

Introduced by _____ Council Bill No. R 76-07

A RESOLUTION

accepting the proposal of Virchow, Krause & Company, LLP for an electric, water and wastewater cost-of-service study; and authorizing the City Manager to execute an agreement.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The proposal of Virchow, Krause & Company, LLP in the amount of \$60,000.00 for an electric, water and wastewater cost-of-service study is hereby accepted.

SECTION 2. The City Manager is authorized to execute an agreement with Virchow, Krause & Company, LLP for an electric, water and wastewater cost-of-service study. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

ADOPTED this _____ day of _____, 2007.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

CONSULTANT AGREEMENT

THIS AGREEMENT, is made and entered into this ____ day of _____, 2007, between the City of Columbia, Missouri (hereinafter "City") and Virchow, Krause & Company, LLP (hereinafter "Consultant").

WITNESSETH:

THAT, WHEREAS, the City of Columbia desires to engage the Consultant to render certain technical and professional services hereafter described in connection with a project more particularly described in **Exhibit A**; and

WHEREAS, the Consultant made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Consultant as follows:

1. **Services.** The City agrees to engage the services of the Consultant and the Consultant agrees to perform the services hereinafter set forth in connection with projects described in **Exhibit A** in accordance with the standard of care, skill and expertise ordinarily used by other members of consultant's profession in performing similar services.

2. **Addition to Services.** The City may add to the Consultant services or delete therefrom activities of a similar nature to those set forth in **Exhibit A**, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 6 hereof. The Consultant shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the office of the City Manager and shall be accepted and countersigned by the Consultant.

3. **Exchange of Data.** All information, data, and reports in the City's possession and necessary for the carrying out of the work, shall be furnished to the Consultant without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services. City will provide all information, data and reports by May 9, 2007.

4. **Personnel.** The Consultant represents that Consultant will secure at Consultant's own expense, all personnel required to perform the services called for under this contract by Consultant. Such personnel shall not be employees of or have any contractual relationship with the City except as employees of the Consultant. All of the services required hereunder will be performed by the Consultant or under Consultant's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

5. **Term.** The services of the Consultant shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed by July 1, 2007.

6. **Costs not to Exceed.** The City has established a fixed sum for this contract which cannot be exceeded unless this contract is amended. The Consultant providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Consultant shall notify the City if Consultant anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Consultant shall establish a billing system showing the amount of money remaining on the contract which shall be shown in each monthly billing.

7. **Payment.**

a. **Conditioned upon acceptable performance.** Provided Consultant performs the services in the manner set forth in paragraph 1 hereof, the City agrees to pay the Consultant as set out herein, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Consultant for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in **Exhibit A**.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Consultant under the terms of this contract exceed the sum of **Sixty Thousand Dollars** (\$60,000.00).

c. **Compensation of Consultant.** Consultant's compensation is based upon the preparation of an initial report and the issuance of one (1) revised report after review of the initial report and input by the City as to recommended revisions. Additional revisions may be requested for an additional fee.

8. Termination of Contract.

a. **Termination for breach.** Failure of the Consultant to fulfill Consultant's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in **Exhibit A** shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Consultant by one of three different means: Facsimile Transmission ("FAX") if Consultant has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Consultant; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Consultant or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Consultant under this contract shall at the option of the City become its property, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Consultant.

b. **Termination for Convenience.** The City shall have the right at anytime by written notice to Consultant to terminate and cancel this contract, without cause, for the convenience of the City, and Consultant shall immediately stop work. In such event City shall not be liable to Consultant except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Consultant for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Consultant.

9. **Conflicts.** No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Consultant further covenants that in the performance of this contract no person having such interest shall be employed.

10. **Assignment.** The Consultant shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Consultant from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

11. **Compliance with Laws.** Consultant agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Consultant affirmatively states that payment of all local, state, and federal taxes and assessments owed by consultant is current.

12. **Nonresident/Foreign Contractors.** The Consultant shall procure and maintain during the life of this contract:

a. If the Consultant is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

13. **General Independent Contractor Clause.** This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Consultant will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Consultant will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Consultant's activities and responsibilities hereunder. The Consultant agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business,

and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Consultant and the City, and the City will not be liable for any obligation incurred by the Consultant, including but not limited to unpaid minimum wages and/or overtime premiums.

14. **Liability and Indemnity.** The Consultant agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Consultant under this contract.

Commercial General Liability. Consultant agrees to maintain Commercial General Liability at a limit of liability not less than **\$2,000,000** combined single limit for any one occurrence covering both bodily injury and property damage, including accidental death. Coverage shall not contain any endorsement(s) excluding nor limiting Contractual Liability or Cross Liability. If the contract involves any underground/digging operations, the general liability certificate shall include X, C and U (Explosion, Collapse and Underground) coverage.

Professional Liability. Consultant agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **\$2,000,000** Per Occurrence. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, the City reserves the right, but not the obligation, to review and request a copy of Consultant's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, Consultant agrees to maintain a Retroactive Date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract, Consultant agrees to purchase a SERP with a minimum reporting period not less than two (2) year. The requirement to purchase a SERP shall not relieve Consultant of the obligation to provide replacement coverage.

Business Automobile Liability. Consultant agrees to maintain Business Automobile Liability at a limit of liability not less than **\$2,000,000** combined single limit for any one occurrence and not less than \$150,000 per individual, covering both bodily injury, including accidental death, and property damage, to protect themselves from any and all claims arising from the use of the Consultant's own automobiles, teams and trucks; hired automobiles, teams and trucks; and automobiles both on and off the site of work. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Consultant does not own automobiles, Consultant agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation Insurance & Employers' Liability. Consultant agrees to take out and maintain during the life of this contract, Employers' Liability and Workers' Compensation Insurance for all of their employees employed at the site of the work, and in case any work is sublet, the Consultant shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Consultant. Workers' Compensation coverages shall meet Missouri statutory limits. Employers' Liability minimum limits shall be \$500,000 each employee, \$500,000 each accident and \$500,000 policy limit. In case any class of employees engaged in hazardous work under this contract is not protected under the Workers' Compensation Statute, the Consultant shall provide and shall cause each subcontractor to provide Employers' Liability Insurance for the protection of their employees not otherwise protected.

Additional Insured. Consultant agrees to endorse City as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. The Additional Insured shall read "City of Columbia."

Waiver of Subrogation. Consultant agrees by entering into this contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Consultant to enter into a pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Consultant enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance. Consultant agrees to provide City with Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate(s) of Insurance shall name the City as additional insured in an amount as required in this contract and contain a description of the project or work to be performed.

Right to Revise or Reject. City reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the City reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due of its poor financial condition or failure to operating legally.

15. **Hold Harmless Agreement.** To the fullest extent not prohibited by law, Consultant shall indemnify and hold harmless the City, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorneys fees) arising by reason of any act or failure to act, negligent or otherwise, of Consultant, any subcontractor or person employed by Consultant or any one for whose acts the Consultant may be liable, in connection with providing services to the City, except as provided in this Agreement. This provision does not require Consultant to indemnify or hold harmless or defend the City from its own negligence, except Consultant agrees to defend, indemnify and hold City harmless from any and all claims, settlements and judgments whatsoever arising out of City's alleged negligence in hiring or failing to properly supervise the Consultant.

16. **Jurisdiction.** This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Boone County, Missouri.

17. **Entire Agreement.** This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

18. **Non-Appropriation.** All obligations of City and Consultant under this agreement, which require the expenditure of funds, are conditional upon the availability of funds appropriated for that purpose.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

VIRCHOW, KRAUSE & COMPANY, LLP

By: _____
Thomas E. Unke, CPA, Partner

ATTEST:

THE CITY OF COLUMBIA, MISSOURI

By: _____
H. William Watkins, City Manager

ATTEST:

APPROVED AS TO FORM:

Sheela Amin, City Clerk

Fred Boeckmann, City Counselor

CERTIFICATION: I hereby certify that the above expenditure is within the purpose of the appropriation to which it is charged, Account No. _____, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

Lori B. Fleming, Director of Finance

SCOPE OF SERVICES

The scope of services is based on the Proposal dated February 2, 2007 responding to City's Request for Proposal dated January 8, 2007. Consultant will:

- 1) For the water and electric utilities, conduct a review of City's charter as it specifically relates to requirements for cost of service development and provide feedback on methods to help enhance financial management of the utilities.
- 2) Perform a review of City's existing cost of service methodologies for the electric, water and wastewater operations and provide enhancement recommendations for future functionality.
- 3) Use historical financial data and current budget information to create a 5-year financial planning projection which will forecast cash flow and revenue requirements for the electric and water utilities, and a 10-year projection for the wastewater utility. The forecast will include recommendations for bonding to support capital spending, if needed.
- 4) Perform a sales forecast which will forecast kWh, gallons of water sold and gallons of wastewater treatment sold (using water sold as the basis).
- 5) Analyze current capital structures and recommend a reasonable rate of return for any utility opting to follow the utility basis of rate-making.
- 6) Assess current financial position of the electric, water and wastewater utilities to determine minimum cash level requirements. For combined operations, cash levels will be determined on a combined basis.
- 7) Using the most recent projected test year, conduct an unbundled cost of service study which will allocate customer costs by their activity; ie., generation, transmission, distribution delivery, meter reading and operation, customer service, and administrative and general.
- 8) Identify costs of each rate component for each established customer class, which are: Monthly customer charge, kWh charges, kW charges for demand metered customers, usage charges (water and wastewater) and wholesale usage (wastewater subdivisions).
- 9) Conduct a review of Disconnect/Reconnect charge policies, Late Payment Charges and Return Check Charges and make recommendations for changes, if any.
- 10) Review existing connection charge policies (water and wastewater) and line extension policies (electric) and recommend changes, if appropriate. Consultant will specifically identify appropriate line extension methodologies for residential, subdivision development, general service and Large Power customers. Specifically for the wastewater utility, we will calculate and recommend connection charges using the equity-method of connection fee development.
- 11) Review and recommend, if appropriate, changes to existing deposit requirements and policy for returning deposits to customers.

Project Deliverables

The following deliverables will be delivered at the conclusion of the project separately for each utility as appropriate:

- Revenue Requirement and Cost of Service Study for each electric, water and wastewater utilities.
- 5-year Revenue Requirement and Cash Flow projections for each electric, water utilities and a 10-year Revenue Requirement and Cash flow projection for the wastewater utility.
- A report discussing findings and recommendations relative to all extension policies and utility charges being reviewed.
- An electronic copy of our electric, water and wastewater cost of service studies.
- Consultant will conduct a one-hour workshop during initial fieldwork to explain the rate study process and rate study objectives.
- Consultant will present report findings to both the City Council and Water and Light Advisory Board in separate meetings, provided both meetings are scheduled on the same day.

Source:

Water & Light
Department

Agenda Item No. _____



Dan Dasho

TO: City Council
FROM: City Manager and Staff 
DATE: March 15, 2007
RE: Cost of Service Study

Fiscal Impact

YES

NO

EXECUTIVE SUMMARY:

Water and Light requested responses to a Request for Proposal to provide a Cost of Service Study (COS). Four firms responded and two were selected for presentations to staff. Staff agreed to the proposal submitted by Virchow Krause & Company. Staff is determined to have the company examine the COS for electric, water and wastewater services. The cost is \$60,000 for all three areas. The consultant will provide an opportunity for public comment during their data collection phase. The consultant will also present the final reports to the Council. Staff is requesting that the attached contract be signed by the City Manager.

DISCUSSION:

A cost-of-service study is the traditional tool utilities use to allocate plant investment and related expenses to individual rate classes. By comparing revenues generated by each rate class to allocated expenses and investments, utilities are able to determine and analyze the financial performance of each rate class.

Staff of the electric, water, and wastewater utilities regularly perform cost-of-service studies for each utility. An outside consultant has not been used for a cost-of-service study in recent history. Staff believes that it would be beneficial to have an outside consultant review the existing cost-of-service procedures of each utility and make recommendations for any needed changes. In addition, the consultant will review fees charged by each utility and policies associated with cash reserves.

A request for proposal was sent to eight firms requesting the following:

- 1.) Review of Columbia City Charter relating to each utility
- 2.) Review of current methodology used by each utility
- 3.) Determination of utility revenue requirements
- 4.) Review and project sales information

- 5.) Determine appropriate rate of return on utility assets
- 6.) Calculate debt coverage ratios and rate adjustments to meet or exceed debt coverage ratios
- 7.) Assess and recommend the minimum cash reserve levels for the utility to maintain
- 8.) Identify the cost to serve each rate class and compare to the projected revenue from each rate class
- 9.) Review current rate classes and provide assistance on developing new rate classes or combining existing rate classes.
- 10.) Review current policies (electric utility) regarding kVar's and appropriate charges for large customers
- 11.) Identify the cost of each rate component for each customer class
- 12.) Provide assistance and recommendations (electric utility) on power cost recovery adjustments
- 13.) Review fees charged to customers and recommend changes to fee schedule for charges:
 - Disconnect/Reconnect Charges including cost differences for residential and commercial customers
 - Late Payment Charges
 - Return Check Charges
- 14.) Review line extension policies and fees
- 15.) Review deposit policy

Four firms responded with proposals, and after initial screening of the proposals, two firms were interviewed. The two firms were Virchow Krause & Company, and Utility Financial Solutions, LLC. While the interview committee believed that either company would have provided the required services, Virchow Krause was selected because of their size, experience and competitive bid.

During the data collection phase of the contract, VK will provide input to the Council and public regarding the basis for doing COS and the process. The public and the Council will have an opportunity to ask questions about COS methodologies and provide comments. VK will meet with the Council to discuss the final report. The final report recommendations will provide guidance to the Council on various rate making and setting options.

Virchow Krause ranks as the 15th largest consulting and accounting firm in the United States, with over 1,200 employees in 14 locations. Virchow Krause's Public Sector Energy and Utilities Group will be responsible for

Columbia's proposal. They have provided services to more than 250 utilities in 35 states throughout North America. A detailed listing of the company and its past municipal work is attached.

The attached contract provides for electric, water and wastewater COS studies. Water and Light and Public Works have reviewed them and wish to proceed.

SUGGESTED COUNCIL ACTION:

Staff recommends that the City Manager be authorized to sign the attached agreement.

DMD/srb