Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

MEMORANDUM

Date: For June 6, 2013 Board Meeting

To: Buckman Direct Diversion Board

From: Erika Schwender, Interim Facilities Manager

Subject: Amendment No. 2 to the Legal Services Agreement (LSA) #11-0533 with Long, Pound & Komer, P.A. for an additional year and in the amount not to exceed $100,000 plus NMGRT

Issue and item

Staff requests approval to amend the current agreement with Long Pound & Komer, P.A. (LPK) with additional funds and for one (1) additional year per Section 5 of the Agreement:

> *"This Agreement shall be extended in one* (1) *year increments by amendment to this Agreement ... In no event however shall the term* of *this Agreement, .including any and all extensions, exceed four* (4) *years from the date* of *last signatory to this initial agreement."*

Background

In June 2011, the Board approved a contract with Long Pound & Komer in the amount not to exceed $100,000. The current contract expires June 30, 2013. Today's requested action allows the Board to procure legal services one (1) additional year through June 30, 2014.

Discussion

The Scope of Services includes, but is not limited to, general issues and concepts related to public body organizational powers and duties, public policy review, contracting, opinion and agreement drafting and negotiations, utility management and liability issues, and representation of the entity before state and federal courts and governmental agencies.

The Contractor will:

- Represent the Board in litigation;
- Advise and represent the BDD project on public procurement process, including but not limited to, review of procurement documents, participation in required negotiations, assistance with solicitations, review and preparation of contracts;
- Prepare written opinions, resolutions, and other necessary documents;
- Attend all Board Meetings
- Perform other duties as necessary.

Evaluation

Since the inception of the Contractor's engagement as legal counsel, the hourly rate of $160.00 has never been increased and LPK does not propose to increase their rates pursuant to this Amendment. Staff has determined that the estimated number of hours to be consistent with the Board's needs.

Recommended Action

Staff recommends approval of a Professional Services Agreement with Long Pound & Komer in an amount not to exceed $100,000.00.

Financial Implications

Cost:	$100,000
Savings:	Cost avoidance related issuing new RFP
Long Term Costs:	N/A

Fund Source	Business Unit/Line Item	Amount
FY 2013/14 Operating	Prof. Services/#7280000.510300.910010	$100,000.00

DRAFT

AMENDMENT NO. 2 TO
LEGAL SERVICES AGREEMENT
ACTING IN THE CAPACITY OF LEGAL COUNSEL FOR THE
BUCKMAN DIRECT DIVERSION BOARD

This Amendment No. 2 (the "Amendment") to the Legal Services Agreement, dated June 6, 2011, and as subsequently amended (the "Agreement"), is made between the Buckman Direct Diversion Board (the "BDDB") and Long, Pound & Komer, PA (the "Contractor"). The date of this Amendment shall be effective as of the date it is executed by the BDDB.

RECITALS

A. Under the terms of the Agreement, Contractor has agreed to provide professional legal services to the Board.

B. Pursuant to the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Board and the Contractor agree as follows:

1. COMPENSATION

Article 3 of the Agreement is amended to increase the amount of compensation by a total of one hundred thousand dollars ($100,000.00) exclusive of New Mexico Gross Receipts Tax.

2. TERM.

The term of the Agreement is amended to extend the Agreement termination date from July 1, 2013 to June 30, 2014.

3. **AGREEMENT IN FULL FORCE.** DRAFT

Except as specifically provided in this Amendment, the Agreement remains, and shall remain, in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Legal Services Agreement.

BUCKMAN DIRECT DIVERSION BOARD

By: _____
Kathleen S. Holian, Chair

Date: _____

ATTEST:

_____
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

_____
Geno Zamora, City Attorney

APPROVED:

_____
Marcos Tapia, Finance Director

_____
Business Unit/Line Item

ATTEST:

_____
Yolanda Y. Vigil, City Clerk
File Date: _____

CONTRACTOR:
LONG, POUND & KOMER, P.A.

By: _____
Name: Nancy R. Long
Title: President/Partner
Date: _____

NM Taxation & Revenue
CRS #08-0058116

Federal Tax ID #85-0353074