

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Board Chairman

Indra Winquest
Interim General Manger

SUBJECT: Review, discuss and possibly approve adding Task 3 to the existing Best, Best & Krieger (BBK) Agreement effective May 7, 2020 and a proposed budget of \$50,000

DATE: April 20, 2020

I. RECOMMENDATION

That the Board of Trustees review, discuss and possibly approve adding Task 3 to the existing BBK agreement. This task adds legal services for the Board of Trustees effective May 7, 2020 and a proposed budget of \$50,000.

II. BACKGROUND

At the January 29, 2020 Board of Trustees meeting, the Board of Trustees unanimously approved the Interim District General Manager to engage BBK to perform two tasks – (1) a review of the Hutchinson & Steffen retainer agreement and (2) a review of the work to date on the Mark E. Smith v. IVGID legal action. The monetary limit for these two tasks, as approved, was a total of thirty thousand dollars (\$30,000.00).

Following this action, the Interim District General Manager engaged BBK and the Board of Trustees Chairman and Interim District General Manager executed an agreement which is attached hereto. BBK assigned Mr. Joshua Nelson to be the representative to the District. Mr. Nelson has advised the Board on both matters in tasks 1 and 2. Billing for that work, as of the writing of this memorandum, has not yet been received but it has been requested.

At the April 14, 2020 Board of Trustees meeting, the Board of Trustees voted unanimously to issue a letter of notice of termination to Hutchison and Steffen in accordance with the retainer agreement between Hutchison & Steffen and the Incline Village General Improvement District. The retainer agreement was included in the

materials supporting this Board action and can be found in that Board packet. The retainer agreement calls for a six month period of transition and that period began on April 14, 2020 and will be complete on or about October 12, 2020. With the ending of this retainer agreement, the Board of Trustees finds itself without legal counsel that it desires to take advantage of. The performance of BBK's representative Joshua Nelson has proved to be satisfactory with the Board of Trustees such that they desire to hire them effective immediately. As these are professional services, a request for proposal is not required.

III. FINANCIAL IMPACT AND BUDGET

The financial impact of Task 3 is recommended to be a not-to-exceed amount of \$50,000. This work will be funded out of the General Fund.

IV. ALTERNATIVES

Not approve this action and utilize Hutchison & Steffen.

V. BUSINESS IMPACT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

Task 3 - Provide legal services to the Incline Village General Improvement District Board of Trustees.

(Reference: **Task 1** is the review of the current Hutchison & Steffen legal services agreement to provide an opinion on the agreement's contents and **Task 2** is review the status of the Mark E. Smith & IVGID (Case No. CV18-01564) to provide an opinion on the current status of the case, provide opinion(s) on potential settlement options, and assist the Board of Trustees with the settlement of the case in the best interest of the District.)

Task 3 is to provide legal services to the Incline Village General Improvement District Board of Trustees. These services include, but are not limited to, the following services:

Attending scheduled Board of Trustees meetings starting May 27, 2020 with an ending date of to be determined and representing themselves as District General Counsel;

Answer all questions posed by the Board of Trustees; and

Provide other services as directed by the Board of Trustees Board Chair.

These services are provided under the agreement dated February 3, 2020 and the fees charged are in accordance with this same agreement; Joshua Nelson, hourly rate of \$275.00.

Incline Village General Improvement District Board of Trustees consists of five elected officials and consist of Chair Tim Callicrate, Vice Chair Matthew Dent, Treasurer Sara Schmitz, Secretary Kendra Wong and Trustee Peter Morris.

All services provided by service provider shall be under the control of the Board of Trustees Chair. All invoices charged against this task shall be approved by the Board Chair prior to payment by the District. This effort will be coordinated by the Interim District General Manager or his designee.

The funds allocated to this task are not-to-exceed fifty thousand dollars (\$50,000.00). The approval for these funds came before the Board of Trustees on May 6, 2020 and was approved by a vote of ?????.



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February 3, 2020

Indra Winqest
Incline Village General Improvement District
893 Southwood Blvd.
Incline Village, NV 89451

Re: Engagement Letter and Fee Agreement

Dear Mr. Winqest:

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to represent Incline Village General Improvement District (“IVGID”). Specifically, we will provide legal advice and counsel regarding IVIGD’s current legal services agreement with Hutchison & Steffen and reviewing the status of the *Mark E. Smith v. IVGID* (Case No. CV18-01564) to provide an opinion on settlement options, as well as any other related work you may request us to undertake from time to time. This letter constitutes our agreement setting the terms of our representation.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

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To also assure mutuality of trust, we have maintained a conflict of interest index. The Nevada Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing your firm. Similarly, your agency's name will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to your firm.

We have checked the following names against our client index: Incline Village General Improvement District, Mark E. Smith, and Hutchison & Steffen. Based on that check, we can represent your agency. Please review the list to see if any other persons or entities should be included. If you do not tell us to the contrary, we will assume that this list is complete and accurate. We request that you update this list for us if there are any changes in the future.

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

I will be the only attorney working on this matter and will bill at a rate of \$275 per hour during 2020. The memorandum attached to this letter describes the aspects of our firm's billing policies. You should consider this memorandum part of this agreement as it binds both of us. For that reason, you should read it carefully.

INSURANCE

We are pleased to let you know that Best Best & Krieger LLP 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 Nevada.

NEW MATTERS

When we are engaged by a new client on a particular matter, we are often later asked to work on additional matters. You should know that such new matters may be the subject of a new signed supplement to this agreement, especially litigation matters, which may also require the payment of a retainer in advance. Similarly, this agreement does not cover and is not a commitment by either of us that we will undertake any appeals or collection procedures. Any such future work would also have to be agreed upon in a signed supplement.

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HOW THIS AGREEMENT MAY BE TERMINATED

You, of course, have the right to end our services at any time. If you do so, you will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to you or your new counsel. By the same token, we reserve the right to terminate our services to you upon written notice, order of the court, or in accordance with our attached memorandum. This could happen if you fail to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent you for ethical or practical concerns.

CLIENT FILE

If you do not request the return of your file, we will retain your file for seven years. After seven years, we may have your file destroyed. If you would like your file maintained for more than seven years or returned, you must make separate arrangements with us.

THANK YOU

On a personal note, we are pleased that you have selected Best Best & Krieger LLP to represent you. We look forward to a long and valued relationship with you and appreciate your confidence in selecting us to represent you in this case. If you have any questions at any time about our services or billings, please do not hesitate to call me.

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If this letter meets with your approval, please sign and date it, and return the original to us. Unless you sign, date and return the original by March 6, 2020, we will not represent you in any capacity, and we will assume that you have made other arrangements for legal representation. We have enclosed a separate signed copy of this letter for your records.

Sincerely,

Joshua Nelson
of BEST BEST & KRIEGER LLP

JN:cp

AGREED AND ACCEPTED:

By:  _____

Dated: 2/5/20

By:  _____

Dated: 2/5/2020