

## *City of Brisbane* *Agenda Report*

To: City Council via City Manager

From: Stuart Schillinger, Administrative Services Director

Subject: Consider Approval of Agreement with Manatt, Phelps, and Phillips to provide Legislative Assistance related to public policy and regulatory developments by the State of California as it relates to the Brisbane Baylands.

Date: December 8, 2016

### **Purpose:**

To ensure the City of Brisbane is aware of any policies or regulations being discussed at the State level regarding the Brisbane Baylands, and is able to provide accurate and timely information as part of the discussion.

### **Recommendation:**

Approve the extension of the agreement with Manatt, Phelps and Phillips, LLP for services related to the Brisbane Baylands.

### **Background:**

The City has previously used the firm of Manatt, Phelps and Phillips to work with our Congressional delegation in securing specific language which enabled the City to receive federal funding for water and sewer projects, as well as some police equipment.

On December 8, 2016, the City Council reviewed and approved a contract with Manatt, Phelps and Phillips to monitor and review State legislation that may relate to City's authority respecting development of the Baylands area. The contract was for a \$5,000 a month retainer with an increase to \$15,000 a month if the State took an active interest in the Baylands. The State did take an active interest in the Baylands and Manatt, Phelps and Phillips reached their \$150,000 anticipated expenditures in September of 2017.

### **Discussion:**

Tom McMorrow, the Managing Partner of Manatt, Phelps and Phillips' Sacramento office, is working with the City as our lead attorney. He has done extensive work in reviewing existing State laws and regulations, together with potential State legislation, that may impact the City's authority respecting any development of the Baylands parcel. He has met with the City Council,

State Legislators, and staff on numerous occasions between the start of the contract and the present date. He is also working with the City's Ad Hoc Committee in preparing for and attending meetings between the Ad Hoc Committee and our State Legislators. It is anticipated that there will a greater need for his services between now and the spring session of the Legislature both in working with the City directly and in representing the City in Sacramento before State officials. He anticipates that his day-to-day work for the City will continue to be supplemented by his colleague, Delilah Clay, and believes as many as one to four additional Manatt professionals will also work on this matter between now and March 30, 2018.

The latest proposal from Manatt, Phelps and Phillips is to increase the retainer to \$30,000 from June 1, 2017 through March 2018. Combined, this would mean the City will pay the firm \$300,000 for June through March, inclusive of the \$150,000 originally agreed in 2016. The City has already paid \$30,000 of this amount as part of the original agreement. The City will pay the firm \$120,000 to become current in the billings and then will pay \$30,000 a month going forward through March. The total anticipated to be paid from December 2016 through March 2018 will be \$330,000.

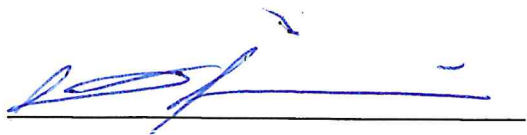
The payments already made to the firm have been paid from the City Attorney's department in the General Fund. Going forward staff recommends the additional \$300,000 be paid for from the City's General Liability Fund. The City has approximately \$400,000 available in this fund. If the City Attorney has savings in FY 2017/18 staff would recommend reimbursing the Liability Fund with savings from the Attorney's budget.

**Fiscal Impact:**

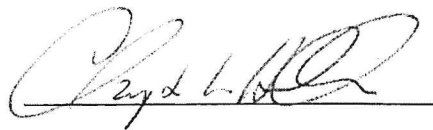
If City Council follows staff's recommendation of using unrestricted net position (unassigned fund balance) of the General Liability Fund for this purpose there would be no impact on the City's ability to provide services through the General Fund or reduce the General Fund Reserve. The City's retained liability limit per covered incident is \$25,000. Therefore, leaving \$100,000 in this fund would still cover four full losses to the City. If at the end of the year there are savings in the Attorney's budget that could be returned to this fund it would provide greater ability to fund future liability claims without impacting the General Fund's Fund Balance.

**Measure of Success**

There is no change to the City's land use decision authority

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Stuart Schillinger  
Administrative Services Director

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Clay Holstine  
City Manager