cases were appealed and 42 cases in the 7<sup>th</sup> Judicial District.

In the attempt to compare Carson City to Douglas County, the most striking difference is the caseload. Yes, Douglas County uses 3 contract attorneys for all indigent defense matters. But, Douglas County's caseload is approximately one half of Carson City's. A better comparison would be to Elko County, which has a similar caseload to Carson. Elko has opted to open a County Public Defender Office. Elko County has 5 justice courts; Douglas County has 2 justice courts. Carson City has 2 justice courts which also act as municipal courts. There is NO county in Nevada with the caseload similar to that of Carson City or Elko County that has gone to an all contract attorney model.

**3. *What is the current available coverage by the State Public Defender?***

The NSPD has eight full time attorneys available to cover any indigent defense matter in Carson City, while Carson City is budgeted for 4.75 attorneys. The November report indicates that the 8 attorneys are for both offices, Carson City and Ely. (This is a mistake; there are two additional attorneys in the Ely office.) Having 8 available attorneys in Carson City allows the office to provide coverage, without decrease, during illness, vacation, furlough, and jury trials. There are times, however, when continuances are required due to illness or trials as the NSPD has a policy of "vertical" representation. This means that one attorney, when at all possible, handles the matter from beginning to end, after the pre-trial conference stage. This provides better representation of the client and more efficiency for the courts, and is in the Indigent Defense Guidelines issued by the Nevada Supreme Court.

The individual contract attorneys will not be ethically able to cover for each other in times of illness, vacation, or trial. Thus, all of the affected attorney client matters will be continued, causing a backload of cases in all courts.

Currently, the NSPD has assigned one deputy to cover all Juvenile Court matters, delinquency and 432B – Child in Need of Protection. This allows that attorney to provide better representation, rather than having 2 or more attorneys with matters at juvenile court and justice court at the same time. The sole Juvenile Court attorney never must leave juvenile court to appear at the justice court. This is more efficient for the attorney, the clients, and the courts. Will all 7 contract attorneys be scheduled in Juvenile Court and Justice Court at conflicting times? Who will administer the assigning of the cases to the 7 contracts? If on a simple rotation basis, might 1 attorney receive all of the lesser cases, just by chance?

**4. *If Carson City follows the recommendation, who will cover the (currently) five specialty courts – (potentially) six?***

The office of the NSPD covers all 5 specialty courts (adult drug court, mental health court, DUI diversion court, juvenile drug court, and family/dependency court). Justice Court Dept 1 is currently planning a misdemeanor drug court in the near future, which would be covered by the NSPD at no added expense. As specialty courts were added in Carson City, the NSPD absorbed the work without requesting additional funding.

**AN OBSERVATION:**

Counties that use the all Contract Attorney Model do not provide the hands on contact with the Specialty Court clients. Douglas County, Lyon County and Carson City belong to the Western Regional Drug Court Program. The NSPD drafted and provided to each county the Drug Court Handbook. However, neither Douglas nor Lyon provides the new clients an orientation. The NSPD has included those county clients that transfer to the Carson City Drug Court in the weekly orientation meeting, at the request of the Drug Court Judges.

Again this goes to Question Number One – **WHAT SERVICE DOES CARSON CITY EXPECT FOR ~\$900,000 FOR ITS CITIZENS?**

**5. *Who will cover the in custody arraignments/first appearances?***

The NSPD has an attorney appear each morning at the Justice Courts first appearance/arraignments of the in custody defendants. This typically takes between 1-2 hours each morning that the hearings are held (Monday, Tuesday, Thursday, and Friday). There is a possibility of adding this appearance both on Wednesday morning and afternoon. The NSPD will provide coverage at no additional cost.

If the City contracts with 7 attorneys, and these attorneys rotate appearances, will that create a client relationship with each defendant seen? Not necessarily, but the potential is there, depending on what is discussed at the hearing. Or will the attorney be limited in any meaningful conversation thus negating the reason for being present?

**6. *Will all contract attorneys appear at the Pre-trial conferences?***

Currently the NSPD provides four attorneys on Wednesday for pre-trial conferences in the Justice Courts. Two attorneys cover the hearings in Dept 2 in the morning and two attorneys cover the hearings in Dept 1 in the afternoon. Each attorney has anywhere from 5-15 clients appearing, for a total of 20 – 60 clients on any Wednesday. The NSPD has worked with the Justice Courts to establish an efficient method of handling these matters. And will continue to do so. This leads to a question of efficiency for the court and blocking time for each of the 7 conflict attorneys.

**7. *Will all contract attorneys be qualified to handle a murder case or even be qualified under Nevada Supreme Court Rule 250 for Capital cases?***

Supreme Court Rule 250 requires not only minimum qualifications for an attorney to represent a client in a Capital case; it requires two attorneys for each defendant. The NSPD currently has two attorneys that meet the qualifications of Rule

250, and others are in the arduous process of training and gaining experience. Even a non-capital murder case takes an experienced attorney and the NSPD is able to assign two trial attorneys, one appellate attorney, and an investigator to these matters. The contract attorneys will most likely bill over the contract amount as NRS 7.125 allows for extraordinary expenses at \$100/ hour and is in the current conflict attorney contracts. The NSPD is able to cover these cases in-house without added attorney expense to the City.

**OBSERVATION:**

Pershing County during the 2011 Legislative Session was interested in changing back from a County Public Defender to the State Public Defender. What interested the County Commissioners most was the ability of the NSPD to provide 2 experienced attorneys to any complex case that requires more attention. Ultimately, Pershing County decided to maintain the County Public Defender. However, to their astonishment, not long after, the Pershing County District Attorney filed a Murder case. The County Public Defender went to the County Commission requesting assistance for the matter, as he was not experienced enough and had never represented someone charged with murder. The Commission then had to pay an attorney from Reno at \$100 per hour to handle the case, including travel time.

**8. What will be the added costs to Carson City for the “extraordinary fees” allowed under NRS 7.125 and the current Conflict Counsel Contract?**

See the observation under Question Number 7, above. Further, if the courts do not approve the “extraordinary fees” request, then the contract starts looking more like a “flat fee contract”. A “flat fee” contract is one in which the attorney handles as many cases, no matter the complexity, within the same contract price. The potential liability with this is that the attorney is not able to practically devote enough time to all of the cases that have been assigned. The NSPD deputies regularly devote more than 40 hours per week to their cases. It is common that preparation for a jury trial is after regular business hours and on weekends. An attorney could easily work 60-80 hours the week before and during a jury trial.

**9. Is \$22,000 for investigative costs per contract realistic?**

Private investigators typically charge between \$50-65 per hour. At \$22,000 per year that, at an average of \$60, that will allow for 657 hours per year for each attorney. The NSPD has two full time investigators with a total of 2657 hours in FY 11 and 3254 hours in FY 12. Using these figures and assuming the contract attorneys would adequately investigate the cases the following chart shows the increased costs. Adequate funding for investigation per attorney should be \$39,420 per year.

# of contract attorneys	6	7	8
Total attorney contract	\$855,000	\$997,500	\$1,140,000
Investigators at \$60/hr*	\$236,520	\$275,940	\$315,360
<b>TOTAL</b>	<b>\$1,091,520</b>	<b>\$1,273,440</b>	<b>\$1,455,360</b>

\* investigator hours were calculated using the average of hours for NSPD investigators over FY 11(2657)and FY 12 (3254) = 2956/4.5 attorneys = 657 hours per investigator.

**10. What are the real cost savings?**

Using the more realistic investigation calculations above Carson City's indigent defense costs would be:

<b># of contract attorneys</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>**NET</b>	<b>-\$250,480</b>	<b>-\$68,560</b>	<b>+\$113,360</b>

\*\*Assuming \$1,000,000 for the NSPD (which has never been charged to Carson City) and \$342,000 for the 3 conflict attorneys

**HOWEVER, NOW THE ATTORNEY CONTRACT SHOULD BE WEIGHED.**

The September audit report calculates the need for 8 contract attorneys and even based on their numbers the report calculates savings of ONLY \$28,000. This is anticipating paying the attorneys \$150,000 per year. **The report even questions how realistic it is to anticipate the City being able to hire 8 qualified criminal defense attorneys at that rate as "Contract attorneys in other Nevada counties earn up to \$195,000 annually."** Between the September report and the November report, did the auditor canvass attorneys and determine that there are at least 7 qualified criminal defense attorneys willing to work full time for \$142,500 or even \$150,000? Further, the contract attorneys making \$195,000 are also allowed private practice and carry only one half of the indigent defense caseload.

**EXTRAPOLATED ATTORNEY COSTS AND EXPECTATIONS:**

Currently the conflict attorneys are estimated to cover approximately 15% (or 5% per attorney) of the total caseload. Contracting with 7 attorneys will require each attorney to handle approximately 14% of the caseload. This increases the caseload by 64% per attorney. However, the contract amount only increases by 20%. In other words, the each of the contract attorneys will be expected to handle another 9% in 8 hours compared to the current 5% in 32 hours. This easily suggests that the clients and justice system in Carson City will suffer. The final report also recommends that the attorneys are contracted for 40 hours per week, thus limiting any private practice. See the table below for realistic costs for 7 qualified criminal defense attorneys working 40 hours per week at the current rate of compensation to the 3 contract attorneys.

<b>#of attorneys</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>Increase from 5-14%</b>	<b>\$1,915,200</b>	<b>\$2,234,400</b>	<b>\$2,553,600</b>
<b>Cost of investigators</b>	<b>\$236,520</b>	<b>\$275,940</b>	<b>\$315,360</b>
<b>TOTAL</b>	<b>\$2,151,720</b>	<b>\$2,510,341</b>	<b>\$2,868,960</b>

**Difference in costs from current model**

<b>+\$ 809,720</b>	<b>+\$1,168,341</b>	<b>+\$1,526,960</b>
--------------------	---------------------	---------------------

**11. How likely is it that Carson City will maintain the standard of indigent defense?**

**OBSERVATION:**

Judges from counties with contract attorneys have complained to me about the level of representation they see in court. One District Attorney commented to me that he is

not satisfied with the highly qualified attorneys in his county contract, saying the contract attorneys in his county have not had a jury trial in 6 years – that was 2 years ago. He further stated that one contract attorney would set matters for trial then at the last minute plead the client as charged – with NO negotiations! These attorneys are allowed to have a private practice to enhance their income. One must wonder which clients are getting more attention – the flat fee indigent or the private per hour paying clients?

*12. Are there sufficient QUALIFIED attorneys available and willing to contract with Carson City at the recommended amounts?*

***THIS IS HIGHLY DOUBTFULL CONSIDERING THE INCREASED CASELOAD EXPECTATIONS FOR SUCH A SMALL INCREASE IN SALARY AND NOT BEING ABLE TO HAVE A PRIVATE PRACTICE.***

The office of the State Public Defender brings in excess of 75 years of criminal defense experience in the Carson City office.

*13. Does it meet the requirements of NRS 260?*

A copy of NRS 260 is attached for your convenience. I will only point out one item to consider.

NRS 260.040 Compensation; deputies and employees;  
private practice of law limited; expenses; ...

2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators... As the public defender considers necessary to enable him or her to carry out his or her responsibilities...

This section clearly does NOT contemplate contracting with multiple attorneys. Obviously, other counties are using the contract model, but does that mean it follows the law or that Carson City should follow?

### CONCLUSION

Typically Public Defenders are looked on as lesser or lower ability attorneys, but the State Public Defender and particularly the Carson City office is highly regarded in the indigent defense community. I have attached a letter from Chief Justice Michael Cherry from June 2012 to the Carson City Manager.

It has as been my pleasure and honor to be a Public Defender for 23 with 22 of those years in Carson City. I will be retiring next summer.

Finally, thank you for considering this response to the Final Auditor Report. I will be available to answer any questions you may have. This is a very important decision that you will be making on behalf of the citizens of Carson City.

CC: James T. Russell, District Court Judge  
James Wilson, District Court Judge  
John Tatro, Justice/Municipal Court Judge  
Tom Armstrong, Justice/Municipal Court Judge  
Kristin Luis, Juvenile Special Master  
Maxine Cortes, Court  
Larry Werner, City Manager  
Nick Providenti, City Treasurer  
Kay Ellen Armstrong  
Ben Walker  
Noel Waters  
Neil Rombardo, District Attorney



SUPREME COURT OF NEVADA  
MICHAEL A. CHERRY, CHIEF JUSTICE  
201 SOUTH CARSON STREET  
CARSON CITY, NEVADA 89701-4702  
(775) 684-1540  
FAX (775) 684-1543



June 7, 2012

RECEIVED

JUN 07 2012

CARSON CITY  
EXECUTIVE OFFICES

Mr. Lawrence Werner, City Manager  
Carson City Hall  
201 N. Carson Street; #2  
Carson City, NV 89701

Dear Mr. Werner:

As Chief Justice and Chair of the Commission on Indigent Defense, the access to justice for our accused is of great importance to me. I understand that a meeting between Carson City, the State Public Defender, and the Carson City Courts' Administrator will be taking place to discuss local funding for indigent defense representation. I felt compelled to share with you information about the statistics we publish to ensure your decisions are made with the best of information available.

The Administrative Office of the Courts has performed an in-depth analysis of the number of cases filed in fiscal year 2011 in the Justice Courts in Carson City, Douglas County, Elko County, and Washoe County. My understanding is that the analysis was requested by the First Judicial District Court and the Carson City Justice/Municipal Courts (Carson City Courts) to determine caseload comparisons. We encourage you to look at the whole workload issue by also considering the charges, for example, for these courts. For this decision process, that statistic may be a better gauge.

During the analysis it was discovered that the Justice Courts in Douglas County, Elko County, and Washoe County have varying methods as to how they cases are filed in their counts by the prosecutors, which makes the caseload numbers difficult to use for some comparisons. Consequently, cases compared in the 2011 Annual Report are not case-by-case comparisons. The Carson City Courts have been provided with this information.

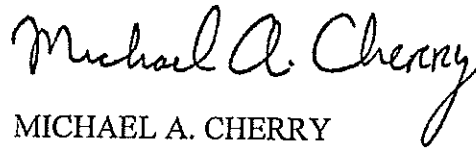
As a Nevada Supreme Court Justice, I have spent a great deal of time reviewing the needs for indigent defense representation throughout the State of Nevada. As a former Clark County Public Defender, I spent a great deal of time representing indigent defendants. I appreciate the associated costs for indigent defense representation and the burden that this may cause local governments, especially in the current economic times. However, I believe that reducing funding for indigent defense representation should be a last resort. Since serving on the Nevada Supreme Court, I am unaware of any court cases where incompetency of counsel has been established from Carson City Courts. One could come

Mr. Lawrence Werner, City Manager  
June 7, 2012  
Page 2

to the conclusion that Carson City is providing the funding necessary to have professional and competent indigent defense representation.

Please contact Robin Sweet, Nevada State Court Administrator at (775) 684-1717, if you have any questions or need any further information. If you need additional statistics, she will be happy to work with you to provide them if we have them available.

Sincerely,

Handwritten signature of Michael A. Cherry in cursive script.

MICHAEL A. CHERRY

cc: Robin Sweet, State Court Administrator  
Maxine Cortes, Carson City Courts' Administrator

MAC/rs/jl

**NRS 260.010 Creation of office by ordinance; restrictions on creation; appointment; term of office.**

1. In counties whose population is 100,000 or more, the boards of county commissioners shall create by ordinance the office of public defender.
2. Except as otherwise provided by subsection 4, in counties whose population is less than 100,000, boards of county commissioners may in their respective counties create by ordinance, at the beginning of a fiscal year, the office of public defender.
3. Except as otherwise provided in subsection 4, if a board of county commissioners intends to create the office of county public defender, the board shall notify the State Public Defender in writing on or before March 1 of any odd-numbered year and the office may not be created before July 1 of the same year in which the notice was given.
4. If the county contribution approved by the Legislature exceeds the estimate provided to the county on December 1 by more than 10 percent for either year of the biennium, the board of county commissioners may create the office of county public defender on July 1 of the next even-numbered year if the board notifies the State Public Defender on or before March 1 of the same year in which the office is to be created.
5. The office of public defender when created must be filled by appointment by the board of county commissioners.
6. The public defender serves at the pleasure of the board of county commissioners.  
(Added to NRS by 1965, 597; A 1969, 1475, 1545; 1979, 525; 1989, 1646; 1991, 994; 1995, 499)

**NRS 260.020 Joint action to establish office.** A county may join with one or more other counties to establish one office of public defender to serve those counties.  
(Added to NRS by 1965, 597)

**NRS 260.030 Qualifications; representation of indigent person charged with public offense.**

1. The public defender shall be a qualified attorney licensed to practice in this state.
2. The public defender shall, when designated pursuant to NRS 171.188, represent, without charge, each indigent person who is under arrest and held for a public offense.  
(Added to NRS by 1965, 597; A 1967, 1471; 1969, 479; 1973, 358)

**NRS 260.040 Compensation; deputies and employees; private practice of law limited; expenses; deputies in certain counties governed by merit personnel system.**

1. The compensation of the public defender must be fixed by the board of county commissioners. The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.
2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county or counties by which the deputy, assistant attorney or other employee is employed.
3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county or counties so served.
4. The public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private practice of law. Except as otherwise provided in this subsection, in any other county, the public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.
5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. If the public defender serves

more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.

b. In a county whose population is 700,000 or more, deputies are governed by the merit personnel system of the county.

(Added to NRS by 1965, 597; A 1973, 678; 1979, 525; 1989, 203; 1993, 2260; 1999, 161; 2005, 684; 2011, 1129)

**NRS 260.050 Interview with and representation of indigent person.**

1. The public defender may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when he or she has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.

2. The public defender shall, when designated pursuant to NRS 62D.030, 171.188 or 432B.420, and within the limits of available money, represent without charge each indigent person for whom he or she is appointed.

3. When representing an indigent person, the public defender shall:

(a) Counsel and defend the person at every stage of the proceedings, including revocation of probation or parole; and

(b) Prosecute, subject to the provisions of subsection 4 of NRS 180.060, any appeals or other remedies before or after conviction that he or she considers to be in the interests of justice.

(Added to NRS by 1965, 598; A 1967, 1471; 1969, 479; 1971, 1412; 1973, 358; 1975, 42; 1977, 339; 1985, 1400; 2003, 1130)

**NRS 260.060 Magistrate or district court may appoint and compensate other defense counsel.** For cause, the magistrate or district court may, on its own motion or upon motion of the public defender or the indigent person, appoint and compensate out of county funds an attorney other than, or in addition to, the public defender to represent such indigent person at any stage of the proceedings or on appeal in accordance with the laws of this state pertaining to the appointment of counsel to represent indigent criminal defendants.

(Added to NRS by 1965, 598; A 1969, 479)

**NRS 260.065 County may contract for services of State Public Defender.** Any county in which the office of public defender has been created may contract for the services of the State Public Defender in providing representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.

(Added to NRS by 1977, 338)

**NRS 260.070 Annual reports.** The public defender shall make an annual report to the board of county commissioners covering all cases handled by his or her office during the preceding year.

(Added to NRS by 1965, 598)

**NRS 260.075 Reports to Legislative Commission.** The public defender shall submit such reports to the Legislative Commission as the regulations of the Commission require.

(Added to NRS by 1977, 331)

**NRS 260.080 Construction of chapter.** Nothing in this chapter shall be construed to interfere in any way with the manner in which the several counties and district courts deal with indigent defendants, if the provisions of this chapter are not applicable.

(Added to NRS by 1965, 598)

**Carson City Audit Committee  
Agenda Report**

**Date Submitted:** November 6, 2012

**Agenda Date Requested:** November 20, 2012

**To:** Chair and Members

**From:** Michael Bertrand, Chairman

**Subject Title:** For Possible Action: Presentation, discussion and acceptance of the Community Facility Cost Recovery Study prepared by Moss Adams.

**Summary:** Moss Adams has been contracted by the Carson City Audit Committee and the Board of Supervisors to provide Internal Audit Services to Carson City. Representatives from Moss Adams will be presenting the Community Facility Cost Recovery Study.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Discussion Only)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Committee Action:** I move to accept the Community Facility Cost Recovery Study and forward it to the Carson City Board of Supervisors.

**Explanation for Recommended Committee Action:** See Staff Summary

**Applicable Statute, Code, Policy, Rule or Regulation:** N/A

**Fiscal Impact:** N/A

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** None

**Supporting Material:** Community Facility Cost Recovery Study Report prepared by Moss Adams.

**Prepared By:** Nick Providenti, Finance Director

Reviewed By: Will Shultz  
(Finance Director)

Date: 11/8/12

**Board Action Taken:**

Motion: \_\_\_\_\_

	Member	Aye/Nay
1)	_____	_____
2)	_____	_____
3)	_____	_____
4)	_____	_____
5)	_____	_____

\_\_\_\_\_  
(Vote Recorded By)

**MOSS ADAMS** LLP

**DRAFT REPORT**

**Carson City**  
Community Facility Cost Recovery Study

November 13, 2012

**Moss Adams LLP**

999 Third Ave, Ste 2800

Seattle, WA 98104

(206) 302-6500

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## I. EXECUTIVE SUMMARY

The objective of this study was to identify opportunities for additional cost recovery at specific community facilities managed by the Carson City Parks and Recreation Department. The study was accomplished by reviewing the fees, business model, and utilization of the Carson Community Center, Bob Boldrick Theater, Aquatic Facility, and Arlington Square Ice Rink. The study did not review operations or cost recovery at Carson City’s parks, fairgrounds, or open spaces.

This study is not a financial audit. It is not intended to be an assessment of internal controls, compliance, compensation, or policies and procedures.

Carson City’s sports and youth programs are required, in aggregate, to achieve 100% cost recovery. Each program and facility has a specific cost recovery target established by the Board of Supervisors with guidance from the Parks and Recreation Commission and staff. The Carson City Parks and Recreation Department defines cost recovery for programs as pertaining to only the direct costs associated with a program. For example, utilities, registration, and program evaluation costs are not included in direct costs.

Carson City Parks and Recreation Department expenditures decreased 16% from FY 09-10 to FY 11-12, and there is an estimated \$2 million in deferred maintenance department-wide. The last major user fee increase occurred in 2006 and applied to most sports and recreation programs. Carson City School District use of these facilities represents a significant proportion of total usage, and the District uses the facilities for free under a Joint Use Agreement (JUA) between the City and District that has been in place since 1981. Carson City has a strong commitment to supporting resident non-profit organizations. At the direction of the Board of Supervisors, Carson City non-profit organizations receive discounts on facility rentals of 50-75% off full rates.

The financial performance of each facility in FY 11-12 is summarized below.

Facility	FY 11-12 Expenses	User Fees	General Fund	Cost Recovery
Carson Community Center & Bob Boldrick Theater	\$303,431	\$132,706	\$170,725	44%
Aquatic Facility	\$607,861	\$263,419	\$303,931*	43%
Arlington Square Ice Rink	\$85,522	\$82,673	\$0*	97%
Total	\$996,814	\$478,798	\$474,656	48%

*Notes: The Aquatic Facility is also funded via Question 18; from FY 08-09 through FY 11-12, the Ice Rink was funded by the Redevelopment Authority.*

The Carson Community Center provides meeting rooms, a gymnasium, and classroom space for youth and adult athletics and fitness programs and latch key and summer youth programs. The Bob Boldrick Theater, located at the Community Center, seats more than 700 guests and is the largest theater in the area. Between FY 09-10 and FY 11-12, the Center's expenditures decreased 9%, and revenues from room rental fees increased 23% while room rental rates remained stable. Most of the programs located at the Community Center, such as latch key, contract fitness classes, and sports leagues, achieve at least 100% cost recovery. Non-profits and governments represented approximately 80% of meeting and classroom hours reserved at the Community Center in FY 11-12. School district use, which is free under the JUA, represented 60% of total theater bookings in FY 11-12. Budget cuts in recent years have limited the City's ability to support theater fundraising, merchandising, concessions, ticketing, marketing, and bookings.

The Aquatic Facility includes an indoor Olympic-size lap pool, therapy pool, smaller outdoor pool with waterslide, a pool for children under six, and a small exercise room. The Aquatic Facility was expanded with Question 18 funds, which also financially support operations of the Facility. The Facility's target cost recovery is 50%, including Question 18 funds. From FY 09-10 to FY 11-12, expenditures at the Aquatic Facility have declined 19%, while costs recovered from fees increased from 35% to 45%. The facility is closed to the public approximately ten hours per week for club swim team use.

The Arlington Square Ice Rink, which was developed in 2008, is open in downtown Carson City during the winter, weather permitting. From FY 08-09 through FY 10-11, the rink was funded through the Redevelopment Authority. Revenues increased each year since the rink opened. From FY 09-10 to FY 11-12, the Ice Rink's total expenditures decreased 54%, due largely to the City acquiring capital assets for the Rink through FY 10-11. In FY 11-12, the rink achieved 97% total cost recovery, including capital and operating costs, and 121% recovery of operating costs. Since 2010, the City has purchased equipment in order to operate the ice rink. Opportunities for sponsorships and advertising are integrated into the ice rink through board and fence ads.

The City should be able to recover additional costs at the Community Center and Aquatic Facility, the two facilities that operate on a 50% or greater General Fund subsidy. For example, recovering 25% of the cost incurred by non-profit and School District users of the Theater could generate approximately \$20,500. Raising drop-in fees by \$1 at the Aquatic Facility could have generated an additional \$14,000 in Q1 of FY 12-13. In addition, raising advertising revenues at the Ice Rink to the level they reached in FY 10-11 could generate an additional \$3,000.

The tables below provide a summary of recommendations for each facility addressed by this study.

**Management and Policy**

Evaluate the cost-effectiveness of School District and other Joint Use Agreement.

Consider reprioritizing reservations and bookings for the Community Center and Theater to better accommodate paying customers.

Conduct a cost recovery and activity prioritization process with the input of the Board of Supervisors to develop a comprehensive cost recovery model for the Parks and Recreation Department.

**Community Center & Bob Boldrick Theater**

Continue to pursue programs with the highest amount of cost recovery.

Pursue opportunities to increase revenues, particularly for the Theater.

Itemize Community Center revenues and expenditures to determine the sources and uses of funds and enable more precise budgeting.

Determine how to leverage Question 18 funds to make capital improvements and unlock operations funding.

Investigate the feasibility of employing a dedicated marketing and booking staff member to manage and promote Theater reservations.

Explore opportunities for sponsorships, fundraising, and advertising for the Theater.

Evaluate the opportunity for outsourcing management and operations of the Theater to a non-profit.

**Aquatic Facility**

Consider raising admissions fees.

Market the outdoor pool for recreational use during the summer.

Collaborate with the Convention and Visitors Bureau to market the aquatic facility to residents and visitors.

<b>Arlington Square Ice Rink</b>
Continue to pursue advertising and sponsorship opportunities.
Explore revenue generating opportunities for renting the Ice Rink for events.

## II. BACKGROUND, OBJECTIVES AND SCOPE, AND METHODOLOGY

### A. BACKGROUND

The Carson City Parks and Recreation function is somewhat unique in that many of the programs managed by the Department recover some or all of their costs. Some programs within Parks and Recreation, such as playgrounds and open space, have little to no opportunities for cost recovery, while others, like the Aquatic Facility, generate revenues for the City. The Carson City Parks and Recreation Department defines cost recovery for programs as pertaining to only the direct costs associated with a program. In aggregate, all sports and youth programs strive to achieve 100% direct cost recovery; some activities have less than 100%, and some have more.

The Carson City Parks and Recreation Department budget decreased 16% from FY 09-10 to FY 11-12, and there is an estimated \$2 million in deferred maintenance department-wide. The last major user fee increase occurred in 2006, and applied to most sports and recreation programs. In the past five years, few increases have occurred as the City has been sensitive to the ability of individuals, businesses, non-profits, and community groups to afford rentals and programs during tough economic times.

Costs not recovered from user fees are subsidized by either the General Fund or Question 18 funds. The Question 18 measure set aside 20% of proceeds to help subsidize operating costs at facilities constructed with Question 18 funds. Of the facilities addressed in this study, only the Aquatic Facility is eligible for Question 18 operating funds. The Bob Boldrick Theater, which was on the original list of Question 18 capital projects, could be eligible for Question 18 operating funds if the capital projects are pursued.

A significant proportion of the use of the facilities considered in this study is free use by the Carson City School District. The District and the City have had a joint use agreement (JUA) in place since 1981, allowing the City and the District to share the use of City and District facilities. The City's primary use of District facilities is the latchkey program, operated by Parks and Recreation in many schools. The District uses the Bob Boldrick Theater, the Community Center gymnasium, and the Aquatic Facility for regular programs and sports team activities. The City also uses school gymnasiums for youth and adult sports leagues. While the original JUA called for the District and the City to keep time records of facility use, this practice has not been maintained in recent years. In addition, the City and District agreed in 2001 to jointly formulate policies for planning, use, and maintenance of facilities. To date, these policies have not been developed. Under the JUA, the District receives reservation priority over paying customers. There are also similar JUAs in place with Silver State Charter High School and Western Nevada Community College.

Carson City has a strong commitment to supporting resident non-profit organizations. At the direction of the Board of Supervisors, Carson City non-profit organizations receive discounts on

facility rentals of 50-75% off full rates. For the purposes of facility rentals, individuals planning events such as weddings and picnics also qualify as non-profits. In addition, City departments and state government agencies receive free rentals.

## B. OBJECTIVES AND SCOPE

The objectives of this study are to review the fees, business model, and utilization of community assets, and identify opportunities for additional cost recovery at these facilities. The following major community facilities in Carson City were studied: the Carson Community Center, Bob Boldrick Theater, Aquatic Facility, and Arlington Square Ice Rink. The study did not review operations or cost recovery at Carson City's parks, fairgrounds, or open spaces.

This study is not a financial audit. It is not intended to be an assessment of internal controls, compliance, compensation, or policies and procedures.

## C. STUDY METHODOLOGY

### Interviews, Walkthroughs, and Survey

Moss Adams conducted a series of interviews with Carson City staff and leadership in July and August 2012. Except for the ice rink, which was not open, each community facility reviewed was walked through with staff. In September, a web-based survey was distributed to City Parks and Recreation staff to gain employee feedback regarding opportunities for cost recovery, operational improvements, and program offerings.

### Document Review

Moss Adams reviewed financial, program, and policy documents during the course of the study. These included historical and current budgets and fiscal documents, the Parks and Recreation Master Plan, facility operational policies and procedures, applicable Board of Supervisors resolutions, and relevant City and Department policies and procedures.

### Benchmarking

Studies conducted by the National Recreation and Park Association (NRPA) and the ICMA Center for Performance Measurement guided benchmarking. Relevant fiscal and policy information from other municipalities provided a benchmark for Carson City's fees, cost recovery, and operations.

### Analysis

Carson City's fiscal policies and operations with respect to the four community facilities were evaluated against current and future economic conditions and industry standards. Cost recovery alternatives were evaluated for each facility, and overarching management and policy recommendations were developed for the Parks and Recreation Department.

Deliverables

Moss Adams provided a discussion draft report to Carson City study participants to verify facts and verify the practicality of recommendations.

### III. FACILITY OPERATIONS AND COST RECOVERY

#### A. CARSON COMMUNITY CENTER & BOB BOLDRICK THEATER

##### Facility History

The Carson Community Center was built in 1974 and provides meeting space and indoor sports and recreation opportunities for Carson City residents. Facilities at the Center include a gymnasium, two meeting rooms, a latch key program room, and two classrooms used primarily for contract fitness classes. The Center also has a full kitchen. Two full-time staff members manage and operate the Community Center.

Because there are no other recreation centers or municipal gyms in Carson City, many of the programs offered at the Center are adult fitness classes taught by contract instructors. Approximately 1,500 hours per month are reserved for sports programs at the Center.

The Bob Boldrick Theater is also located at, and shares staff with, the Center. The theater was built in 1974 and has not had any significant capital improvements since it was constructed. Capital improvements to the theater were on the original list of Question 18 projects, but have not been implemented due to reduced budgets. These improvements include orchestra pit improvements, seating replacement, and lighting and control system renovations.

The two full-time Community Center staff members operate the theater in addition to their daily duties. Volunteers and on-call staff are also used to help operate and maintain the Theater. The Facilities Maintenance Division provides support and restroom-only custodial services to the theater. Other custodial services are provided by the Center's staff. The current budget does not support programming, fundraising, or marketing duties. Theater bookings are managed by an offsite Parks and Recreation employee, who also oversees all other facility rentals.

##### Current Operations and Cost Recovery

Between FY 09-10 and FY 11-12, the Center's expenditures have decreased 9%, while the percent of costs recovered increased from 31% to 44%. Over that time, fees from room rental fees increased 23%, while room rental rates did not change. The Community Center's last three years' of revenues and expenditures are shown in the table below.

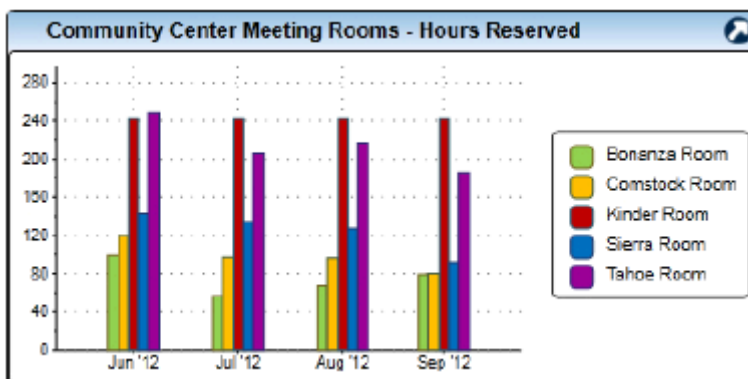


	FY 09-10	FY 10-11	FY 11-12
Total Expenditures	\$332,304	\$274,461	\$303,431
User fees	\$104,376	\$100,606	\$132,706
General Fund Support	\$227,928	\$173,855	\$170,725
% Costs Recovered by User Fees: Community Center Total	31%	63%	44%

According to a 2010 NRPA study of parks and recreation fees and charges, municipal community centers in the West have median annual revenues of \$189,075, and municipal median cultural arts revenues in the West were \$84,705, for a total of \$273,780. The Community Center’s FY 11-12 expenditures were 11% higher than the regional median.

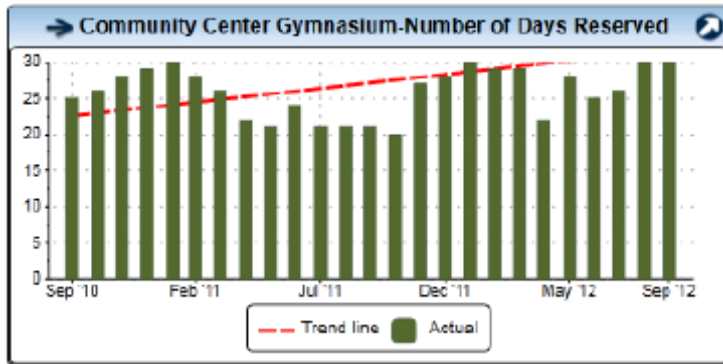
Full room rental rates, which apply only to for-profit entities, vary from \$53/hour for 1-4 hours in the Bonanza Room to \$524/hour for a half day in the gymnasium and kitchen. Resident non-profit rental rates vary from \$35 for the Bonanza Room to \$349 for the gymnasium and kitchen. Overall, resident non-profit rates are approximately 33% lower than full rates, while non-resident non-profits receive rates discounts of approximately 17%. The NRPA study reported median hourly room rental rates of \$25-\$45, and gymnasium rental rates of \$132.50-\$200.

Through the Active Strategy project, the City collects data on how many hours each room is reserved each month. In September 2012, for example, the meeting rooms were reserved for about 700 hours, as shown in the chart below.



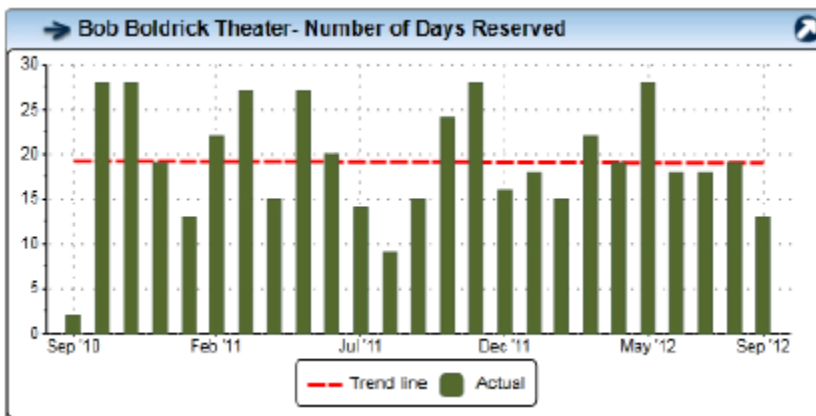
Gymnasium reservations have increased over the last two years, as shown in the chart below from the most recent Active Strategy quarterly review. The gymnasium is typically reserved for eight or

more hours every day. During the summer, the Community Center gymnasium is used by the latch key program in the daytime, and youth and adult sports programs in the evening.



Non-profits represented 80% of meeting and classroom hours reserved at the Community Center in FY 11-12. Most of the athletic programs, such as contract fitness classes and sports leagues, achieve at least 100% cost recovery. In addition, the latch key program, which has greater than 100% cost recovery, serves more than 400 children a year and could be expanded if space were available.

In FY 10-11, the Theater was reserved for 181 days. Over the past two years, Theater use has been stable, as shown in the chart below from the most recent Active Strategy quarterly report. The City reports that 60% of the Theater’s reserved days in FY 11-12 were for free District use.



Theater rental rates range from \$104 to -119 per hour for for-profit clients. Resident non-profit rates are approximately 66% of for-profit rates, and non-resident non-profits are charged approximately 83% of the full rate. In addition to hourly fees, the City also charges assorted fees for performances, dark days, operator staff, and equipment.

An operational assessment of the Theater was conducted earlier this year by a third party consultant specializing in arts and nonprofit management. Key findings from the assessment include:

- The current budget does not support marketing, fundraising, bookings, merchandising, concessions, or ticketing.
- Equipment rental rates could be higher.
- Facility rental rates are generally below industry standards, and non-profit discounts are greater than at comparable facilities.
- Had full rental fees been charged to discounted and free customers in FY 10-11, the theater would have generated more than \$82,000 in additional revenues, representing 63% cost recovery.
- Event marketing is not offered as a service to clients.
- New revenue streams could be generated through concession sales, merchandising percentages, ticketing fees, marketing assistance, booking in-house programming, and charging rental fees to government clients.

According to the operational assessment, the Theater's full, for-profit rates are lower than comparable facilities. Non-profit rates were lower than every other facility included in the assessment. When compared to other facilities on a per-seat basis, the Theater had the second-lowest daily rate of comparable facilities, at \$1.44 per seat per day.

Budget cuts in recent years have limited the City's ability to market and promote the Theater. As noted above, the operational assessment found that the current budget does not support fundraising, merchandising, concessions, ticketing, marketing, or bookings. Event marketing is limited to social media and word-of-mouth.

Improvements to the Theater would likely improve utilization. However, budget cuts and the reduced purchasing power of Question 18 funds have impacted the City's ability to implement all planned projects. As noted above, Question 18 operations funds would be available to the Theater if the planned capital improvements were made. Access to additional funds would enable the Theater to further improve operations.

## B. AQUATIC FACILITY

### Facility History

The Aquatic Facility, constructed in 1997, houses an indoor Olympic-size lap pool, therapy pool, and a tot pool for children under six. Outdoors, an additional, smaller pool with a waterslide is open May through September, weather permitting. The Facility also has a small weightlifting and exercise machine room. Facility employees provide in-person registration and customer service support for all Parks and Recreation activities.

Question 18 funds supported significant capital investments to the Aquatic Facility. Because of the Question 18 investment in the Facility, the cost recovery requirement for the Aquatic Facility is lower than for that of other facilities: user fees plus Question 18 funds must recover 50% of the Facility's direct costs. The general fund contributes the remaining 50% of Facility costs.

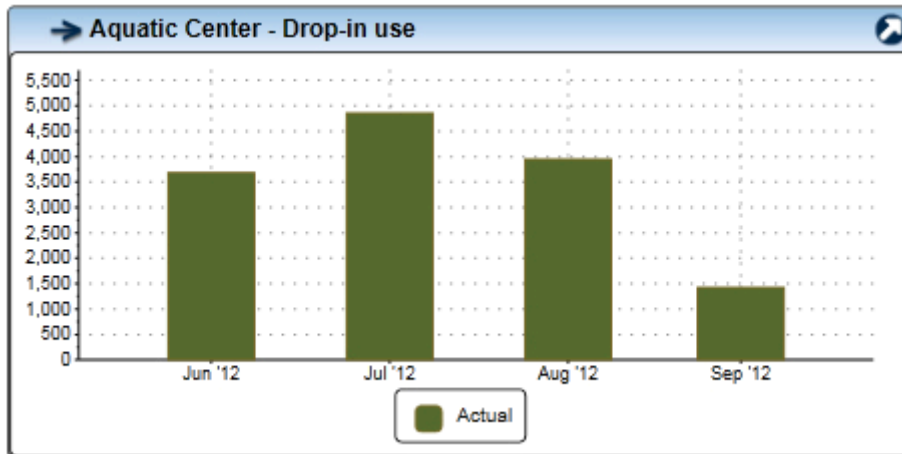
The Aquatic Facility is primarily a fitness facility, and has limited recreation offerings. The outdoor pool, which has a waterslide, is used mostly for lap swimming and not for recreation purposes. When designed, the Facility was primarily intended to support competitive and fitness activities rather than leisure and recreation swimming.

**Current Operations and Cost Recovery**

Over the past three years, expenditures at the Aquatic Facility have declined 19%. Pool admission fee revenues increased 17%, and costs recovered by fees increased from 35% in FY 09-10 to 43% in FY 11-12. The Aquatic Facility’s last three years’ of revenues and expenditures are shown in the table below.

	FY 09-10	FY 10-11	FY 11-12
Total Expenditures	\$718,898	\$633,683	\$607,861
User Fees (Pool Admissions)	\$249,468	\$242,840	\$263,419
Question 18 Support	\$109,981	\$74,001	\$40,512
General Fund Support	\$359,449	\$316,842	\$303,931
% Costs Recovered by User Fees	35%	38%	43%

User fees are generated by drop-in admissions and pass sales. Adult drop-in admission is \$4, and senior and youth drop-in admission is \$3. From June through September 2012, there were approximately 14,000 drop-in users of the Facility, as shown in the Active Strategy chart below. For Carson City residents, the Aquatic Facility offers discounted 10, 20, 30, 40, and 50-punch cards, as well as one- and three-month unlimited passes. In FY 11-12, admission fees and passes generated \$263,419 and recovered 45% of total expenditures. According to a 2010 national fee survey conducted by the NRPA, admission fees are in line with the national median fees, which are also \$4 for adults and \$3 for youth and seniors. The NRPA survey also showed that the Aquatic Facility’s FY 11-12 revenues were \$15,000 lower than the regional average of \$278,470.



Based on the Fall/Winter 2012 facility schedule, club swim teams use the pool for approximately 10 hours a week for practice. The teams pay \$900 a month to rent the pool during these times. During that time, the pool is closed to the public. Due to budget cuts in recent years, the Aquatic Facility has cut Saturday hours, is closed Sundays, and has extended holiday closures.

### C. ARLINGTON SQUARE ICE RINK

#### Facility History

The Arlington Square Ice Rink was developed in partnership by the Redevelopment Authority with the Carson Nugget in 2008. It is located on the Carson Nugget parking lot, which the Nugget provides at no charge. The Rink initially proved successful, so it was expanded in 2010. Over the last three years, the City has purchased equipment to operate the Ice Rink. Some equipment, such as the tents, sound equipment, heaters, and lights, can be used for other events. Opportunities for sponsorships and advertising are integrated into the ice rink through board and fence ads.

The Rink was established to provide a recreation opportunity to citizens and tourists, as well as drive economic development in downtown Carson City. The ice rink is typically open late November through February, depending on the weather.

#### Current Operations and Cost Recovery

From FY 08-09 through FY 10-11, the Rink was funded through the Redevelopment Authority. From FY 09-10 to FY 11-12, the Ice Rink's total expenditures decreased 54%, due largely to the City acquiring capital assets for the Rink through FY 10-11. Revenues have increased each year since the Rink opened, and in FY 11-12, the Rink recovered 121% of operating costs. The Ice Rink's last three years' revenues and expenditures are shown in the table below.

	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>
Total Expenditures	\$184,999	\$237,753	\$85,522
One-time Capital Expenditures	\$153,643	\$128,458	\$16,936
Operating Costs	\$31,356	\$109,295	\$68,586
User Fees & Advertising	\$58,225	\$74,570	\$82,673
% Operating Costs Recovered	185%	68%	121%

The major source of revenues for the Ice Rink is user fees, in the form of passes and single skate fees. In FY 11-12, the Rink earned \$55,000 in participation revenue. In that year, the Rink also earned over \$25,000 in concessions and rentals, as well as \$3,100 in advertisement revenue. In FY 11-12, participation, concessions, and rental revenues increased over the prior year, growing 17.7% and 12.4%, respectively. Advertising revenues, however, fell by 47.6% from \$6,000 in FY 10-11. A detailed breakdown of FY 11-12 revenues is shown in the table below.

<b>Revenue Category</b>	<b>FY 11-12 Revenues</b>
<b>Participation Revenue</b>	<b>\$54,795</b>
Passes: Adult	\$808
Passes: Youth	\$1,256
Single-skate admission: Adult	\$23,240
Single-skate admission: Youth	\$19,850
Discounted single-skate*	\$9,276
Gift cards	\$365
<b>Additional Revenues</b>	<b>\$25,096</b>
Concessions	\$6,286
Tent rentals	\$900

Revenue Category	FY 11-12 Revenues
Skate rental	\$17,910
<b>Additional Revenues</b>	<b>\$3,132</b>
Fence banner ads	\$200
Dasher board ads	\$2,925
Revenue adjustments	\$7

*\*Note: Discounts include employees, special events, and family skates*

## IV. FINDINGS AND RECOMMENDATIONS

### Management and Policy

**Finding: The Carson City School District is a major user of many community facilities at no cost.**

The JUA between the City and the District provides the District with significant free use of City facilities. Theater bookings are 60% District use, and the high school swim team uses the pool for ten hours per week from May through March. The City uses school facilities for the latch key program and for adult and youth sports leagues. The initial purpose of the JUA was to maximize the use of public facilities and to avoid duplication of facilities by the City and District. Cost savings from the JUA have benefitted Carson City taxpayers.

The original JUA states, “time records will be kept of the use of school and city recreation facilities,” and that an annual accounting will take place “regarding a balance of payment between the two governmental entities.” This accounting does not currently occur, and it is unclear when it stopped. There is no historical data on facility usage with which the City can evaluate the equity of the JUA, but the City has recently begun collecting data.

**Recommendation: Evaluate the cost-effectiveness of School District and other Joint Use Agreements.**

The City should collect a years’ worth of data of city usage of school facilities and school usage of city facilities to determine whether the JUA is advantageous to both parties. If the usage is equitable, the agreement should stand. However, if the usage is lopsided, the City and District should explore alternative agreement scenarios.

It may be more cost-effective to remove specific facilities from the JUA. For example, District use represents 60% of theater reservations, and the Theater is the highest-value rental facility in the City. As noted above, the theater operational assessment noted that in FY 10-11, charging the full rate to free and discounted customers would have generated an additional \$82,000. Even charging a small fee would make an impact on theater cost recovery and could enable the City to make some theater improvements.

The City should also evaluate the efficiency of JUAs with other entities. While the District has multiple facilities that are regularly utilized by City programs, the charter high school and community college may not be effective partners for the City. If these agreements turn out to be lopsided, they should be renegotiated to give the City more equitable benefits.



**Finding: School District reservations take precedence over paying customers.**

The JUA stipulates that District will receive first priority for City bookings, and vice versa. The original agreement applied only to specific requested services for the tennis, golf, and swim teams as well as swimming units in phys ed class. Today, the District uses the Community Center and Theater in addition to the Aquatic Facility and other assets.

**Recommendation: Consider reprioritizing reservations and bookings at Community Center and Theater to better accommodate paying customers.**

The City and District should consider renegotiating the JUA to more cost-effectively prioritize bookings at certain facilities. Because the City recovers no costs from District use, it is in the City's best interest to attempt to book some paying customers first. This reprioritization should follow the collection of use data and evaluation of efficiency recommended above, and the potential removal of some facilities from the JUA.

It is important to note that a reprioritization could create administrative issues for the District, which designs annual curriculum around theater use. To preserve the arts curriculum, The City and District could renegotiate the JUA to allow some form of payment for Theater use. For example, the City could charge a ticket surcharge or fee per seat to recover some costs to the City of District use.

**Finding: Program and facility cost recovery and discounts vary widely between Parks and Recreation activities, largely driven by Board of Supervisors resolutions.**

While sports and youth programs are intended to achieve 100% cost recovery in aggregate, the specific level of cost recovery for each program and facility is set by the Board of Supervisors with guidance from the Parks and Recreation Commission and staff. Cost recovery levels are set on a per-facility basis as needs arise. The theater receives about a 60% general fund subsidy, and the aquatics facility receives a 50% general fund subsidy.

Since 2010, the budgeted revenues for the facilities in this study have declined 12% to 20%. Cuts to operations, maintenance, and programming have occurred for several years in a row. The Parks Master Plan, completed in 2006, was developed pre-recession, in a time of much higher revenues.

In addition, the Board's intended target level of cost recovery may not be achieved because of the nature of facility usage. For example, the Board's commitment to supporting resident non-profit organizations impacts cost recovery at the Community Center, where meeting room reservations at the Community Center are used almost exclusively by non-profits. Likewise, the high level of District and non-profit use of the Theater causes a vast majority of customers to receive discounted or free rates.

**Recommendation: Conduct a cost recovery and activity prioritization process with the input of the Board of Supervisors to develop a comprehensive cost recovery model and mission for the Parks and Recreation Department.**

After several years of budget and operating cuts, the City should prioritize Parks and Recreation activities and programs based on need, usage, community benefit, and cost recovery potential. Cost recovery requirements for each activity should be comprehensively established during this process. The Board of Supervisors should develop a mission for each facility, defining whether it is intended to provide subsidized community benefit or recover some or all of its costs. Many municipalities use a cost recovery pyramid methodology, where the programs with the widest community benefit (i.e., parks and open space) receive the greatest amount of subsidy, while those with the greatest individual benefit (i.e., individual lessons, fitness classes) generate 100% cost recovery.

#### Carson Community Center & Bob Boldrick Theater

**Finding: Most programs and activities housed at the Community Center achieve 100% or greater cost recovery.**

Adult fitness classes and youth and adult sports leagues located at the Community Center consistently achieve 100% or greater cost recovery. City staff is constantly evaluating the usage, need, and cost recovery of recreation offerings to ensure the most effective activities are supported. Currently, the City is constrained by the lack of available space to offer youth and adult athletic activities at the Community Center.

**Recommendation: Continue to support programs with the highest amount of cost recovery.**

The City should continue to support those activities that have high demand as well as high cost recovery, such as the latch key program. Expansion of the most revenue-generating activities could help to support other programs with lower cost recovery.

**Finding: The Community Center receives a 56% General Fund subsidy.**

The Community Center's General Fund subsidy has decreased in recent years, from 69% in FY 09-10 to 56% in FY 11-12. Operations of the Community Center have always been considered an indirect cost in support of programs. Outside of the Theater, programs that operate at the Community Center, such as latch key and adult and youth sports and fitness, achieve 100% or greater cost recovery on the whole.

**Recommendation: Pursue opportunities to increase revenues, particularly for the Theater.**

While the Center's maintenance and capital costs are considered indirect, the City should explore ways to recover additional costs to reduce the General Fund subsidy and/or enable investments in capital improvements or programming. As the facility with the largest revenue-generating potential

for the City, the Theater should be the focus of initiatives to increase revenues and recover additional costs. Recommendations for increasing Theater revenues are below.

**Finding: Theater operations, budgeting, and planning are integrated with the Community Center.**

The Theater, while a part of the Community Center building and operations, has a significantly different business model and needs from the rest of the Center. However, the Parks and Recreation budget is not itemized to distinguish between user fees for the meeting rooms, gymnasium, and Theater. Contractual class revenues are itemized beginning in FY 12-13.

**Recommendation: Itemize Community Center revenues and expenditures to determine the sources and uses of funds and enable more precise budgeting.**

The City should itemize revenues and expenditures for the Community Center to better understand the sources and uses of funds. While the gymnasium and most meeting rooms are used by the District or for City meetings and therefore the majority of revenues will be itemized for the Theater, a more detailed budget will help the City to determine how to better allocate funds toward the Center. An itemized budget will help to bring visibility to the Theater, which has significant outstanding capital, maintenance, and operating needs.

**Finding: Question 18 funds would be available to support theater operations if planned capital improvements were made.**

Lower than expected revenues combined with the declining purchasing power of the Question 18 levy have led to several unfinished projects, including improvements to the theater. One of the provisions of Question 18 is a set-aside of funds for the operations of facilities constructed with Question 18 dollars. Currently, the Theater's budget is met with a general fund subsidy of over 60%; if capital improvements were made via Question 18, additional funds would be available for operations. These funds could help to meet maintenance or staffing needs.

**Recommendation: Determine how to leverage Question 18 funds to make capital improvements and unlock operations funding.**

While Question 18 funding is now less than planned, and several projects have not yet been pursued, the City should investigate the potential for making the planned Question 18 investments in the Theater. Doing so would lessen the general fund subsidy for the Theater. In addition, the improvements plus additional operating funds would almost certainly improve the quality of the facility and increase bookings.

**Finding: The Theater does not have dedicated marketing or booking support.**

The theater operational assessment noted that the current theater staffing model and budget does not support marketing, booking, or promotions. The Theater is currently primarily marketed

through word-of-mouth and social media by community center staff members that do not have expertise in the theater industry or marketing. As noted above, the Community Center staff members perform theater management duties on top of their full-time community center positions, and booking for the Theater is handled by an offsite Parks and Recreation employee, who also does not have theater industry or marketing expertise. No current City employee is tasked with promoting the Theater as a venue to potential customers.

**Recommendation: Investigate the feasibility of employing a dedicated marketing and booking staff member to manage and promote Theater reservations.**

The City should determine whether it is feasible and cost-effective to employ a dedicated part- or full-time staff member to manage theater bookings, promotions, and marketing. Investing in a marketing and bookings staff member would likely increase the number of days the Theater is reserved. A single point of contact to represent and promote the Theater in the community would improve the customer experience from reservation to production.

After several years of budget cuts, it may not be feasible to add staff to the Theater. However, the City could charge for event marketing assistance, which is not currently offered, recovering some of the cost of this employee. In addition, the City may be able to take advantage of internship or training programs at Western Nevada College for free or low-cost marketing staff.

**Finding: There are not currently fundraising, sponsorship, or advertising initiatives for the Theater.**

As noted above, the Theater is currently marketed primarily by social media and word-of-mouth. There were no funds allocated for marketing of the Theater in the last three years' budgets. The City also does not raise funds from the community to support the Theater, nor does it offer sponsorship or advertising opportunities for businesses and community organizations.

**Recommendation: Explore opportunities for sponsorships, fundraising, and advertising for the Theater.**

The City should develop a fundraising plan for the Theater to include individual and business donations, as well as sponsorship and advertising opportunities. The City first should determine what level of community fundraising is permitted, considering that the Theater is a government program and not a non-profit organization. A comprehensive fundraising plan for the Theater should include capital and operating needs, a staffing assessment, short- and long-term goals, and implementation steps.

For example, a fundraising effort to replace the original seating could be undertaken where individuals sponsor or "purchase" a new seat. The theater could also sell individual and business memberships and sponsorships that could be renewable year-to-year and provide a relatively stable source of revenues. Special events to support the Theater, such as benefit performances, could also be organized. However, it is important to note that administrative, marketing, and

development support would need to be retained for a significant fundraising campaign. The City would need to balance the potential for dollars raised with the up-front investment in staffing and resources. One low-cost option, mentioned above, would be to partner with an arts management program at Western Nevada College for an internship or class project to develop and implement the fundraising plan.

**Finding: Marketing, coordination, fundraising, maintenance, and management of the Theater are limited by City budget constraints.**

The Theater is currently run by two full-time Community Center staff members, who perform theater management, maintenance, and operations duties on top of their full-time workload. The operational assessment reported that both staff members regularly record more than 60 hours per week. Due to budget cuts, there is little administrative, maintenance, or technical staff time or expertise available to effectively manage, market, and operate the Theater.

**Recommendation: Evaluate the opportunity for outsourcing management and operations of the Theater to a non-profit.**

The operational assessment reported that the vast majority of performance venues are “municipally owned and operated by an independent non-profit tax-exempt management organization.” The City should evaluate the potential benefits and costs of outsourcing theater operations to a non-profit. Benefits of outsourcing theater operations include 1) retaining theater management with industry expertise and dedicated staff, and 2) enabling unrestricted pursuit of grants and private donations to support theater operations, improvements, and productions. The operational assessment also noted that management non-profits can focus more on programming than the City and “are more immune to political repercussions associated with operational policy changes.” The agreement could be structured in a similar manner to the already successful outsourcing agreements for the golf course, trap shooting range, Mills Park train, and other facilities. An outsourced management agreement could maintain the JUA and resident non-profit discounts.

### Aquatic Facility

**Finding: The Aquatic Facility receives a 50% general fund subsidy.**

As shown in the facility overview above, admission fees to the Aquatic Center are comparable to the national average. However, the caliber of the Aquatic Facility and its amenities are well above average. The Olympic-sized swimming pool is unique to the region, and the therapy pool is also not common among other aquatic facilities. Facilities are in excellent condition and attract customers from other jurisdictions. Fees at the Aquatic Facility have not been raised since 2006.

**Recommendation: Consider raising admissions fees.**

The City should review the fee structure at the Aquatic Facility and consider raising fees or altering the fee structure. Survey respondents suggested that the community would accept a small fee increase for the Aquatic Facility. For example, the City could charge different rates for the lap, outdoor, tot, and therapy pools. Raising fees could enable the facility to return to pre-recession hours of operation, including restoring Sunday service, giving the City the opportunity to attract more customers and recover additional costs. Another option for fees would be to charge non-residents more for admission and passes. Since Carson City residents already subsidize the Facility through General Fund and Q18 monies, they could continue to pay the current entry fee, while out-of-town residents could be charged more.

**Finding: Recreational leisure use of the Aquatic Facility is limited.**

Exclusive of the tot pool, the aquatic facility is primarily a fitness and athletics facility. The outdoor pool, although it has a waterslide, is mostly used for lap swimming. While there is a high demand for youth summer programs at the Aquatic Facility, drop-in leisure swimming is rare. The Parks and Recreation Master Plan identifies a need for a “leisure pool” in Carson City with a shallow area for children. The closest leisure pool to Carson City is located in Minden, 15 miles away.

**Recommendation: Market the outdoor pool for recreational use during the summer.**

To increase pool usage during the summer, the outdoor pool should be marketed to residents and visitors as a recreation activity. The Aquatics Director should work with the CVB to develop a marketing strategy and programming options for the outdoor pool. The City should consider charging a higher rate for leisure pool use to accommodate additional lifeguards or amenities. Some capital investment may be required to increase recreational use of the pool, and the pool schedule would have to be adjusted to accommodate increased drop-in hours.

The outdoor pool could also be marketed for parties and special events during the summer, especially given the pool’s proximity to Mills Park playground and picnic areas. The NRPA reports median hourly pool rental rates of \$75 to \$115, with additional hourly lifeguard fees and damage deposits. The City should also consider whether the ability to generate additional revenues from rentals and leisure use would support re-opening the aquatic facility on Sundays.

**Finding: The Aquatic Facility is not promoted on the Convention and Visitors Bureau website.**

The Carson City CVB website’s “Recreation” section only references the Aquatic Facility as part of Mills Park amenities. As noted previously, the 50-meter, Olympic-size pool is unique to the area and draws swimmers from neighboring communities. The Parks and Recreation Department’s 2011 sports tournamed Economic Impact Report showed the Aquatic Facility generating more than \$2 million of economic impact to Carson City businesses. There is an opportunity to more effectively market the Aquatic Facility as part of Carson City’s array of fitness and recreation activities.

**Recommendation: Collaborate with the Convention and Visitors Bureau to market the Aquatic Facility to residents and visitors.**

The City should collaborate with the CVB to market the Aquatic Facility for both athletic and leisure use to residents and visitors. The CVB, which is primarily interested in attracting tournaments and out-of-town visitors, should also market the Facility as one of Carson City's comprehensive recreation opportunities for visitors.

**Arlington Square Ice Rink**

**Finding: Ice Rink advertising revenues fell 47.6% from FY 10-11 to FY 11-12.**

Advertising is available both on the fences and the dasher boards surrounding the rink. While ice rink use and revenues have increased every year since opening, advertising revenues were cut nearly in half over the last fiscal year. The Ice Rink was intended, in part, to function as an economic development vehicle to attract residents and tourists downtown. Many downtown Carson City businesses have testified to the Board of Supervisors of the benefit that the Ice Rink has on their business in the winter.

**Recommendation: Continue to pursue advertising and sponsorship opportunities.**

The City should continue to aggressively pursue advertising sales from regional businesses. In addition, there may be individual or business sponsorship opportunities with the rink and supporting infrastructure, including the pavilion, heaters, and concessions. At a minimum, businesses in close proximity to the rink that benefit from its presence should be approached for advertising and sponsorship opportunities.

**Finding: The Ice Rink is not available to rent for private events.**

While the Ice Rink pavilion is available for rent for events, the rink itself is not available to rent. There may be some opportunity to generate additional revenues by renting the rink for parties and events. The NRPA study reported median ice rink rental rates ranging from \$137 to \$172 per hour.

**Recommendation: Explore revenue generating opportunities for renting the Ice Rink for events.**

The City should evaluate whether renting the rink out for events and parties could generate additional revenues.



**Carson City Audit Committee  
Agenda Report**

**Date Submitted:** November 6, 2012

**Agenda Date Requested:** November 20, 2012

**To:** Chair and Members

**From:** Michael Bertrand, Chairman

**Subject Title:** For Possible Action: Discussion and possible action to recommend to the Board of Supervisors that the contract of Moss Adams be amended to provide internal audit services to Carson City through June 30, 2014.

**Summary:** Moss Adam's contract to provide internal audit services to Carson City is set to expire on December 31, 2012. Staff is recommending the contract be adjusted through June 30, 2014 at the current fiscal year budgeted amount of \$110,000. We are estimating that we have \$62,564 remaining for FY 2013 and will have \$110,000 for FY 2014.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Committee Action:** I move to recommend to the Board of Supervisors that the contract of Moss Adams be amended to provide internal audit services to Carson City through June 30, 2014.

**Explanation for Recommended Committee Action:** See Staff Summary

**Applicable Statute, Code, Policy, Rule or Regulation:**

**Fiscal Impact:** \$110,000 per fiscal year

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** None

**Supporting Material:** Memo from Moss-Adams

**Prepared By:** Michael Bertrand





Carson City Internal Audit Budget Summary

Billed and Paid to date

Project	Budget	Fees Billed	Expenses Billed	Total Billed	Fees To be Billed	Estimated Exp. to be Billed	Total Cost	FY 2012	FY 2013	Remaining
Risk Assessment	\$ 35,000	\$ 35,000	\$ -	\$ 35,000	\$ -	\$ 500	\$ 35,000	35,000	0	0
Public Defender Study	\$ 20,000	\$ 19,925	\$ 2,438	\$ 22,363	\$ 75	\$ -	\$ 22,938	9,407	12,956	575
Golf Study	\$ 20,000	\$ 17,750	\$ 1,999	\$ 19,749	\$ 2,250	\$ -	\$ 21,999	12,002	7,747	2,250
Community Facility Study	\$ 15,000	\$ 14,150	\$ 1,407	\$ 15,557	\$ 850	\$ 500	\$ 16,907	15,557	1,350	0
Meetings (pending approval)	\$ 5,000	\$ -	\$ -	\$ -	\$ 5,000	\$ 2,000	\$ 7,000	7,000	0	0
Total	\$ 95,000	\$ 86,825	\$ 5,845	\$ 92,670	\$ 8,175	\$ 3,000	\$ 103,845	56,409	36,261	7,000
Contract Budget							\$ 110,000			11,175

Invoices - Project

Date	Fees	Expenses	Total
3/19/2012	\$ 28,000.00	\$ -	\$ 28,000.00
4/17/2012	\$ 5,500.00	\$ -	\$ 5,500.00
5/23/2012	\$ 1,500.00	\$ -	\$ 1,500.00
7/16/2012	\$ 19,050.00	\$ 2,358.49	\$ 21,408.49
8/25/2012	\$ 9,850.00	\$ 1,256.87	\$ 11,106.87
10/5/12	\$ 16,800.00	\$ 407.14	\$ 17,207.14
10/31/2012	\$ 6,125.00	\$ 1,819.25	\$ 7,944.25

FY 2013 Budget - 110,000  
 Paid/billed to date (36,261)  
 Remaining Contracts (11,175)  
 Amount available 62,564

**Carson City Audit Committee  
Agenda Report**

**Date Submitted:** November 6, 2012

**Agenda Date Requested:** November 20, 2012

**To:** Chair and Members

**From:** Michael Bertrand, Chairman

**Subject Title:** For Possible Action: Discussion and possible action to consider recommendations for possible internal audits and make a recommendation to the Board of Supervisors for consideration.

**Summary:** Based on the presentation of the Enterprise Risk Assessment for Carson City by Moss Adams, and possible public discussion, recommendations will be made for possible audits to the Carson City Board of Supervisors.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Committee Action:** Will depend on discussion and possible recommendations.

**Explanation for Recommended Committee Action:** See Staff Summary

**Applicable Statute, Code, Policy, Rule or Regulation:**

**Fiscal Impact:** None

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** None

**Supporting Material:** Memo from Moss-Adams

**Prepared By:** Michael Bertrand



<b>Date:</b>	November 20, 2012
<b>To:</b>	Carson City Audit Committee
<b>From:</b>	Tom Krippaehne, Mark Steranka
<b>Subject:</b>	2013-2014 Performance Audit Recommendations

Listed below are projects identified through the risk assessment or subsequent discussions to improve economy, efficiency, and/or effectiveness.

1. FLEET MANAGEMENT EFFICIENCY STUDY	
<b>A. AUDIT OBJECTIVE</b>	<ul style="list-style-type: none"> <li>Determine whether the fleet management group could operate more efficiently</li> </ul>
<b>B. SCOPE</b>	<ul style="list-style-type: none"> <li>Conduct interviews with key personnel</li> <li>Obtain and review fleet replacement schedule, maintenance budget and expenditures, workload, etc.</li> <li>Research and benchmark City against best practices, including fleet composition, maintenance management practices, organization structure and functions</li> <li>Evaluate alternatives, including estimated cost savings</li> <li>Provide recommendations</li> </ul>
<b>C. SCHEDULE</b>	<ul style="list-style-type: none"> <li>10-12 weeks</li> </ul>
<b>D. EXPECTED PRODUCTS</b>	<ul style="list-style-type: none"> <li>Fleet management service delivery alternatives</li> <li>Recommendations</li> </ul>
<b>E. COST</b>	<ul style="list-style-type: none"> <li>\$25,000, plus expenses</li> </ul>

2. SHARED SERVICES GROUP FEASIBILITY ANALYSIS	
<b>A. AUDIT OBJECTIVE</b>	<ul style="list-style-type: none"> <li>Evaluate the cost savings potential of a shared services group</li> </ul>
<b>B. SCOPE</b>	<ul style="list-style-type: none"> <li>Conduct interviews with key personnel</li> <li>Define shared services positions and responsibilities to review</li> <li>Conduct walkthroughs of all departments and document shared services responsibilities and workload</li> <li>Examine aggregate staff capacity</li> <li>Assess workflow requirements</li> <li>Evaluate shared services alternatives and potential cost savings</li> <li>Provide recommendations</li> </ul>
<b>C. SCHEDULE</b>	<ul style="list-style-type: none"> <li>8-12 weeks</li> </ul>
<b>D. EXPECTED PRODUCTS</b>	<ul style="list-style-type: none"> <li>Alternatives for shared service scenarios</li> <li>Recommendations</li> </ul>
<b>E. COST</b>	<ul style="list-style-type: none"> <li>\$25,000, plus expenses</li> </ul>

3. QUESTION 18 REVENUE APPORTIONMENT ANALYSIS	
<b>A. AUDIT OBJECTIVE</b>	<ul style="list-style-type: none"> <li>Evaluate alignment of Question 18 revenue apportionment with current City needs of relevant programs</li> </ul>
<b>B. SCOPE</b>	<ul style="list-style-type: none"> <li>Review Question 18 language and revenue generation</li> <li>Interview Question 18 sponsors and key stakeholders from relevant programs</li> <li>Determine revenue needs of relevant programs</li> <li>Determine gaps in revenue apportionment</li> <li>Develop revenue apportionment options</li> <li>Define requirements for changing revenue apportionment</li> <li>Provide recommendations</li> </ul>
<b>C. SCHEDULE</b>	<ul style="list-style-type: none"> <li>12-16 weeks</li> </ul>
<b>D. EXPECTED PRODUCTS</b>	<ul style="list-style-type: none"> <li>Alternative revenue apportionment models</li> <li>Recommendations</li> </ul>
<b>E. COST</b>	<ul style="list-style-type: none"> <li>\$25,000, plus expenses</li> </ul>

4. FRAUD, WASTE, AND ABUSE PROGRAM DEVELOPMENT	
<b>A. AUDIT OBJECTIVE</b>	<ul style="list-style-type: none"> <li>Develop policies and procedures for establishing a fraud, waste, and abuse program</li> </ul>
<b>B. SCOPE</b>	<ul style="list-style-type: none"> <li>Interview key stakeholders</li> <li>Understand current processes for handling reported instances of fraud, waste, and abuse (FWA)</li> <li>Identify applicable FWA laws, rules, and regulations</li> <li>Assess City's ability to management a FWA program</li> <li>Draft FWA charter, policies, and procedures</li> <li>Define FWA resourcing strategy</li> <li>Identify options for an anonymous reporting mechanism</li> <li>Establish reporting standards – law enforcement, insurance, district attorney, etc.</li> <li>Provide recommendations for FWA program implementation, , leveraging report on "Managing the Business Risk of Fraud: A Practical Guide" sponsored by the AICPA, IIA, and ACFE</li> <li>Define FWA prevention and detection training program</li> </ul>
<b>C. SCHEDULE</b>	<ul style="list-style-type: none"> <li>8-12 weeks</li> </ul>
<b>D. EXPECTED PRODUCTS</b>	<ul style="list-style-type: none"> <li>FWA program implementation recommendations</li> <li>FWA prevention and detection training program design</li> </ul>
<b>E. COST</b>	<ul style="list-style-type: none"> <li>\$20,000, plus expenses</li> </ul>

5. DISASTER PREPAREDNESS PROGRAM REVIEW	
<b>A. AUDIT OBJECTIVE</b>	<ul style="list-style-type: none"><li>• Evaluate adequacy of the current disaster preparedness plan</li></ul>
<b>B. SCOPE</b>	<ul style="list-style-type: none"><li>• Conduct interviews with key personnel</li><li>• Review current disaster preparedness program (plan, committee structure, policies, and procedures)</li><li>• Compare current program with best industry practices</li><li>• Identify gaps between current program and best practices</li><li>• Develop and evaluate options for addressing gaps</li><li>• Provide recommendations</li></ul>
<b>C. SCHEDULE</b>	<ul style="list-style-type: none"><li>• 8-10 weeks</li></ul>
<b>D. EXPECTED PRODUCTS</b>	<ul style="list-style-type: none"><li>• Recommendations</li></ul>
<b>E. COST</b>	<ul style="list-style-type: none"><li>• \$20,000, plus expenses</li></ul>

# memorandum

Date: April 25, 2012  
To: Nick Providenti  
From: Mark Steranka  
Subject: Enterprise Risk Assessment: Preliminary Recommendations for Performance Audits

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Listed below are projects identified through the risk assessment process as addressing the target areas for efficiency, effectiveness, revenue enhancement, and expenditure reduction.

**Tier 1: Short-term projects**

1. Assess public defender cost and utilization to evaluate whether the City should use State or contracted attorneys, or hire City attorneys
2. Fleet maintenance efficiency study
3. Community facility cost recovery analysis, including the community center, aquatics center, ice rink, and golf course
4. Analyze potential for administrative shared services group between some or all City departments

**Tier 2: Longer-term, more complex projects**

1. Review Question 18 obligations and 40/40/20 scenario, and determine whether a shift to fund a greater proportion of maintenance and operations is feasible
2. Ambulance cost recovery analysis
3. Water and sewer capital project cost analysis to determine whether cost efficiencies can be found in current capital projects