

SPONSORED BY: COUNCIL MEMBER MARTIN

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-02  
Series of 2007

\_\_\_\_\_  
Series of 2007

A RESOLUTION APPROVING THE LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND FISCHER, BROWN & GUNN, P.C.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN. COLORADO, THAT:

Section 1. The Agreement marked as **Exhibit A**, and attached hereto, between the City and Fischer, Brown & Gunn, P.C., is hereby approved, and the Mayor is authorized to enter into the Agreement on behalf of the City Council of the City of Northglenn.

DATED at Northglenn, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
KATHLEEN M. NOVAK  
Mayor

ATTEST:

\_\_\_\_\_  
DIANA L. LENTZ, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
COREY Y. HOFFMANN  
City Attorney

## LEGAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into as of the 1st day of January, 2007, to be effective as of January 1, 2007, by and between the CITY OF NORTHGLENN, COLORADO, whose address is 11701 Community Center Drive, Northglenn, Colorado 80233 ("City") and FISCHER, BROWN & GUNN, P.C., a Colorado corporation, whose address is 1319 E. Prospect Road, Fort Collins, CO 80525 ("FBG")

In consideration of the mutual covenants and obligations herein expressed, the City and FBG agree as follows.

1. **Scope of Services.** FBG agrees to provide legal services to the City upon the request of authorized representatives of the City, including the City Attorney. FBG is customarily engaged in the profession of providing legal services to clients. FBG shall not be obligated to work exclusively for the City during the term of this Agreement. However, FBG will provide adequate professional time for the performance of legal services requested by the City hereunder. FBG is responsible for providing its own offices, equipment, training and supplies for performance of the legal services.

2. **Time of Commencement and Completion of Services.** The legal services shall be provided during the year commencing on January 1, 2007, and ending on December 31, 2007.

3. **FBG Responsibility.** FBG shall be responsible for the performance and supervision of all legal services requested by the City to be performed under this Agreement. In addition, FBG shall be responsible for the professional quality, technical accuracy, timely completion and coordination of all legal services performed under this Agreement. FBG shall only employ qualified persons for performance of the legal services.

4. **Compensation.** In consideration of the services to be performed pursuant to this Agreement, the City agrees to pay FBG reasonable fees for services rendered by FBG attorneys and legal assistants for legal services performed. Reasonable attorney fees billed by FBG shall be determined in accordance with the factors to be considered in determining a lawyer's reasonable fee, as set forth in Rule 1.5 of the Colorado Rules of Professional Responsibility adopted by the Colorado Supreme Court. It provides:

Factors to be considered in determining the reasonableness of the fee include the following:

- (1) The time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the legal service properly;

- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude the employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services;
- (4) The time involved and the results obtained;
- (5) The time limitation imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation and ability of the lawyer or lawyers performing the services; and
- (8) Whether the fee is fixed or contingent.

A \$30.00 per hour charge will be made for secretarial, clerical and word processing services provided by firm personnel.

Due to various uncertainties, it is difficult to predict the nature, scope and extent of legal services required, and thus the anticipated fees for such services. The City and FBG anticipate that legal fees paid to FBG pursuant to this Agreement shall not exceed one hundred and twenty thousand dollars (\$120,000.00), although each recognize that such fees may actually be below or above that amount.

The itemized invoices from FBG shall include, at a minimum:

- A. A list of FBG's personnel who worked on legal matters for the City during the billing period, the amount of time each worked; and
- B. An itemized list of reimbursable expenses.

**5. Payment and Review.**

A. Bills will be paid monthly; provided, however, that the City shall have the right to refuse to pay all or a portion of a billing statement in order to first verify the accuracy of the statement or resolve a dispute with FBG regarding a statement.

B. FBG representatives will meet with the City's representatives from time to time at the City's request to review the legal services performed and billings hereunder.

6. **Drawings and Other Documents.** FBG shall provide the City with reproducible copies of all documents specially developed for the City in the performance of the legal services hereunder.

7. **Parties' Representatives.** Each party designates the Representatives listed below who shall have the authority to make all necessary and proper decisions with reference to the legal services. All requests for Agreement interpretations, changes, and other clarifications or instructions shall be directed to the Parties' Representatives. Unless otherwise designated in writing, the City's Representatives will be David Allen, Cory Peterson, Shelley Stanley, Corey Hoffman and Herbert Phillips, and FBG's Representatives will be William H. Brown, William R. Fischer, Daniel K. Brown and Brent Bartlett.

8. **Key Personnel.** FBG shall assign the following employees of FBG to performance of legal services for the City for so long as the parties deem necessary, so long as they are employed by or associated with FBG: William H. Brown, William R. Fischer, Daniel K. Brown, Brent Bartlett and Sara Irby.

9. **Insurance.** FBG shall maintain the following insurance in full force and effect during the full term of this Agreement:

A. Workmen's Compensation Insurance in amounts prescribed by applicable statutes; and

B. Professional Liability Insurance in the amount of \$1,000,000 per claim and in the aggregate.

10. **Confidentiality.** All information which FBG or any person, firm or corporation employed by or otherwise connected with FBG, receives from the City, the City's employees, any other contractor or subcontractor of the City or employees of any such other contractors or subcontractors under or pursuant to this Agreement, shall be considered confidential and maintained as a privileged attorney-client communication or trade secret and FBG shall neither use such information, except pursuant to and in accordance with the terms and conditions of this Agreement, nor disclose such information to any third party without the prior consent of the City.

11. **Independent Contractor.** Nothing herein shall be construed to make FBG an agent or employee of the City for any purpose. FBG shall in all respects be an independent contractor of the City in its performance of the legal services, and FBG and its employees and subcontractors shall in no way represent themselves to third parties as employees of the City in the performance of the legal services for any purpose.

**12. No Unemployment Insurance Benefits For FBG.** FBG is not entitled to unemployment insurance benefits as a result of performance of legal services for the City unless unemployment compensation coverage is provided by FBG or some other entity.

**13. Payment of Taxes.** FBG is and shall be solely liable and responsible for any federal and state income and withholding taxes, unemployment taxes, FICA taxes and worker's compensation payments and premiums applicable to this agreement or any services provided hereunder.

**14. Termination.** Both the City and FBG shall have the right to terminate this Agreement for any reason upon the giving of notice to the other party.

**15. Force Majeure.** Except for the obligation to pay money, neither party shall be liable to the other party for any delay or inability to perform its obligations hereunder by reason of acts of God acts of the public enemy, riot, civil commotion, insurrection, acts or failure to act of governmental authorities, war, or any other cause or causes beyond the party's reasonable control.

**17. Entire Agreement.** This Agreement constitutes the entire agreement between the City and FBG regarding the subject matter hereof and replaces all prior written or oral agreements and understandings. It may be altered, amended, or repealed only by a duly executed written instrument.

**18. Notice.** All notices required to be given under this Agreement shall be in writing, and shall be deemed to have been duly given (a) when delivered personally to the other party to whom addressed or (b) upon receipt when sent by United States mail postage prepaid, as certified or registered mail, properly addressed as follows or (c) upon confirmation when sent by facsimile transmission and receipt is confirmed by return facsimile transmission:

If to FBG:

William R. Fischer  
Fischer, Brown & Gunn, P.C.  
1319 E. Prospect Road  
Fort Collins, CO 80525  
Fax: (970) 407-1055

If to the City:

David Allen  
Water and Environmental Service Manager  
City of Northglenn  
11701 Community Center Drive  
Northglenn, CO 80233  
Fax: (303) 450-8708

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

CITY OF NORTHGLENN, COLORADO

By: \_\_\_\_\_

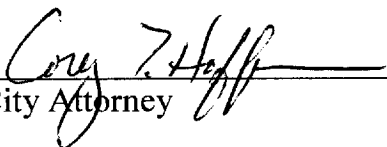
Name: \_\_\_\_\_

Title: \_\_\_\_\_

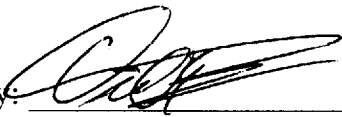
ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

FISCHER, BROWN & GUNN, P.C.

By:   
\_\_\_\_\_  
Daniel K. Brown  
Title: Vice President  
Date: 12/27/06

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