

**KING COUNTY WATER DISTRICT NO. 90
KING COUNTY, WASHINGTON**

RESOLUTION NO. 1113

A RESOLUTION of the Board of Commissioners of King County Water District No. 90, King County, Washington, authorizing participation in a group of utilities to negotiate revisions to the wholesale contract with Seattle and the retaining of FCSG, Inslee Best, and Jonson & Jonson for assistance.

Background

1. The District signed a 50-year water supply contract with the City of Seattle in April 2011. Included in that contract are two periodic reviews of contract terms – January 2021 and 2041.

2. In December 2020, Seattle Public Utilities (Seattle) provided a draft of its proposed supply contract modifications for consideration. The District along with other wholesale purveyors have met throughout 2021 to discuss the proposed modifications. Because it did not appear that the purveyors would complete negotiations by the end of the year, the District, other purveyors, and Seattle signed Memorandums of Understanding (MOUs) in the fall to allow negotiations to continue through 2022.

3. In December 2021, the District received a second revised proposed contract from SPU for discussion. The District has had a meeting with other purveyors and Seattle to discuss this revised contract. The District also had a separate meeting with the other purveyors as to how we might consider supply contract negotiations with Seattle. Several of the purveyors, including the District, desire to form a group to negotiate supply contract revisions and to jointly engage legal and financial consultants for assistance.

4. Jason Mumm, FCS Group Inc, Eric Frimodt, Inslee, Best, Doezie & Ryder P.S., and Richard Jonson, Jonson & Jonson, P.S., have attended the meetings on behalf of other utilities and are familiar with the supply contract. The District wishes to use its services to assist the District in conjunction with other purveyors that will join the negotiating group through 2022. Attached are the three contracts specific for the District for each of the consultants (Attachments A-C).

5. The District Manager is recommending that the Board of Commissioners approve and sign the attached contracts. King County Water District No. 125 has offered to be the treasurer and manage the collection and payments on behalf of negotiating group participants to fund consultant costs. The initial recommended contribution from the District for this effort is \$5,000.00.

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SUBJECT: Consultants to Negotiate SPU Contract
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NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of King County Water District No. 90, King County, Washington, as follows:

1. The District Management is authorized to participate in the water purveyor negotiating group and to expend up to \$5,000.00 to fund a share of consultant costs to assist with negotiations.
2. Professional service engagement/contracts with FCS Group Inc., Inslee, Best, Doezie & Ryder P.S., and Jonson & Jonson, P.S. as presented are hereby approved.
3. The District Manager is authorized to execute the attached agreement on behalf of the District.
4. The District shall not be bound to any supply contract revisions unless expressly approved by Board resolution.

ADOPTED by the Board of Commissioners of King County Water District No. 90, King County, Washington, at a regular open public meeting thereof on the 5th day of April 2022.

Sam Amira 4-5-2022 *Al B. Materi 4-5-2022*
Sam Amira, President **Al Materi, Vice President**

Pete Eberle 4-5-2022
Pete Eberle, Secretary

AGREEMENT FOR LEGAL SERVICES

(SPU Contract Negotiations and Related Service)

I. PARTIES

This Agreement for Legal Services ("Agreement") is made by and between KING COUNTY WATER DISTRICT NO. 90 ("Agency") and Inslee, Best, Doezie & Ryder, P.S. ("Firm") (individually a "Party" and collectively the "Parties").

II. SERVICES PROVIDED

The Firm shall perform legal services as special counsel to the Agency on matters relating to the negotiation of a new water purveyor agreement(s) with Seattle Public Utilities (SPU). **Eric Frimodt** will serve as lead legal counsel for the Firm and will direct the services of the Firm consistent with this Agreement. The Agency is a part of a group of municipal agencies or water purveyors that are cooperating with each other and sharing the costs associated with this effort (referred to herein as the "SPU Working Group"). Other attorneys outside of the Firm may also be working on this effort pursuant to the terms of a separate fee agreement.

III. QUALITY OF SERVICES

The Firm shall use its best efforts to perform the legal services promptly, efficiently and effectively, according to the rules of professional conduct of the Washington State Bar Association.

IV. DESCRIPTION OF SERVICES

The Firm will provide legal services in connection with negotiations with SPU on the terms of a new water purveyor agreement(s). Legal services may include negotiations, contract review and drafting, and other related services on behalf of the SPU Working Group ("Legal Services"). The Legal Services may include time spent reviewing public records and documents, contract review and drafting, legal research, client group meetings, attorney group meetings, meetings and conferences with financial consultants, meetings and conferences with SPU, and other related efforts.

V. FEES AND COSTS

The Firm is authorized to perform the Legal Services on a time and materials basis at the hourly rates set forth on **Exhibit A** to this Agreement. The Agency and the other municipal agencies and water purveyors that are part of the SPU Working Group have each agreed to contribute _____ and No/100 Dollars (\$_____) to fund this effort. The Firm will bill the designated fiscal representative of the SPU Working Group on a monthly basis. The fiscal agent will be responsible for providing member of the SPU Working Group with a copy of the Firm's invoices and a periodic status report on the expenditures made to date and available balance of funds. If additional funds are required to fund the Legal Services, the designated fiscal agent will advise the SPU Working Group of the need for any additional payments to fund the Legal Services.

The Agency, through its designated fiscal agent, shall reimburse the Firm for all out-of-pocket expenses incurred on the Agency's and SPU Working Group's behalf, including but not limited to special mailing or courier fees, copying costs, long distance telephone charges, travel expenses, computerized legal research and other charges that the Firm advances on their behalf.

VI. PAYMENT TERMS; TIME RECORDS

The Firm will bill the designated fiscal agent of the SPU Working Group monthly for services and out-of-pocket expenses. The monthly invoice will summarize the date and extent of legal services performed and the charge for such services, and will itemize the expenses. Fees and costs are due in full upon billing by the Firm. A service charge shall accrue at the rate of six percent (6%) per annum, but shall only be added to any balance remaining unpaid sixty (60) days after the invoice date.

VII. TERM

This Agreement shall be in effect until terminated by either Party, provided the Agency may terminate the Firm's services at any time by delivery of written notice to the Firm. The Firm shall have the right to withdraw from representing the Agency and the SPU Working Group for any reason in accordance with the rules of professional conduct of the Washington State Bar Association.

VIII. INSURANCE

The Firm shall maintain for the protection of the Agency and other members of the SPU Working Group a professional errors and omissions insurance policy with minimum coverage of four million dollars (\$4,000,000) per claim and four million dollars (\$4,000,000) annual aggregate.

AGENCY:

King County Water
District No. 90

By Darcy Peterson
Its: General manager

Dated: 4/5/2022

FIRM:

Inslee Best Doezie & Ryder, PS

By _____
Eric Frimodt, Shareholder and
Vice President

Dated: _____

EXHIBIT A

INSLEE, BEST, DOEZIE & RYDER, P.S.

Attorney Billing Rates 2022 and 2023

Attorney	2022 RATE	2023 RATE
Frimodt, Eric C.	\$345	\$345
Chambers, Curtis J.	\$325	\$325
Other Inslee Best Attorneys		
Senior Municipal Group Attorneys	\$345	\$345
Junior Municipal Group Attorneys	\$325	\$325
Law Clerks and Paralegals	\$230	\$230
Associates	regular hourly rates with a maximum of \$295	regular hourly rates with a maximum of \$295
Other firm partners	10% less than regular firm rates, rounded to next lowest \$5 increment, or lower municipal hourly rates if applicable	10% less than regular firm rates, rounded to next lowest \$5 increment, or lower municipal hourly rates if applicable

CONTRACT AGREEMENT

BETWEEN

**FINANCIAL CONSULTING SOLUTIONS
GROUP, INC.**

Redmond Town Center
7525 – 166th Ave. NE, Suite D-215
Redmond, Washington 98052

AND

**KING COUNTY WATER DISTRICT NO.
90**

15606 SE 128th Street
Renton, WA 98052

PROJECT: Contract Negotiations with Seattle Public Utilities

THIS AGREEMENT combines all understandings between the Parties regarding professional services for the Project named above and supersedes all prior proposals, quotations, solicitations, negotiations, representations, agreements or understandings, whether written or oral.

The performance of the professional services herein described and authorized by **King County Water District No. 90**, as well as payment for such services, shall be in accordance with the terms and conditions presented in this Agreement and the following Sections and Exhibits which are attached and incorporated by reference which, taken together, shall constitute the whole Agreement.

- Section I - Relationship of the Parties**
- Section II - Contract Provisions**
- Exhibit A - Scope of Work and Task Plan**
- Exhibit B - Fee Schedule**

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this
5 day of April, 2022.

APPROVED:


**FINANCIAL CONSULTING
SOLUTIONS GROUP, INC.**

APPROVED:

KING COUNTY WATER DISTRICT NO. 90

John Ghilarducci
Principal

Date: _____



Darcey Peterson
General Manager

Date: 4/5/2022

ATTEST:

SECTION I: RELATIONSHIP OF THE PARTIES

King County Water District No. 90 ("Client"), desires to enter into contract negotiations with the Seattle Public Utilities ("Project"). In furtherance of the Project, the Client hereby contracts with **Financial Consulting Solutions Group, Inc.** ("FCS GROUP") to perform the professional services described in Exhibit A of this Agreement. All services shall be performed under the joint supervision of the Client's Representative, or a designee or designees identified in writing to FCS GROUP by the Client's Representative.

This Agreement shall inure to the benefit of and be binding upon successors, assigns, and legal representatives of each of the Parties hereto. Any assignment or transfer of an interest in this Agreement by either Party without the written consent of the other shall be void.

SECTION II: CONTRACT PROVISIONS

1. Scope of Work: FCS GROUP shall perform the service for the Client which as defined in Exhibit A of this Agreement.

2. Time for Completion: The Scope of Work for the conduct of the study as set forth above is anticipated to be completed by FCS GROUP within a time frame approximating that shown by the following schedule:

Notice to Proceed: On or before April 1, 2022

Completion of Analysis: On or before December 31, 2023

Completion of Project: Dependent on reaching a suitable agreement with SPU, but no later than December 31, 2023.

FCS GROUP agrees to perform the work described in the Scope of Work according to the contract schedule. Any delays shall be agreed upon by FCS GROUP and Client prior to the due date. Changes in the schedule caused by Client delays may require additional compensation and a change order.

If FCS GROUP is delayed in the performance of services by conditions which are beyond their control, or by a change in the scope of work, the schedule showing time of performance may be revised. Any revision thereto shall be submitted in writing to the Client for review and approval by the Client Representative. If FCS GROUP's services are temporarily suspended by the Client in the interest of the Project and with written notice to FCS GROUP, and the suspensions last longer than 90 consecutive days, FCS GROUP shall be compensated for any additional labor and direct expenses incurred due to the interruption and resumption of services.

3. Payment: FCS GROUP will be paid by the Client on a time and materials basis as outlined below and in accordance with the standard billing rates attached hereto as Exhibit B. Direct expenses will be charged as identified in Exhibit B. FCS GROUP agrees to perform the services as set forth in Exhibit A at the standard billing rates up to the amount authorized by the Client in writing.

Payment to FCS GROUP for services set forth in Exhibit A shall be: an amount equal to FCS GROUP's standard billing rates as set forth in Exhibit B multiplied by the actual hours worked. Should any unforeseen project delays, not caused by FCS GROUP, and/or any requested amendments to the original scope of work, cause this contract to extend more than 90 days past the original contracted schedule date, any work and/or amendments to the work shall be billed at the standard billing rates in effect for the period of time the work is being performed. If said change in billing rates will cause the project to exceed the amount stated in the preceding paragraph, a change order will be prepared and signed by both parties.

FCS GROUP will invoice Client monthly and payment shall be made within 30 days of receipt of invoice.

4. Supplemental Agreements: Supplemental Agreements may be entered into upon mutual written agreement that would increase or decrease the scope and associated costs and payment.

5. Work to be Accomplished: All work accomplished will be performed under the direction of the Client Representative or his/her Designee.

6. Termination: This contract may be terminated by the Client by giving FCS GROUP written notice of such termination no fewer than fifteen (15) days in advance of the effective date of said termination. FCS GROUP shall be entitled to terminate this agreement only in the case of a material breach by the Client, and upon failure of the Client to remedy said breach within fifteen (15) days of said notice. In the event that the contract is terminated before completion, FCS GROUP shall be paid for the services to date on the basis set forth in Paragraph 3, plus 10% of the total compensation earned to time of termination to compensate for FCS GROUP's rescheduling adjustments, reassignment of personnel, and related costs incurred due to termination. The Client shall notify FCS of termination or abandonment in writing.

7. Indemnity: FCS GROUP shall comply with all Federal Government, State and local laws and ordinances applicable to the work to be done under this Agreement.

FCS GROUP hereby agrees to hold the Client harmless from and shall process and defend at its own expense, specific claims, demands or suits at law or equity, arising from FCS GROUP's negligent performance of the provisions of this Agreement; provided that if the Client and FCS GROUP are concurrently negligent, FCS GROUP shall be required to indemnify and defend only in proportion to negligence of FCS GROUP. These indemnity provisions shall not require FCS GROUP to defend or indemnify the Client against any action based solely on the alleged negligence of the Client.

8. All Work Produced is Joint Property of FCS GROUP and the Client: The materials, computer programs, reports, calculations, analyses, etc., generated by FCS GROUP under this contract including the final report shall be the joint property of the Client and FCS GROUP. FCS GROUP may retain copies thereof for work paper documentation and their own use unless specifically restricted in writing by the Client as to use.

Computer models use generally available software, such as Microsoft Excel (TM), and FCS GROUP does not intend or imply any warranty of those programs.

9. Financial Forecasts: Neither FCS GROUP's name nor the report and its financial projections may be referred to or included in any prospectus or as a part of any offering or representation made in connection with the sale of securities or participation interests to the public, whether through a public or private offering.

The information used in developing the forecast assumptions will be derived from published information and other sources FCS GROUP considers appropriate. However, FCS GROUP cannot assume responsibility for the accuracy of such material. Moreover, forecasts are subject to many uncertainties as to the future; therefore, FCS GROUP cannot represent that the projected financial statements will be representative of the results that actually occur. FCS GROUP will endeavor to include appropriate comments drawing the readers' attention to these matters.

10. Integrated Agreement: This agreement together with attachments or addenda, represents the entire and integrated agreement between the Client and FCS GROUP supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended by written instrument signed by both the Client and FCS GROUP.

11. Independent Contractor: The parties intend that an independent Contractor/Client relationship will be created by this agreement. No agent, employee, or representative of FCS GROUP shall be deemed to be an agent, employee, or representative of the Client for any purpose. FCS GROUP shall be

solely responsible for all acts of its agents, employees, representatives, and subcontractors during the performance of this contract.

12. Equal Opportunity: FCS GROUP is committed to the principles of providing equal employment opportunities for all employees. The performance and diversity of our employees will help us meet the challenges of the present and the future in serving our clients. This policy statement is a reaffirmation of our long-standing commitment to provide equal opportunity on the basis of individual merit and personal qualifications to employees and applicants for employment without regard to race, color, religious creed, sex, sexual orientation or preference, gender identity, genetic characteristics or information of employee or family, age, national origin, ancestry, marital status, citizenship, the presence of sensory, mental, or physical disability, pregnancy/childbirth or related condition, medical condition, membership in the military service, veteran's status, political ideology or any other basis protected by applicable federal, state, or local laws.

13. Notices: Notices to the Client shall be sent to the following address:

King County Water District No. 90
Attention: Darcey Peterson
15606 SE 128th Street
Renton, WA 98059

Notices to FCS GROUP shall be sent to the following address:

Financial Consulting Solutions Group, Inc.
Attention: Jason Mumm, Principal
1320 Pearl Street, Suite 120
Boulder, CO. 80302

EXHIBIT A: SCOPE OF WORK AND TASK PLAN

Provide consulting services as needed to assist the Client in ongoing negotiations for a new wholesale agreement with Seattle Public Utilities.

EXHIBIT B: FINANCIAL CONSULTING SOLUTIONS GROUP, INC. FEE SCHEDULE**FCS GROUP
2022 STANDARD FEE SCHEDULE***Effective November 8, 2021***LABOR¹**

<u>POSITION/TITLE</u>		<u>BILLING RATE</u>
Principals	Standard Rate	\$280
Senior Project Manager	Standard Rate	\$215 - \$230
Project Manager III	Standard Rate	\$205
Project Manager II	Standard Rate	\$195
Project Manager I	Standard Rate	\$185
Project Consultant	Standard Rate	\$175
Senior Analyst	Standard Rate	\$155
Analyst	Standard Rate	\$145
<u>Administrative and Technical Support</u>		
Public Relations		\$155
Technical Writer/Graphic Artist		\$130
Administrative Support		\$ 90

DIRECT EXPENSES

Major direct expenses, such as travel, mileage, and lodging, will be charged at cost. Other expenses will not be directly charged unless by mutual agreement of the client and FCS GROUP and specific terms will be established in advance prior to expenditure and billing.

SUBCONSULTANTS

When applicable, subconsultants will be charged at invoiced cost plus 10%.

¹ *Litigation rates are 150% of standard hourly rates for services in support of direct litigation, settlement negotiations, arbitration and/or mediation processes.*