

**AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
CITY OF PALM SPRINGS,
THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF
THE CITY OF PALM SPRINGS
AND
BEST BEST & KRIEGER LLP**

1. PARTIES AND DATE.

This Agreement is made and entered into as of the 3rd day of April, 2019, by and between the City of Palm Springs, a California municipal corporation and charter city and the Successor Agency to the Palm Springs Community Redevelopment Agency (collectively, "Client") and Best Best & Krieger LLP, a limited liability partnership engaged in the practice of law ("BB&K").

2. RECITALS.

2.1 Client wishes to engage the services of BB&K as its City Attorney to perform all necessary legal services for the Client on the terms set forth below. For purposes of this Agreement, the term "Client" shall include both the City of Palm Springs and the Successor Agency to the Palm Springs Community Redevelopment Agency.

3. TERMS.

3.1 Term. The term of this Agreement shall commence on April 4, 2019 and shall continue in full force and effect until terminated in accordance with Section 3.12.

3.2 Scope of Services. BB&K shall serve as City Attorney and shall perform legal services ("Services") as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to by the Client and BB&K. Client is engaging BB&K to perform the role and duties of the City Attorney as set forth in Section 408 of the City of Palm Springs Charter. As part of the Services to be performed hereunder, BB&K shall be responsible for the following:

3.2.1 Preparation for, and attendance at, regular meetings of the Client, including its City Council, its Commissions, sub-committees and other boards. BB&K shall attend and conduct office hours at least two (2) days per week, at Palm Springs City Hall generally on Wednesdays and Thursdays. In addition, if and when requested by Client, BB&K shall attend and conduct additional office hours at Palm Springs City Hall on any additional days or days of any week, as needed in the determination of Client. On days when the designated City Attorney is not present at Palm Springs City Hall, the designated City Attorney or other BB&K personnel shall remain available at all times to provide City Attorney legal services to Client from BB&K offices;

3.2.2 Provision of legal counsel at such other meetings as directed by the Client;

3.2.3 Preparation or review of all Client ordinances and resolutions, together with such staff reports, orders, agreements, forms, notices, declarations, certificates, deeds, leases and other documents as requested by the Client;

3.2.4 Rendering to the officers and employees of the Client legal advice and opinions on all legal matters affecting the Client, including new legislation and court decisions, as directed by the Client;

3.2.5 Researching and interpreting laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the Client on legal matters pertaining to Client operations, as directed by the Client;

3.2.6 Performing legal work pertaining to property acquisition, property disposal, public improvements, public rights-of-way and easements, as directed by the Client;

3.2.7 Responding to inquiries and review for legal sufficiency ordinances, resolutions, contracts, and administrative and personnel matters, as directed by the Client;

3.2.8 Representing and assisting on litigation matters, as directed by the Client. Such services shall include, but shall not be limited to, the preparation for and making of appearances, including preparing pleadings and petitions, making oral presentations, and preparing answers, briefs or other documents on behalf of the Client, and any officer or employee of the Client, in all federal and state courts of this State, and before any governmental board or commission, including reviewing, defending or assisting any insurer of the Client or its agents or attorneys with respect to any lawsuit filed against the Client or any officer or employee thereof, for money or damages.

3.2.9 BB&K's Public Policy and Ethics (PP&E) Program provides participants with comprehensive memoranda on laws that directly affect public agencies, such as the Political Reform Act, Fair Political Practices Commission Regulations, the Brown Act, and the Public Records Act. Such memoranda are provided approximately once per month, and are delivered by mail, or at Client's discretion, by electronic mail. The Program also provides participants with updates on new legislation and judicial decisions affecting local governments.

3.2.10 BB&K's Project 5 Program provides participants with comprehensive memoranda summarizing new changes in case law under the California Environmental Quality Act ("CEQA"), an annually updated set of CEQA notices and forms to aid participants in meeting CEQA's requirements, an annually updated set of Local CEQA Guidelines and a draft Resolution for adopting Local CEQA Guidelines, memoranda summarizing pending and recently passed CEQA legislation, and other CEQA resources and materials. Memoranda, forms, and guidelines are provided to participating agencies via the CEQA Guidelines Client Portal, a secure website providing an on-demand and continually updating library of CEQA resources.

3.3 Designated City Attorney. Jeffrey S. Ballinger shall be designated as City Attorney, and shall be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of BB&K. Elizabeth Hull

shall be designated as Successor Agency Counsel. No change in these assignments shall be made without the consent of the Client.

3.4 Time of Performance. The Services of BB&K shall be performed expeditiously in the time frames and as directed by the Client.

3.5 Assistance. The Client agrees to provide all information and documents necessary for the attorneys at BB&K to perform their obligations under this Agreement.

3.6 Independent Contractor. BB&K shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which BB&K, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of BB&K's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 Fees and Costs. BB&K shall render and bill for legal services in the following categories and at rates set forth in Exhibit "A" and in accordance with the BB&K Billing Policies set forth in Exhibit "D", both of which are attached hereto and incorporated herein by reference. In addition, the Client shall reimburse BB&K for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g. Lexis or Westlaw), research services performed by BB&K's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client, but specifically excluding mileage costs to and from City Hall. However, no separate charge shall be made by BB&K for secretarial or word processing services. BB&K shall endeavor to reduce reimbursable costs by utilizing, to the greatest extent possible, supplies and facilities of the City, including photocopiers, computerized research accounts, etc.

3.8 Billing. BB&K shall submit monthly to the Client a detailed statement of account for Services. The Client shall review BB&K's monthly statements and pay BB&K for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 Annual Reviews. The Client and BB&K agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.

3.10 Insurance. BB&K carries errors and omissions insurance with Lloyd's of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California. A separate schedule containing BB&K's insurance policies will be available for inspection upon Client's request.

3.11 Attorney-Client Privilege. Confidential communication between the Client and BB&K shall be covered by the attorney-client privilege. As used in this article, “confidential communication” means information transmitted between the Client and BB&K in the course of the relationship covered by this Agreement and in confidence by a means that, so far as the Client is aware, discloses the information to no third persons other than those who are present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which BB&K is consulted, and includes any legal opinion formed and advice given by BB&K in the course of this relationship.

3.12 Termination of Agreement and Legal Services. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days’ prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.14 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.15 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

3.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

3.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Delivery of Notices. All notices permitted or required under this Agreement notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attention: David H. Ready, Esq., Ph.D., City Manager

BB&K: Best Best & Krieger LLP
P.O. Box 1028
Riverside, CA 92502
Attention: Eric Garner, Managing Partner

3.20 Indemnification.

(a) BB&K agrees to indemnify Client, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising from the negligent acts or omissions of BB&K hereunder, or arising from BB&K's negligent performance of any term, provision, covenant or condition of this Agreement, except to the extent such claims or liabilities arise from the negligence or willful misconduct of Client, its officers, agents or employees.

(b) Client acknowledges BB&K is being appointed as City Attorney pursuant to the authority of Government Code Section 36505, and has the authority of that office. Accordingly, the Client is responsible pursuant to Government Code Section 825 for providing a defense for the City Attorney for actions within the scope of its engagement hereunder. Therefore, Client agrees to undertake its statutory duty and indemnify BB&K, its officers, employees and agents against and will hold and save each of them harmless from, any and all claims or liabilities that may be asserted or claims by any person, firm or entity arising out of or in connection with the work, operations or activities of BB&K within the course and scope of its performance hereunder, but nothing herein shall require Client to indemnify BB&K for liability arising from its own negligence or alleged negligence. In connection herewith:

(1) Client will promptly provide a defense and pay any judgment rendered against the Client, its officers, agency or employees for any such claims or liabilities arising out of or in connection with such work, operations or activities of Client hereunder; and

(2) In the event BB&K, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Client for such damages or other claims solely arising out of or in connection with the work operation or activities of Client hereunder, Client agrees to pay to BB&K, its officers, agents or employees any and all costs and expenses incurred by attorney, its officers, agents or employees in such action or proceeding, including, but not limited to, legal costs and attorneys' fees.

3.21 Conflicts of Interest. BB&K has an extensive municipal and public law practice on a regional basis. BB&K represents a variety of public agencies in the Coachella Valley, some of whom may interact with the Client from time to time. BB&K will not represent the Client and one of BB&K's other public agency clients interacting with the Client unless both the Client and

the other client have consented to such dual representation. BB&K has, for many decades, served as legal counsel to the Desert Water Agency (DWA). Because DWA's service territory includes the Client, it is foreseeable that disputes may arise between the Client and DWA from time to time. In such event, the Client agrees that BB&K may continue to represent DWA and, if necessary, the Client will obtain other legal counsel as to that matter.

3.22 Palm Springs Anti-Discrimination Ordinance.

BB&K agrees to abide by the City's Anti-Discrimination Ordinance, currently codified as Palm Springs Municipal Code section 7.09.040.

IN WITNESS WHEREOF, the Client and BB&K have executed this Agreement for City Attorney Legal Services as of the date first written above.

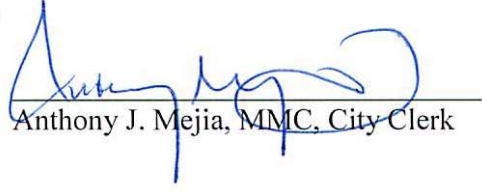
(signatures contained on following page)

**SIGNATURE PAGE TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
CITY OF PALM SPRINGS/ SUCCESSOR AGENCY TO THE REDEVELOPMENT
AGENCY OF THE CITY OF PALM SPRINGS
AND
BEST BEST & KRIEGER LLP**

CITY OF PALM SPRINGS

By: 
David H. Ready, Esq., Ph.D.
City Manager PK

Date: 5/2/19

Attest: 
Anthony J. Mejia, MMC, City Clerk

**SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF PALM SPRINGS**


By: 
David H. Ready, Esq., Ph.D.
Executive Director PK

Date: 5/2/19

Attest: 
Anthony J. Mejia, MMC, Agency Secretary

APPROVED BY CITY COUNCIL
Item 5.D. 4/3/19 A7271

BEST BEST & KRIEGER LLP

By: 
Eric Garner
Managing Partner

Date: April 10, 2019

EXHIBIT “A”
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
CITY OF PALM SPRINGS/ SUCCESSOR AGENCY TO THE REDEVELOPMENT
AGENCY OF THE CITY OF PALM SPRINGS
AND
BEST BEST & KRIEGER LLP

1. **Basic Legal Services – Description and Rate.** Basic Legal Services shall include all services provided to Client as described in Sections 3.2.1 through 3.2.7 of the Agreement, inclusive, that are not otherwise specifically identified below as either Special Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services (“Basic Legal Services”). The Client shall pay for Basic Legal Services at the flat rate monthly retainer amount of Twenty Seven Thousand Five Hundred Dollars (\$27,500) for all Basic Legal Services in a given month. In addition, at the Client’s election, BB&K agrees to provide a paralegal (or executive assistant with equivalent training) to attend office hours of up to six hours per day at a flat daily rate of Nine Hundred Dollars (\$900) per day.

2. **PPE/Project 5 Programs.** In addition to the Basic Legal Services, at the Client’s option, BB&K will provide the following:

Project 5 Program – Updates on the California Environmental Quality Act (CEQA)

By providing our Project 5 Program updates to a large pool of participants, BB&K is able to divide the overall cost of the California Environmental Quality Act products among all participants and charge only a fraction of the total costs to the individual client agencies. The monthly retainer also covers the following services under the Project 5 Program.

Public Policy and Ethics Annual Subscription

By providing our Public Policy and Ethics Program updates to a large pool of participants, BB&K is able to divide the overall cost of the public policy and ethics products among all participants and charge only a fraction of the total costs to the individual client agencies, as follows:

- Customized, on-site training certifying attendees for compliance with State “general ethics principles and ethics laws” required under AB 1234. This usually costs \$2,000 but will be provided to Client at no cost, and will be included within the retainer.
- Written legal advice concerning matters that affect local government such as new legislation, regulations, court decisions and Attorney General opinions. This service includes monitoring significant developments that may affect the agencies, legal research, and drafting memoranda for those developments. As new and existing laws develop and become more complex, public scrutiny intensifies, and expectations for the role of legal counsel change. Our legal updates are critical, and in some cases, required for our local

government clients. These services will be provided to the Client at no cost, and will be included within the retainer.

- Annual updates on the Brown Act, the Public Records Act, the Political Reform Act, and other conflict of interest laws. These services will be provided to the Client at no cost, and will be included within the retainer.

- In addition, clients who participate in the PP&E Program are offered the following legal services, at the Client's option, at the following discounted rates:

- Under this Program and at Client's option, customized, on-site training regarding Statements of Economic Interests (Form 700s). Statements of Economic Interests are building blocks for transparency and good governance. Our Form 700 training covers the different types of reportable interests, avoiding over-disclosure, completing a Form 700, and amending a filed statement. This training is for officials and employee positions listed in the Client's Conflict of Interest Code. This usually costs \$2,500, but is billed to Program participants for \$800, plus costs.

- Under this Program and at Client's option, BB&K-hosted presentations related to the Political Reform Act and the client's role as: (1) the Filing Officer and/or Filing Official receiving and filing Statements of Economic Interests (Form 700s); and (2) the creators and enforcers of the Agency's Conflicts of Interest Code. This usually costs \$125 per attendee, but is billed to Program participants for \$75 per attendee for in-house presentations or \$50 per attendee for our webinars. BB&K also offers group rates upon request.

3. Special Legal Services - Description. Special Legal Services shall include the following types of services:

- A. Litigation and formal administrative or other adjudicatory hearing matters, as described in section 3.2.8 of the Agreement
- B. Non-routine labor relations and employment matters
- C. Non-routine real estate matters (e.g. CC&R's, deed or title work)
- D. Land acquisition and disposal matters (including pre-condemnation)
- E. Successor Agency and housing matters
- F. Taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act)
- G. Public construction disputes
- H. Non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements)
- I. Non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements)
- J. Non-routine environmental matters (e.g. CEQA, NEPA, endangered species)
- K. Water law matters (e.g. water rights & quality)
- L. Tax and ERISA related matters

- M. Toxic substances matters (e.g. CERCLA, RCRA)
- N. Complex public utility matters (e.g. electric, natural gas, telecommunications, water, rail or transit that involve state or federal regulatory issues)
- O. Renewable energy and energy efficiency project contracts and power purchase agreements
- P. Intergovernmental Relations and Advocacy efforts (e.g. legislative and regulatory representation) at the federal and state level.
- Q. Advanced Records Center Services
- R. Other matters mutually agreed upon in writing between BB&K and the City Manager

4. **Special Legal Services – Rates.** The Client shall pay for Special Legal Services at the following blended rates:

Attorney	\$290.00/hour
Paralegals/Law Clerk	\$155.00/hour

5. **Agreement Regarding Rate Categories.** If BB&K believes that a matter falls within the Special Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services rate categories, BB&K shall seek approval from the City Manager or his/her designee. The City Manager’s or her designee’s approval of such a request from BB&K shall not be unreasonably withheld.

6. **Advanced Records Center Services.** Through its new Advanced Records Center (“ARC”), BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, at the Client’s option, the ARC team will assist Client with non-routine Public Records Act Processing and Policy Drafting, as detailed below.

PRA Processing

- Support the Client in the processing of public records by:
 - working with Client’s staff, including technology staff, to identify and collect the records that are responsive to public records requests;
 - using processing and review software to efficiently treat and handle paper and electronic responsive records; and
 - reviewing and redacting records, uncovering complex legal questions, and analyzing records for potential significance.

Policy Drafting

- Assist the Client in updating the following policies to reflect industry standards and best practices:

- Document Retention Policy & Schedule, specifically the purging of emails and other electronic records;
- Litigation Hold Policy, including procedures for when and how to suspend document destruction schedule;
- Electronic Devices Policy, including Client-issued and personal devices (BYOD) as well as responsible and personal use; and
- Social Media Policy, including responsible use and document retention.

Training

- Provide the following training for Client staff and officials:
 - Overview of Public Records Act (including a component of how Client employees will identify public records, as described in the *San Jose* case)
 - Electronic Devices (including a review of the *San Jose* case and inherent obligations)
 - Social Media (including guidance and best practices for staff and elected officials)

The Policy Drafting and Training tasks identified above would be performed at the Special Counsel rates, above. However, the PRA Processing tasks will be billed at \$180 per hour, a blended rate for attorneys, paralegals, and municipal analysts.

7. **Other Billing Personnel.** When not included in Basic Legal Service, additional billing personnel shall bill at the following rates for services performed:

Research Analyst	\$155.00/hour
Litigation Analyst	\$175.00/hour
Municipal Analyst	\$175.00/hour

If, as, and when BB&K employs additional or different billing personnel, this Agreement may be supplemented by written administrative memoranda, providing for the categories and billing rates for such personnel, which memoranda may be approved by the City Manager.

8. **Annual Adjustments; Other Mutual Adjustments.** The rates provided for in this Exhibit shall be automatically increased annually using the cost of living index. At the start of the Client’s fiscal year, July 1, 2020 and every year thereafter during the term of this Agreement, rates and amounts shall be increased for the change in the cost of living for the twelve (12) month period published for the most recent calendar year end, as shown by the U.S. Department of Labor in its All Urban Consumers Index set forth Los Angeles-Riverside-Orange County area; provided, however, that such adjustment shall never be lower than zero percent (0%) nor more than three and three quarters percent (3.75%). In addition to the automatic rate increases, either BB&K or the Client may initiate consideration of a rate increase at any time.

BB&K and Client agree to meet and review the rates set forth in this Agreement within six (6) months following the date first set forth above, in order to determine the Client's legal needs in an effort to ensure that rates and amounts set forth in this Agreement are fair to both BB&K and Client.

**EXHIBIT “B”
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
CITY OF PALM SPRINGS/ SUCCESSOR AGENCY TO THE REDEVELOPMENT
AGENCY OF THE CITY OF PALM SPRINGS
AND
BEST BEST & KRIEGER LLP**

THIRD PARTY REIMBURSABLE BILLING POLICIES

1. **Third Party Reimbursable Legal Services - Description.** Third Party Reimbursable Legal Services shall include legal services provided to the Client for which the Client receives reimbursement from a developer or other third party. These reimbursable legal services include, but are not limited to, review of CC&Rs; establishment of financing districts (i.e., Community Facilities Districts; Assessment Districts; Landscape and Lighting Maintenance Districts); the processing of land use/environmental projects for which the Client is entitled to reimbursement, as well as defending any challenges to project entitlements or any dispute or litigation related to such reimbursable legal services.

2. **Third Party Reimbursable Legal Services - Rates.** The Client shall pay for Third Party Reimbursable Legal Services at BB&K's then current published standard private client rates. Upon execution of this Agreement, BB&K shall provide a copy of its published rate schedule to the Client. BB&K shall also provide annual written updates to the Client when changes are made to the published rate schedule.

EXHIBIT "C"
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BEST BEST & KRIEGER LLP

PUBLIC FINANCE & BOND BILLING POLICIES

BB&K will provide bond counsel, special counsel or disclosure counsel services at the request of the Client. Such bond counsel and special counsel services include the preparation of all legislative approvals and legal documentation relating to the appropriate sale and delivery of the bonds, notes or other obligations. BB&K will also prepare such closing certificates and legal opinions necessary for the delivery of the bonds. As disclosure counsel, we will prepare the disclosure documents for the Client and conduct the necessary due diligence related to the transaction. Our fees will be determined based upon the type of financing and the expected involvement of the attorneys involved. We will provide the Client with a detailed description of our services and our fees and reimbursable costs upon the Client's request. Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in this Agreement, including with respect to services rendered for the formation of, or annexation to, a CFD (of either the Client or other local public agency), as well as the negotiation and preparation of funding agreements and joint financing agreements. Legal services related to the Client's compliance with its continuing disclosure covenants and provide such necessary advice on the Client's compliance shall be billed as Special Legal Services, above.

EXHIBIT "D"
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BEST BEST & KRIEGER LLP

BB&K BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to Judy Ismael of our Accounting Department. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Fees for Professional Services

Unless a flat fee is set forth in our engagement agreement with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Meaningful, collaborative and substantive discussions between attorneys retained to handle a matter provide an effective method of assuring that an issue is adequately evaluated. We will bill for reasonable charges associated with such discussions. Billings for discussion time should clearly indicate the substance of the discussions. However, attorneys will not bill for provisions of instructions to subordinates, including subordinate attorneys, or for time spent training. We will not bill for new attorneys to "get up to speed" on a file or for time spent assigning a matter to another attorney.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. Time is accrued on an incremental basis for such matters as telephone calls (minimum .3 hour) and letters (minimum .5 hour), and on an actual basis for all other work.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges

include but are not limited to, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees, but specifically excluding mileage costs to and from City Hall. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates. The parties will strive to utilize technology, such as teleconferencing or video conferencing, in order to minimize travel expenses.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Mandatory Non-Binding Mediation

With the exception of Section 12 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, including, without limitation any dispute relating to the amount billed by or owed to BB&K, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association (AAA) or any other neutral organization mutually agreed upon before having recourse in a court of law. Mediation proceedings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The parties may agree to exchange any information they deem necessary.

Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice shall be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We will then advise the client by letter that the client may pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise

that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

BEST BEST & KRIEGER LLP