



AGENDA REPORT

Meeting Date: July 8, 2008
Item Number: F-10
To: Honorable Mayor & City Council
From: Cheryl Friedling, Deputy City Manager for Public Affairs
Subject: APPROVAL OF AN AGREEMENT WITH MANATT, PHELPS AND PHILLIPS, LLP FOR FEDERAL LEGISLATIVE ADVOCACY SERVICES FOR FISCAL YEAR 2008-2009 AND APPROVE A PURCHASE ORDER IN THE AMOUNT OF \$140,000 TO MANATT, PHELPS AND PHILLIPS, LLP FOR THESE SERVICES
Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council approve the agreement with Manatt, Phelps and Phillips, LLP for federal legislative advocacy services for fiscal year 2008-2009 and approve a purchase order in the amount of \$140,000 to Manatt, Phelps and Phillips LLP for these services.

INTRODUCTION

The City has contracted with Manatt, Phelps and Phillips, LLP for federal legislative advocacy services since 2006-2007. The City is currently entering the third year of a three-year contract. The Council is required to approve this contract on an annual basis.

DISCUSSION

The City's legislative agenda in Washington, D.C. has been promoted with professionalism and effectiveness by Manatt, Phelps and Phillips, LLP. In particular, the firm has assisted the City in securing a federal grant in the amount

of \$893,000 from the U.S. Department of Justice – Homeland Security, to further the City's UNITE (Unified Network of Technology Enhancements) project.

This grant complements the City's matching funds to further implementation of a state-of-the-art security system to enhance public safety and create an information network for preventing terrorism.

FISCAL IMPACT

Funds of \$140,000 for these services are included in the FY 2008-09 budget under account 4800102-73122.



Scott Miller
Finance Approval

Cheryl Friedling 

Approved By

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND MANATT PHELPS PHILLIPS FOR FEDERAL
LEGISLATIVE ADVOCACY SERVICES

NAME OF CONSULTANT: Manatt Phelps Phillips

RESPONSIBLE PRINCIPAL
OF CONSULTANT: Ivan L. Kallick, Partner

CONSULTANT'S ADDRESS: 11355 West Olympic Blvd.
Los Angeles, California 90064-1514
Attention: Ivan L. Kallick, Partner

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Cheryl Friedling, Deputy City
Manager

COMMENCEMENT DATE: July 1, 2008

TERMINATION DATE: June 30, 2009

CONSIDERATION: \$120,000 plus \$20,000 for expenses, more
particularly described in Exhibit B-1; Total
Not to Exceed \$140,000

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
MANATT PHELPS PHILLIPS FOR FEDERAL LEGISLATIVE
ADVOCACY SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Manatt Phelps Phillips, (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided (the "services") as set forth in Exhibit A, attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall perform the services as described in Exhibit A to the full satisfaction of CITY.

Section 2. Time of Performance. CONSULTANT shall perform the services on or by the Termination Date set forth above.

Section 3. Compensation. CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration set forth above and more particularly described in Exhibit B-1, attached hereto and incorporated herein. CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B-2, attached hereto and incorporated herein.

Section 4. Independent Contractor. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT 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 CITY.

Section 5. Assignment. CONSULTANT shall not assign or attempt to assign any portion of this Agreement without the prior written approval of CITY.

Section 6. CONSULTANT: Responsible Principal(s).

(a) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible Principal by CONSULTANT shall not be made without the prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 7. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's services under this Agreement.

Section 8. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 9. Insurance.

(a) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(b) CONSULTANT agrees to maintain in force at all times during the performance of work under this Agreement professional liability insurance with minimum limits of Two Million Dollars (\$2,000,000).

(c) CONSULTANT agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation and employer's liability insurance as required by law.

(d) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(e) CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONSULTANT's expense, the premium thereon.

(f) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. Where available, the policies of insurance required by this Agreement shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(g) Failure to submit any required evidence of insurance within the required time period shall be cause for termination.

(h) In the event CONSULTANT does not maintain current, valid, evidence of insurance on file with CITY, CITY may, at its option, withhold payment of any moneys owed to CONSULTANT, or which it subsequently owes to CONSULTANT, until proper proof is filed.

(i) CONSULTANT shall make the insurance policies required by this Agreement, including all endorsements and riders, available to CITY for inspection at CONSULTANT's office during regular business hours.

(j) The insurance provided by CONSULTANT shall be primary to any coverage available to CITY. Where available, the policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(k) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONSULTANT shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

Section 10. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 11. Termination.

(a) CITY may cancel this Agreement at any time without cause upon five (5) days written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of such notice. CITY may cancel this Agreement immediately for cause.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid full compensation for all services performed by CONSULTANT, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, CONSULTANT shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid CONSULTANT for the full performance of the services required by this Agreement.

Section 12. CITY's Responsibility. CITY shall provide CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT's services.

Section 13. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 14. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

Section 15. Notice. Any notice required to be given to CONSULTANT shall be deemed duly and properly given upon delivery, if sent to CONSULTANT postage prepaid to the CONSULTANT's address set forth above or personally delivered to CONSULTANT at such address or other address specified to CITY in writing by CONSULTANT.

Any notice required to be given to CITY shall be deemed duly and properly given upon delivery, if sent to CITY postage prepaid to CITY's address set forth above or personally delivered to CITY at such address or other address specified to CONSULTANT in writing by CITY.

Section 16. Conflict of Interest. CONSULTANT agrees not to accept any employment during the term of this Agreement by any other person or entity which employment is or may likely develop a conflict of interest between CITY's interest and the interests of such other person or entity. "Conflict" as used herein, shall be defined and interpreted in accordance with Section 1090 of the California Government Code and as set forth in the Rules of Professional Conduct of the State Bar of California.

Section 17. Conflict Waivers. In the event CONSULTANT desires to undertake work for another client which have adverse interests with respect to CITY as provided in Rule 3-310 of the California Rules of Professional Conduct, CONSULTANT must request a waiver of the

conflict from CITY. If CITY does not grant the waiver, CONSULTANT may terminate the Agreement by providing CITY with thirty (30) days prior written notice and may represent the client with adverse interests to the extent permitted by the California Rules of Professional Conduct. Notwithstanding the foregoing, CONSULTANT may accept and/or continue employment during the term of this Agreement to represent others before the CITY in administrative matters before a City decision maker as long as that representation is unrelated to any matter on which CONSULTANT is representing CITY.

Section 18. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 19. Files. At the conclusion of the services required by CONSULTANT and CITY's written request, CONSULTANT shall submit documents in CONSULTANT's files for this matter to CITY. If CITY does not request the file, CONSULTANT will retain it for a period of at least seven (7) years from the succession of services under this Agreement. If CITY does not request the files within the seven year period, CONSULTANT will have no further obligation to retain the files and may, at its sole discretion, destroy the files without further notice to CITY.

Section 20. List Maintenance, Registration and Disclosure to Tax Authorities.

Under federal income tax law, and under the laws of California, a law firm is subject to list maintenance, disclosure and registration requirements if the firm provides certain levels of legal services with respect to what tax law refers to as "reportable transactions." Pursuant to the list maintenance requirements, CONSULTANT must maintain a file on each reportable transaction identifying each person for whom CONSULTANT has acted as a material advisor with respect to the transaction and containing other information prescribed by the Internal Revenue Service ("IRS") or applicable state tax authority. CONSULTANT must provide such information to the IRS or state tax authority upon request (subject to applicable legal privileges). Pursuant to the registration requirements, CONSULTANT may be required to file forms with the IRS or applicable state tax authority identifying and describing a reportable transaction, describing any potential tax benefits expected to result from the reportable transaction, and providing other information prescribed by the IRS or applicable state tax authority. If the registration requirements apply to CONSULTANT, CONSULTANT has an affirmative duty to make such filings with the tax authorities without waiting for a request from the applicable tax authorities. CONSULTANT may be subject to penalties if it does not comply with the aforementioned list maintenance, disclosure and registration requirements.

CONSULTANT will be required to make an independent determination of whether CITY's engagement of CONSULTANT involves a reportable transaction, whether the list maintenance and/or registration requirements apply to CONSULTANT with respect to any such transaction, and how best to comply with any such requirements applicable to CONSULTANT. Accordingly, by executing this Agreement, CITY consents to CONSULTANT's compliance with these list maintenance and registration rules as CONSULTANT determines to be applicable in CONSULTANT's sole and absolute discretion. Recent cases involving the list maintenance rules have held that the attorney-client privilege does not extend to the identities of law firm clients required to be included in the maintained lists. Accordingly, CITY acknowledges and agrees that, if CONSULTANT determines that CITY's identity must be included on any such list that CONSULTANT maintains, CITY has no expectation of privacy with respect to CITY's identity in the event the tax authorities request that CONSULTANT produces such list. However, solely by executing this Agreement, CITY does not waive the attorney-client privilege with respect to information that is subject to the attorney-client privilege.

Section 21. Tax Treatment and Structure Not Confidential. CITY is expressly authorized to disclose to any and all persons, without limitation of any kind, the "tax treatment" and "tax structure" (within the meaning of Treasury Regulations Section 1.6011-4(b)(3)) of any

transaction(s) undertaken pursuant to the services provided by CONSULTANT under this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided by CONSULTANT to CITY relating to such "tax treatment" or "tax structure." This authorization to disclose "tax treatment" and "tax structure" does not expand the persons that are permitted to rely upon any opinion or analysis beyond those persons expressly addressed in such opinion or analysis.

Section 22. Policy Regarding Sarbanes-Oxley Section 307. CITY acknowledges that CONSULTANT has a policy regarding compliance with Section 307 of the Sarbanes-Oxley Act of 2002, SEC Release No. 33-8185, 17 CFR, Chapter II, Part 205. A copy of this policy is available for CITY's review upon CITY's request.

Section 23. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

Section 25. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

EXECUTED the ____ day of _____, 200 __, at Beverly Hills, California.

"CITY"

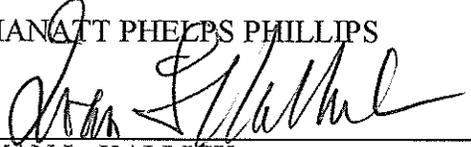
CITY OF BEVERLY HILLS
A Municipal Corporation

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

"CONSULTANT"

MANATT PHELPS PHILLIPS


IVAN L. KALLICK
Partner

[Signatures continue]

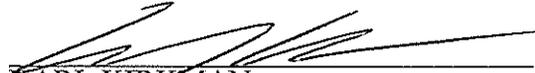
APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

RODERICK J. WOOD
City Manager



KARL KIRKMAN
Risk Management

EXHIBIT A
SCOPE OF SERVICES

Services: CONSULTANT shall provide CITY with federal advocacy services. The services shall be in the areas of: (1) homeland security, (2) transportation, and (3) general advisory services.

CONSULTANT shall, in consultation with CITY, be tasked with representing CITY before federal elected and appointed officials, work with CITY to obtain funding and/or authorization for projects primarily in the homeland security arena, and to a lesser degree involving the transportation area, develop key messages and documentation promoting CITY's interests and guide CITY's federal efforts relative to accomplishing an agreed upon federal agenda. CONSULTANT shall assist CITY in obtaining meetings and appointments in Washington, D.C. with elected and appointed federal officials as necessary to support CITY's efforts at the federal level.

CONSULTANT shall, in consultation with CITY, engage in general and/or miscellaneous advisory services that do not represent a full project such as homeland security and /or transportation, such as keeping CITY advised of issues of significance to CITY, advising CITY on the status of legislation relevant to CITY, and communicating with appropriate federal elected and appointed officials on issues relevant to CITY. General and/or miscellaneous advisory services that evolve into a specific project and result in the adding of an additional area(s) will be costed by CONSULTANT and separately negotiated and agreed upon by CITY and CONSULTANT prior to commencing work.

CONSULTANT shall, in consultation with CITY, assist CITY in planning, coordinating and executing for CITY, an official CITY elected official(s)/professional staff member(s) trip to Washington, D.C. In the event CITY desires to conduct or participate in another or further trip to Washington, D.C., CITY and CONSULTANT agree to an additional fee associated with the additional trip(s) based on a rate of \$2,500 per day (to a maximum of \$10,000 per week) for services in arranging meetings or appointments and hosting the CITY delegation in Washington, D.C.

In the event that a professional from CONSULTANT's Washington, D.C. office should travel from Washington, D.C. to CITY, for City business, CITY and CONSULTANT shall negotiate and agree upon an additional fee associated with such trip(s), including reasonable and necessary travel costs, such additional fee being in addition to the monthly fee set forth in Exhibit B-1.

CONSULTANT shall, in consultation with CITY, assume all reasonable office and local travel expenses associated with federal advocacy services. Miscellaneous or one-time expenses that are agreed-upon in advance by the CITY in writing will be reimbursed separately.

EXHIBIT B-1

SCHEDULE OF RATES

Monthly Fee: The monthly fee payable by CITY to CONSULTANT for the satisfactory performance of the services shall be Ten Thousand Dollars (\$10,000.00) per month.

Expenses: CONSULTANT shall not bill CITY for normal and customary expenses of telephone, long-distance, photocopy, telecopy, local travel, word processing, courier, postage, document preparation, clerical tasks or computerized research. If expenses need to be incurred for the benefit of CITY under this Agreement that are outside of such normal or customary expenses, they will be negotiated with CITY prior to incurrence and once agreed upon in writing will be reimbursed to CONSULTANT by CITY. Non-local travel (airfare at coach fares, reasonable hotel and meals and associated costs) will be billed to and paid by CITY at CONSULTANT's actual cost.

EXHIBIT B-2

Schedule of Payment

CONSULTANT shall submit an itemized statement to CITY for its services performed each month which shall include documentation setting forth in detail a description of the services to be rendered and the reimbursable expenses incurred. CITY shall pay CONSULTANT the amount of such billing within thirty (30) days of receipt of same. The monthly statement shall describe the nature of the work performed, the employee performing the work and the time spent for each task as well as the nature of any reimbursable expenses incurred. Any expense over \$50 shall include the appropriate back-up documentation for that expense (i.e. invoice, receipt, etc.).



EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	LIMITS		
				B.I.	P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

It is hereby understood and agreed that the **City of Beverly Hills**, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the **City of Beverly Hills** and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the **City of Beverly Hills**.

In the event of cancellation or material change in the above coverage, the company will give **30 days** written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: _____

BY: _____

Authorized Insurance Representative

TITLE: _____

AGENCY: _____

ADDRESS: _____