

City of Brisbane

Agenda Report

To: Mayor and Members of the Brisbane City Council

From: Clay Holstine, City Manager

Meeting Date: March 1, 2018

Subject: Agreement with the Renne Public Law Group to Provide City Attorney and Special Counsel Services

RECOMMENDATION

Approve the attached Agreement between the City and the Renne Public Law Group to provide City Attorney and Special Counsel services to the City and authorize the Mayor to sign it.

BACKGROUND

Since June 2013, the City has had an agreement with the San Francisco law firm of Renne Sloan Holtzman Sakai, LLP, Public Law Group (RSHS) to provide City Attorney and Special Counsel services to the City. Since September 2014, Michael Roush, of counsel to the firm, has served as the City Attorney. Other members of the firm have provided other legal services, including labor negotiations, to the City.

RSHS has advised the City Council that effective March 1, 2018, RSHS will separate into two law firms: Renne Public Law Group LLP (RPLG) and Sloan Sakai Young & Wong LLP (SSYW). Many of the attorneys affiliated with the RSHS firm, including Mr. Roush, Teresa Stricker (Deputy City Attorney), Jon Holtzman (labor negotiations for the City) and Louise Renne, will join the RPLG firm.

This reorganization is entirely amicable and the firms anticipate working together in the future. The firms' mutual goal and promise remain that the work of the clients will continue to come first and no disruption of services whatsoever is expected.

An agreement with RPLG for City Attorney and Special Counsel is attached for City Council's consideration.

DISCUSSION

City staff values the work that the attorneys from RSHS have provided and, given the breadth and complexity of the issues facing the community, believes it would be in the best interest of the City to retain the same core group of attorneys from RSHS who will now be part of the RPLG firm. That includes Mr. Roush who, under the Agreement, would continue to serve as the City Attorney. For that reason, staff recommends the City Council approve the draft Agreement and authorize the Mayor to sign it.

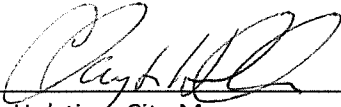
FISCAL IMPACT

Under the proposed new Agreement, the fees for services will remain the same as the City currently pays RSHS for all services through June 30, 2018: \$250/hour for city attorney services, \$285/hour for

labor law and labor negotiation services, and \$325/hour for legal services for which the City is reimbursed by a third party, such as legal services related to the Baylands or Recology. There is no charge for routine travel time. These are the same rates that have been in effect since the current Agreement was first negotiated in June 2013.

Under the proposed Agreement, starting on July 1, 2018, the hourly rates would increase to \$295/hour for city attorney services, \$315/hour for labor negotiation services, and \$365/hour for legal services for which the City is reimbursed by a third party. These rates are comparable to what other law firms charge public entity clients in the Bay Area, and represent less than a 3% increase since June 2013. Routine travel time will continue not to be billed.

The amount that the firm has billed in the past two years has been substantially less than what the Council has budgeted. For example, for fiscal year 16/17, Council budgeted \$283,250 but the firm only billed just under \$129,000. For fiscal year 17/18, Council has budgeted \$291,750. Through December 2017, the firm has billed less than \$60,000. Therefore, the proposed increase should have no impact on the budget.



Clay Holstine, City Manager

**AGREEMENT FOR
CITY ATTORNEY AND SPECIAL COUNSEL SERVICES**

THIS AGREEMENT, dated March ____, 2018, is made and entered into by and between the City of Brisbane, a municipal corporation (“City”), and Renne Public Law Group LLP (“RPLG”).

RECITALS

WHEREAS, the City has retained Renne Sloan Holtzman Sakai, Public Law Group, LLP (“RSHS”) to provide contract City Attorney services since June 2013; and

WHEREAS, the City Council appointed RSHS attorney Michael Roush as the City Attorney in September 2014;

WHEREAS, effective March 1, 2018, RSHS is dividing into two separate firms, one of which is RPLG;

WHEREAS, Mr. Roush will be affiliated with RPLG, along with number of other RSHS attorneys who have provided legal services to the City, including Deputy City Attorney Teresa Stricker, Louise Renne, Jon Holtzman, and Katherine McGrath, and including labor consultant Geoff Rothman;

WHEREAS, the attorneys of RPLG are duly licensed under the laws of the State of California and have the necessary qualifications by reason of experience, preparation, and organization, and are fully qualified to discharge the duties of the office of City Attorney and to provide the services contemplated by this Agreement; and

WHEREAS, it is the desire of the parties to enter into this Agreement to establish the terms and conditions for providing City Attorney and special counsel services to the City.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Legal Services

RPLG’s duties shall be that of City Attorney, as described generally in California Government Code §§ 41801-41805, and RSHS shall perform any and all basic City Attorney duties and functions entrusted to it by the City including, without limitation, attendance at meetings of the City Council and other City bodies as requested; providing legal advice on City matters to City staff; preparation of ordinances, resolutions, contracts, and other legal documents pertaining to City affairs; preparation of opinions regarding City matters as requested by appropriate City officials; and general municipal legal advice to all departments of the City.

RPLG may, under the terms of this agreement, also provide special counsel services such as labor negotiations and representation of the City in litigation; provided, however, that such

additional services shall be provided only upon the request of the City Council or City staff approved by the City Manager, without involvement by the designated City Attorney.

Effective March 1, 2018, Michael Roush shall continue to be designated the City Attorney, and shall continue to be the primary attorney providing services under this Agreement. RPLG and City acknowledge and agree that availability and continuity of representation is an important factor in this Agreement, and that Michael Roush shall strive to provide services similar to those of in-house counsel by making the City top priority. Michael Roush will attend Council meetings, Commission and committee meetings as requested, and staff meetings as requested, and be available for Council and staff calls and emails unless on vacation or otherwise unavailable for good cause. The City will be provided reasonable notice of vacations. Effective March 1, 2018, Teresa Stricker shall continue to serve as the designated Deputy City Attorney. Other RPLG attorneys may be assigned by Michael Roush, as required for the effective and efficient provision of legal services, to work on Brisbane matters. Michael Roush will be the coordinator of services provided to the City with other attorneys of the firm or other outside counsel, as necessary.

Legal services will not include matters in which RPLG has a conflict of interest that precludes RPLG from representing City, members of the City Council, officers or employees of City. If RPLG has a conflict of interest or lacks expertise to handle a particular assignment, RPLG shall, following consultation with the City Manager, provide the City with a recommendation to hire outside counsel.

2. Compensation For Legal Services

In consideration for the provision of legal services, City shall compensate RPLG as follows: For Basic City Attorney services which shall include attendance at Council and other City meetings, regular office hours, provision of legal advice including email and phone calls, preparation of ordinances, resolutions, contracts and other standard legal documents, preparation of formal written opinions, City shall pay to RPLG \$250 per hour for services rendered from March 1, 2018 through June 30, 2018, and \$295 per hour for services rendered beginning July 1, 2018. RPLG will not bill for time spent in routine travel from RSHS offices to City offices. RPLG will bill for travel time only when attending court appearances or meetings at destinations other than City offices.

For specialized services provided in connection with legal advice provided on non-routine labor negotiation matters or for labor negotiation services, City shall pay \$295/hour for services rendered from March 1, 2018 through June 30, 2018 and \$315/hour for services rendered beginning July 1, 2018.

For legal services performed in connection with a matter for which the City receives legal fees and cost recovery or reimbursement from a 3rd party or sources other than the City's general

fund, City shall pay \$325/hour for services rendered from March 1, 2018 through June 30, 2018 and \$365/hour for services rendered beginning July 1, 2018..

For and prosecution and defense of litigation and/or adjudicative or investigative proceedings, the City and RPLG may negotiate and agree in writing to a separate rate.

3. Monthly Billings; Expense Reimbursements

RPLG shall bill the City on a monthly basis. Each bill shall indicate the date of the work done, the nature of the work that was accomplished, the attorney that performed the work, and the fee for the work.

The following out-of-pocket expenses will be separately itemized and included in bills to the City: (1) extraordinary operating expenses, including items such as messenger services, overnight mail charges, extraordinary copying, and computer-assisted research; (2) necessary travel and subsistence expenses for matters other than Basic City Attorney Services; (3) court costs, including filing fees, witness fees, and deposition and discovery costs not paid directly by the City. RSHS will waive its normal mileage expense, except for travel to court appearances or destinations other than City offices.

The City shall review and approve RPLG's monthly statements and pay RPLG for services rendered and expenses incurred at the rates and in the amounts provided in this agreement within 30 days of receipt of the monthly statements.

4. Amendment; Annual Review

This Agreement may be amended from time to time by written agreement of the parties. City and RPLG shall review the financial provisions in this Agreement on or about March 30 of each year to insure that its terms and conditions are acceptable to both parties.

The City Council will meet with the City Attorney on an annual basis to provide a performance review and feedback. RPLG will not bill the City for time spent in connection with the annual performance review.

5. Termination

This Agreement may be terminated by City at any time upon written notice to RPLG and by RPLG upon sixty (60) days written notice to City unless the Rules of Professional Responsibility require an additional period of time. In the event of termination, City shall be responsible only for fees and costs incurred as of the effective date of the termination.

6. Independent Contractor

RPLG is and shall at all times remain as to the City a wholly independent contractor. Neither the City nor any of its agents shall have control over the conduct of RPLG or any of RPLG

employees or agents, except as herein set forth. RPLG shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of the City. RPLG shall have no power to incur any debt, obligation, or liability on behalf of the City or otherwise act on behalf of the City as an agent.

7. Professional Liability Coverage

During the term of this Agreement, RPLG shall at all times maintain insurance coverage for professional liability. A copy of the policy shall be provided to the City upon request.

8. Indemnification

RPLG agrees to defend, indemnify and hold the City harmless from and against claims or liabilities arising out of the negligent errors or omissions of RPLG discharging its obligations under this Agreement, excluding claims or liabilities arising out of the City's active negligence or wrongful conduct.

9. Ownership Of Records; Retention Of Records

Upon termination of this contract, all reports, plans, documents (including electronic documents), records, and data or certified copies of same prepared by RPLG pursuant to this Agreement shall become the property of City, excluding RPLG's internal accounting records and other documents not reasonably necessary to City's representation, subject to RPLG's right to make copies of any files withdrawn by City. Once a matter is concluded, RSHS will close the file. Under RPLG document retention policy, RPLG normally maintains files for seven (7) years after a matter is closed, unless other arrangements are made with City. All City-supplied materials and all attorney end product (referred to generally as "City material") are the property of City. Attorney end product includes, for example, finalized contracts, pleadings, correspondence and trust documents. Attorney work product is the property of RSHS. Attorney work product includes, for example, drafts, notes, internal memoranda and internal electronic files, and attorney presentation and administration materials, including attorney-City correspondence and conflicts materials.

10. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the State of California.

11. Entire Agreement; Full Understanding; Modifications in Writing

This Agreement contains the entire agreement about between the parties regarding RPLG's provision of City Attorney and/or Special Counsel Services. Any modifications or additions to this Agreement must be made in writing.

12. Joint Representation

RPLG maintains Of Counsel agreements with certain legal specialists who are deemed independent contractors under the applicable provisions of the tax laws and not employees of RPLG. City consents to dual representation by the firm and such specialists in the event the matter which the City has engaged RPLG to handle requires the use of that specialist. This arrangement has no effect whatsoever on the cost of legal services set forth in Sections 2 and 3 above.

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the date written above.

CITY OF BRISBANE

RENNE PUBLIC LAW GROUP LLP

By: _____

Clarke Conway, Mayor

By: _____

Teresa L. Stricker
Managing Partner

By: _____

Michael Roush
Of Counsel