City of Brisbane
Agenda Report

Date: City Council Meeting of May 19, 2016

To: Mayor & City Council

From: Michael Roush, City Attorney

Subject: Resolution Implementing the Business License Tax for Liquid Storage Facilities for 2016

City Council Goals

To provide for effective and efficient delivery of City services (1)

To develop management and fiscal systems to maximize effectiveness of City services and accountability to Brisbane taxpayers and citizens (11)

Purpose

To establish for calendar year 2016 the amount of the business license tax charged to liquid storage facilities under Section 5.20.011 of the Brisbane Municipal Code

Recommendation

Adopt Resolution 2016-09

Background

At the general election in November 2013 Brisbane voters approved an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City of Brisbane. The ballot measure added Section 5.20.011 to the Brisbane Municipal Code, allowing the City to impose up to a maximum business license tax of $115.28 per year for each 1000 cubic feet of liquid storage capacity.

In 2014 and 2015, the City Council imposed a business license tax of $38.91 for each 1000 cubic feet of storage capacity. As to Kinder Morgan/SFPP, LP, the owner of the largest liquid storage facility in Brisbane, this rate translated to a tax of $135,000. The company paid the $135,000 for 2014 under protest in December 2014 and paid the $135,000 for 2015 in January 2016. Recently, the company filed a civil suit against the City in the San Mateo County Superior Court seeking reimbursement for the taxes paid in 2014 and 2016.

<u>Discussion</u>

The City Council has the authority under the Ordinance to impose up to $115.28 for each 1000 cubic feet of liquid storage capacity—which rate, if imposed, would translate to $400,000 as applied to Kinder Morgan/SFPP.   Staff recommends that the City Council impose the full $115.28 for each 1000 cubic feet of liquid storage capacity and impose a tax for 2016 in the amount of $400,000.

<u>Fiscal Impact</u>

Council's adoption of the attached resolution will result in a business license tax of $400,000 for the 2016 calendar year as to Kinder Morgan/SFPP and potentially, other license tax payments from other liquid storage facilities in Brisbane.
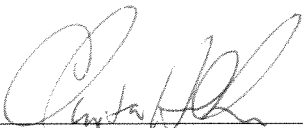
<u>Attachment:</u>

Resolution No. 2016-09

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Michael Roush, City Attorney

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Clay Holstine, City Manager

RESOLUTION NO. 2016-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING THE BUSINESS LICENSE TAX CHARGED TO LIQUID STORAGE FACILITIES UNDER SECTION 5.20.011 OF THE BRISBANE MUNICIPAL CODE

WHEREAS, Section 5.20.011 of the Brisbane Municipal Code imposed an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City; and

WHEREAS, the business license tax for liquid storage facilities, as set forth in Section 5.20.011, is up to a maximum of $115.28 per year for each 1000 cubic feet of liquid storage capacity; and

WHEREAS, the City Council desires to fix the business license tax charged to liquid storage facilities for the calendar year 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:

1. The annual business license tax charged to liquid storage facilities for the calendar year 2015 shall be $115.28 for each 1000 cubic feet of liquid storage capacity.

2. The business license tax for liquid storage facilities exceeding 1,000,000 cubic feet of capacity in the 2016 calendar year shall be $400,000 per facility, reduced by any offsets that have been deducted as provided in Section 5.20.011 B of the Brisbane Municipal Code.

3. Payment of the business license tax for liquid storage facilities is due in full on or before July 1, 2016.

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Cliff Lentz, Mayor

I hereby certify that the foregoing Resolution No. 2016-09 was duly and regularly adopted at the regular meeting of the Brisbane City Council on May 19, 2016 by the following vote:

AYES:
NOES:
ABSENT:

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Sheri Marie Spediacci, City Clerk