


**PUBLIC WORKS DEPARTMENT
MEMORANDUM #2015 – 38**

DATE: September 28, 2015
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: David H. Willett, Acting City Manager 
SUBJECT: **Council Resolution No. 118**
FBBG – Legal Services Agreement, Addendum #1

BACKGROUND

The City of Northglenn has utilized Fischer, Brown, Bartlett & Gunn (FBBG) as special water counsel since 1985. FBBG retains an extensive record of the City's legal history related to the water rights owned by Northglenn. FBBG has a thorough understanding of the City's raw water system and water rights, and as such has been able to effectively work on legal issues pertaining to the City's water rights.

On January 26, 2015, Northglenn City Council awarded a Legal Services Agreement to FBBG in the amount not to exceed \$100,000. During the course of the year, FBBG has represented the City on multiple issues, including those related to the City's Church Ditch and FRICO change cases. Based on the rate of expenditure it is anticipated that the cost of service will exceed the contract amount.

BUDGET/TIME IMPLICATIONS

Budget Encumbered by Resolution (CR-18)

Legal Services (2015 appropriation, encumbered CR - 18)	\$100,000
Cost to Date (through August 31, 2015)	<u>(\$79,751)</u>
Balance	\$20,249

The original contract appropriation did not include a contingency because on an annual basis the magnitude associated with the overall scope of work was not known.

During the first half of this year the work done on legislative efforts, the Church Ditch change case, and purchases of water rights increased and expenditures are close to exceeding the amount of the 2015 contract. Therefore, staff is requesting an additional \$50,000 (estimated) to cover these services through December 31st. The total adjusted expenditure limit is proposed at **\$150,000.00**.

RECOMMENDATION

Attached to this memorandum is a Resolution that, if approved, would authorize the Mayor to execute Addendum #1 (\$50,000) between the City of Northglenn and **Fisher, Brown, Bartlett & Gunn**.

Staff recommends approval of this Resolution.

STAFF REFERENCE

Kent Kisselman, PE, Engineering Manager	kkisselman@northglenn.org	303-450-4005
Tamara Moon, Water Resources Administrator	tmoon@northglenn.org	303-450-4070

ATTACHMENT

- Addendum #1

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-118
Series of 2015

Series of 2015

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

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

Section 1. The First Amendment to Legal Services Agreement between the City of Northglenn and Fischer, Brown, Bartlett, & Gunn, P.C., attached hereto as Exhibit A, in an amount not to exceed \$50,000.00 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 _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

First Amendment to Legal Services Agreement

This First Amendment to Legal Services Agreement is made and entered into this ____ day of September, 2015, by and between the **City of Northglenn, State of Colorado** (hereinafter referred to as the “City”) and Fischer, Brown, Bartlett & Gunn, P.C. (hereinafter referred to as “FBBG”).

Recitals

On January 26, 2015 the City and FBBG entered into a Legal Services Agreement (the “Agreement”). The parties desire to amend a paragraph in the Agreement.

Agreement

Now Therefore, in consideration of the mutual covenants and obligations recited in the Agreement and this First Amendment to Legal Services Agreement, the parties agree:

Section 4 of the Agreement is entitled “Compensation”. A paragraph within Section 4 currently recites:

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 FBBG anticipate that legal fees paid to FBBG pursuant to this Agreement shall not exceed one hundred thousand dollars (\$100,000.00), although each recognize that such fees may actually be below or above that amount.

The above paragraph of Section 4 of Agreement is hereby amended in its entirety, as follows:

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 FBBG anticipate that legal fees paid to FBBG pursuant to this Agreement shall not exceed One hundred fifty thousand dollars (\$150,000.00), although each recognize that such fees may actually be below or above that amount.

No other sections or paragraphs of the Agreement are amended hereby, and the Agreement, as amended by this First Amendment to Legal Services Agreement, remains in full force and effect and is hereby ratified by the City and FBBG. The Agreement and First Amendment to Legal Services Agreement constitute all the agreements between the City and FBBG.

[Remainder of page left blank]

In Witness Whereof, the parties hereto each herewith subscribe to the same in duplicate.

City of Northglenn, Colorado

By: _____
Joyce Downing
Title: Mayor


Attest:

Johanna Small, City Clerk

Approved as to Form:

Corey Y. Hoffmann, City Attorney

Fischer, Brown, Bartlett & Gunn, P.C.

By:  _____
William R. Fischer
Title: President
Date: September 10, 2015.