A meeting of the Manatee County Port Authority will be held during a meeting of the Board of County Commissioners of Manatee County Tuesday, January 28, 2020, at 10:30 am, or as soon as is practicable, in the Patricia M. Glass Commission Chambers on the first floor of the County Administrative Center at 1112 Manatee Avenue West, Bradenton, Florida

The Manatee County Port Authority may take action on any matter during this meeting, including those items set forth within this agenda. The chairperson, at the option of the chairperson, may take business out of order if the chairperson determines that such a change in the agenda’s schedule will expedite the business of the Port Authority.

CALL TO ORDER
Public Comments

1. CONSENT AGENDA

2. Legal Services Agreement

Executive Director Comments
Public Comments
Commissioner Comments

According to Section 286.0105, Florida Statutes, any person desiring to appeal any decision made by the Port Authority with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

Priscilla Trace, Chairman
Reggie Bellamy, 1st Vice-Chairman; Misty Servia, 2nd Vice-Chairman;
Stephen R. Jonsson, 3rd Vice-Chairman; Vanessa Baugh, Member;
Betsy Benac, Member; Carol Whitmore, Member
January 28, 2020

1. CONSENT AGENDA

   A. 2020 Legislative Priorities, Revision 1

RECOMMENDATION:

Move to approve the Consent Agenda incorporating the language as stated in the recommended motions on the cover sheets for the Consent Agenda items.
January 28, 2020

CONSENT
AGENDA ITEM 1.A.: 2020 LEGISLATIVE PRIORITIES, REVISION 1

BACKGROUND:

On August 15, 2019, the Authority approved the Manatee County Port Authority 2020 Legislative Priorities. The priorities have been revised to include state advocation for water quality improvement through native oyster and clam restoration.

ATTACHMENT:

Manatee County Port Authority 2020 Legislative Priorities, Revision 1

COST AND FUNDING SOURCE: N/A

CONSEQUENCES IF DEFERRED:

Delay in approving the revision to the 2020 Port legislative and advocacy priorities

LEGAL COUNSEL REVIEW: Yes

RECOMMENDATION:

Move to approve the Manatee County Port Authority 2020 Legislative Priorities, Revision 1.
State:

- Advocate for an increase in appropriation for Port Security Grants from the prior year’s mark of $2,000,000 to $3,500,000 annually. This recognizes the need for all ports to upgrade their security networks and access control systems in light of cyber security threats and challenges. The current level does not support the needs expressed by ports statewide. The Florida Ports Council believes our efforts to request expansion of the state grant program is consistent with their efforts to increase the programs funding.

- Advocate for continuation of full funding for the Florida Ports Council FSTED program in the amount of $25,000,000 to meet Florida seaports infrastructure needs.

- Advocate for passage of Appropriations Project Request submitted by Representative Will Robinson on behalf of Manatee County Department of Parks and Natural Resources and filed as HR3829 for water quality improvement through native oyster and clam restoration. A portion of the funds would benefit the Gulf Shellfish Institute (GSI) at Port Manatee. The port is participating with the GSI in a clam restoration project to induce the growth of seagrass.

Federal:

- Advocate to the Administration and to Congress to recommend full use of the Harbor Maintenance Tax collected from shippers for the sole purpose of federal navigation channel maintenance. The full tax collected should be included in subsequent years in the President’s budget request and in House and Senate Energy and Water Development Appropriation bills. Historically, only about half the taxes collected have been applied to the intended purpose. Remaining funds are held in a trust fund that helps offset the federal deficit at the expense of channel maintenance. This has a disproportionately negative impact on smaller ports.

- Advocate for inclusion of funds in Energy and Water Development Appropriations bills and subsequent Administration Work Plan for the maintenance of Tampa Ship Channel and the Manatee Harbor Channel for Fiscal Year 2021 in the amount requested by the Jacksonville District, Corps of Engineers.

- Advocate for inclusion of Operation and Maintenance funding in the President’s Budget Request and Energy and Water Development Appropriations bill and subsequent Administration Work Plan for the continuation of improvements to the Port Manatee Dredge Material Disposal Facility for Fiscal Year 2021 in the amount of $3 million.

- Advocate to Congress to maintain USDHS Port Security Grant funding at the current $200 million level.
January 28, 2020

AGENDA ITEM 2.:  LEGAL SERVICES AGREEMENT

BACKGROUND:

On January 14, 2020, the Authority approved transferring its files and trust account balances to Jennifer R. Cowan, Esq. who is joining the firm of Bryant Miller Olive P.A. (BMO) on February 3, 2020. The Authority’s legal services agreement is currently with Lewis, Longman & Walker, P.A. (LLW) where Ms. Cowan has served as general counsel for the last eight years. The agreement with BMO maintains the general counsel compensation, terms and conditions. LLW representation for lobbying and environmental matters will continue. Request is to approve the agreement with BMO effective February 1, 2020.

ATTACHMENT:

Port Manatee Legal Services Agreement

COST AND FUNDING SOURCE:

No change to budgeted attorney fees

CONSEQUENCES IF DEFERRED:

Delay in continuation of Jennifer Cowan as the Authority’s general counsel

LEGAL COUNSEL REVIEW: Yes

RECOMMENDATION:

Move to approve and authorize the Chairman to execute the Port Manatee Legal Services Agreement between the Manatee County Port Authority and Bryant Miller Olive P.A.
PORT MANATEE LEGAL SERVICES AGREEMENT

The MANATEE COUNTY PORT AUTHORITY, a political entity of the State of Florida, with its principal place of business located at Port Manatee, 300 Tampa Bay Way, Palmetto, Florida 34221 (the “Authority”) and BRYANT MILLER OLIVE P.A., with a place of business located at 201 North Franklin Street, Suite 2700, Tampa, Florida 33602 ("Firm"), for and in consideration of the mutual covenants herein contained and other good and valuable consideration, mutually agree as follows:

1. ACKNOWLEDGMENTS. The Authority previously retained Lewis, Longman & Walker, P.A. pursuant to a Request for Proposal to be the Manatee County Port Authority Attorney. Jennifer Cowan, of Lewis, Longman & Walker, P.A. has served as an attorney for the Authority for the last ten years, and has had the pleasure of serving as the Authority’s General Counsel for the last eight years. Ms. Cowan recently moved her law practice to the Firm. The Authority is pleased with the services provided by Ms. Cowan and desires for her to continue to provide those services at the Firm as the Authority Attorney under the terms and conditions set forth in this Agreement.

2. PROFESSIONAL LEGAL SERVICES. The Firm is designated as the Authority Attorneys and shall perform all of the professional services customarily associated with being the attorneys or general counsel for a unit of local special purpose government, and such other services directed or requested from time to time by the Authority.

3. GENERAL COUNSEL COMPENSATION, TERMS AND CONDITIONS.

A. The Firm will perform all General Counsel services for an annual total fee not to exceed $240,000, plus costs, in fiscal year 2019-2020. All general counsel
services will be performed under the general services matter number for a reduced hourly rate of $225/hour for all Firm attorneys, including senior attorneys and shareholders, beginning February 1, 2020. The hourly rate for all Firm Paralegals will be $130 in FY2020. General Counsel services will also include the monitoring and oversight of litigation brought against the Authority in which the Firm attorneys do not enter an appearance as counsel and will include the handling of potential and actual claims for damages estimated not to exceed $250,000, unless it is determined by the parties to be significant or complex litigation.

B. All significant or complex litigation matters performed by Firm attorneys will be done at a rate of $235 per hour for senior attorneys and shareholders, and $185 per hour for associates. Significant or complex litigation is such litigation that is identified by the Attorney and brought to the attention of the Executive Director and approved by the Commission in a request for additional compensation. Significant or complex litigation means litigation that may include some or all of the following factors: (1) is unexpected; for example, insurance coverage of a claim is denied or a suit seeking insurance coverage must be filed; (2) seeks to recover or defend against a judgment in excess of $250,000; (3) seeks an injunction or special writ which, if issued or not issued, will cause the Authority significant harm; (4) raises novel, complex, or unusual issues of law; or (5) requires special legal expertise or experience not generally possessed by attorneys for a unit of local special purpose government. Further, the Authority recognizes the complex nature of admiralty and railroad matters and routinely retains outside counsel for admiralty and railroad matters. In addition where claims brought against the Authority are covered by insurance, counsel provided by the insurer will appear, represent and
defend the Authority.

Services rendered in overtly threatened litigation for which no initial pleading has yet been filed, shall be deemed General Counsel services under 3A of this Agreement, unless and until the matter is brought to the attention of the Executive Director as having potential to lead to significant or complex litigation, and is approved by the Authority in a request for additional compensation as aforesaid.

Significant or complex litigation matters shall be limited to those overtly threatened or pending litigation matters that the Manatee County Attorney’s Office may refer to outside counsel if, hypothetically, that office were providing the General Counsel services instead of the Firm.

4. **DURATION AND TERMINATION.** This agreement is effective as of February 1, 2020, and the Firm shall continue to provide legal services until terminated by either party by giving the other party ninety (90) days prior written notice of the termination of this agreement. If termination notice is given, the Firm shall cease rendering all services on the date of termination, and the Authority shall compensate the Firm as provided for in this agreement for all services rendered through the date of termination.

5. **ADMINISTRATION.** The Authority hereby authorizes the Executive Director of the Authority, or his designee, to administer the terms and provisions of this agreement on behalf of the Authority and to make all managerial decisions on behalf of the Authority as they relate to the provisions of this agreement.

6. **PUBLIC RECORDS.** Pursuant to section 119.0701, Florida Statutes, for any tasks performed by the Firm acting on behalf of the Authority as provided under section 119.011(2), Florida Statutes, the Firm shall: (a) keep and maintain all public records, as that term is defined in...
chapter 119, Florida Statutes ("Public Records"), required by the Authority to perform such work; (b) upon request from the Authority’s custodian of public records, provide the Authority with a copy of the requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement, if the Firm does not transfer the records to the Authority in accordance with (d) below; and (d) upon completion of this Agreement, (i) if the Authority, in its sole and absolute discretion, requests that all Public Records in possession of the Firm be transferred to the Authority, the Firm shall transfer, at no cost, to the Authority, all Public Records in possession of the Firm within thirty (30) days of such request or (ii) if no such request is made by the Authority, the Firm shall keep and maintain Public Records required by the Authority to perform such work. If the Firm transfers all Public Records to the Authority upon completion of this Agreement pursuant to (d)(i) above, the Firm shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements within thirty (30) days of the termination of this Agreement. If the Firm keeps and maintains Public Records upon completion of this Agreement pursuant to (d)(ii) above, the Firm shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Authority, upon request from the Authority’s custodian of public records, in a format that is compatible with the information technology of the Authority. If the Firm does not comply with a public records request, or does not comply with a public records request within a reasonable amount of time, the Authority may pursue any and all remedies available in law or equity including, but not limited to, specific performance. The provisions of this section

only apply to those tasks in which the Firm is specifically acting on behalf of the Authority.

IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE AUTHORITY AT TERESA DAUGHERTY, EMAIL: TDAUGHERTY@PORTMANATEE.COM; PHONE: (941) 722-6621; ADDRESS: 300 TAMPA BAY WAY, PALMETTO, FLORIDA 34221.

IN WITNESS WHEREOF, the parties hereto have caused this Port Manatee Legal Services Agreement to be executed in duplicate this the 28th day of January, 2020.

MANATEE COUNTY PORT AUTHORITY

By: Chairman

BRYANT MILLER OLIVE, P.A.

By: Nikki C. Day, B.C.S.
Shareholder

ATTEST: Angelina Colonneso
Clerk of Circuit Court