MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review, discuss and possibly approve hiring Best Best & Krieger LLP to conduct an investigation of District operations regarding the retention of emails and other public records, with a not-to-exceed amount of $20,000.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review, discuss and possibly approve hiring Best Best & Krieger LLP to conduct an investigation of District operations regarding the retention of emails and other public records, with a not-to-exceed amount of $20,000.
September 12, 2017

VIA E-MAIL

Matthew Dent
Board of Trustees
Incline Village General Improvement District

Re: Public Records Investigation

Dear Mr. Dent:

Best Best & Krieger LLP is pleased to present this proposal to conduct an investigation into the public records practices and related governance practices of the Incline Village General Improvement District (IVGID). The team that could assist IVGID in this matter is Gary Schons and myself. Mr. Schons’s resume is enclosed. However, he has substantial experience in good governance practices and related investigations. Prior to joining BB&K, Mr. Schons served as a deputy district attorney and senior advisor for Law & Policy in the San Diego County District Attorney’s Office. He also served for a number of years in the California Attorney General’s Office. At BB&K, Mr. Schons heads our Government Policy & Public Integrity practice. He is not licensed in Nevada and would be working with me on the investigation.

I am licensed in both California and Nevada. The vast majority of my practice is devoted to representing local agencies as both general and special counsel. Locally, I act as General Counsel to the Alpine Springs CWD, North Tahoe PUD and the Tahoe RCD. I have also advised IVGID on special counsel matters.

We estimate that the investigation would cost approximately $20,000. We would charge our discounted public agency rates. Mr. Schons’s hourly rate is $340. My hourly rate is $255.

Please let me know if we can provide any additional information or a draft engagement letter. Thank you.

Sincerely,

Joshua Nelson
of BEST BEST & KRIGER LLP

cc: Gary Schons, Esq.

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At a Glance
Gary heads the Government Policy & Public Integrity practice.
He served as trial counsel for the Commission on Judicial Performance.
Gary is an active member of the California District Attorneys Association, lecturing and authoring articles for the association.

Profile
As head of Best Best & Krieger’s Government Policy & Public Integrity practice, Gary W. Schons counsels public agencies, officials and private businesses who wish to promote public confidence in their decision-making processes by ensuring that official conduct is above reproach. The group’s goals are to:
- Provide comprehensive and strategic compliance solutions to public officials, individuals and corporations seeking to conform their conduct to standards, best practices, laws and regulations
- Advise and represent clients on public integrity issues involving governmental and political practices
- Inform clients of relevant federal, state and local legislation, including those relating to the Political Reform Act and the Public Records Act

Prior to joining BB&K, Gary served as deputy district attorney and senior advisor for Law & Policy in the San Diego County District Attorney’s Office. In this role, he advised the District Attorney and her executive staff on legal, public integrity, legislative and policy issues and provided legal assistance to all 300 deputy district attorneys in the office.

Areas of Focus
Practices
- Government Policy & Public Integrity
- Municipal Law
- Public Agency Litigation
- Public Safety
- Special Districts

Industries
- Municipal
- Special Districts
From 2010-2016, Gary served as trial counsel for the Commission on Judicial Performance. He was responsible for conducting all formal proceedings initiated by the Commission to impose discipline on judges and other judicial officers in California.

From 1976-2011, Gary was a member of the Criminal Division of the California Attorney General's Office in San Diego. During his career there, he served as deputy attorney general in the Appeals, Writs & Trial Section, in the Special Prosecutions Unit and as head of the Asset Forfeiture and Money Laundering Unit, which he established. Gary was cross-designated as a special assistant United States Attorney in the Central and Southern districts of California. In 1991, the Attorney General promoted Gary to senior assistant attorney general and head of the Criminal Division in San Diego. In that role, he supervised 75 deputy attorneys general who handled felony appeals and habeas corpus and trial matters, including numerous public integrity-related prosecutions. The office handled some 1,500 cases annually and was responsible for more than 200 death penalty appeals.

Gary is an active member of the California District Attorneys Association, lecturing and authoring articles for the association. He is also active in the San Diego County Bar Association, where he served on the Judicial Elections Evaluation and Legal Ethics committees. Gary is a long time member of the University of San Diego School of Law Board of Visitors and past president of the Law Alumni Association. He is admitted to practice law in the State of California.

Gary is married to Judy Hagar Schons, a San Diego native. They live in the Talmadge neighborhood of the City. Gary was raised in West Covina where he attended Bishop Amat High School, before moving to San Diego for college. Gary is an avid cook and diner and contributes a column to the local newspaper on dining. He also enjoys golf and sailing.

**Education**

- University of San Diego School of Law, J.D.

**Memberships**

- California District Attorneys Association
- San Diego County Bar Association
- University of San Diego School of Law Board of Visitors
- Law Alumni Association, past president
Awards

- The Best Lawyers in America®, Ethics and Professional Responsibility Law, 2017-2018
- San Diego Magazine Top Lawyer, 2015
- Martindale-Hubbell® AV Preeminent™ Rated
- California District Attorney's Association, William E. James Award
- San Diego Chief of Police, commanding Officer's Citation
- University of San Diego School of Law, Distinguished Alumni Award & Honorary Order of the Coif
- National College of District Attorney's, Lecturer of Merit

Authorships

LEGAL ALERTS | SEP 11, 2017
Ban on Officers Discussing K9 Program Violated First Amendment
Ninth Circuit Decision on Nevada State Highway Patrol Prior Restraint Case

LEGAL ALERTS | AUG 31, 2017
Automated License Plate Scans Data May Be Disclosed
California Supreme Court Finds Public Record Exemptions Do Not Apply

LEGAL ALERTS | AUG 21, 2017
PRA Request Compliance May Not Shield from Attorney's Fees
California Appellate Court Orders City to Pay

LEGAL ALERTS | JUL 18, 2017
Calif. AG Says SB 415 Applies to Charter Cities and Local School Districts Governed by Charter Cities
California Voter Participation Rights Act

LEGAL ALERTS | JUL 11, 2017
Independent Contractors & Consultants Can be Subject to Conflict of Interest Laws
California Supreme Court Sets New Precedent for GC Section 1090

LEGAL ALERTS | MAR 2, 2017
E-Communications on Private Accounts May Be Subject to Disclosure Under the California Public Records Act
State Supreme Court Opinion Impacts Public Agencies

LEGAL ALERTS | DEC 29, 2016
Legal Invoices to Public Agencies in California May Be Exempt from Disclosure
The California Supreme Court Tackles Public Records vs. Attorney-Client Privilege

AUTHORED ARTICLES & PUBLICATIONS | DEC 22, 2016
Professionalism Manual
California District Attorneys Association

LEGAL ALERTS | DEC 9, 2016
Are Private E-mails & Text Messages “Public Records?”
Decision Expected Soon from California Supreme Court

LEGAL ALERTS | AUG 22, 2016
Public Agency Not Subject to 60-Day Limit
California Appellate Court Finds Contract Void Under Government Code Section 1090

LEGAL ALERTS | AUG 11, 2016
Appellate Court “SLAPP”s Residents in Culver City Upset Over Parking Restriction Changes
City Did Not Violate Brown Act

LEGAL ALERTS | AUG 10, 2016
California Supreme Court Curbs Responses to Anti-SLAPP Motions
Elected Officials’ Free Speech Rights Analyzed

LEGAL ALERTS | JUL 21, 2016
California Appellate Court Holds Police Video of Arrest Not Protected Under “Pitchess”
Only a Record Generated as Part of an Internal Investigation is Protected by Pitchess
Public Safety Technologies: Big Brother and the Fourth Amendment

BB&K Attorney Gary Schons Examines the Intersection of Technology, Law and Public Safety for Municipal Lawyer Magazine

High Court Clarifies “Official Act” in Former Gov. Bob McDonnell Decision

BB&K Attorney Gary Schons Discusses Decision’s Implications for Public Officials in PublicCEO

California Supreme Court Clarifies Who is Liable for Prosecution for Misuse of Public Funds

Determining If Someone is “Charged” with Fiscal Responsibility is Key

City Slapped Down on anti-SLAPP Claim

Details of a Potential NFL Deal for Carson Not of Public Interest, Court Says

Court Clarifies the “Cease & Desist” Requirement Prior to Initiating Brown Act Litigation

City’s Loss Illustrates Risks of Litigating Open Meeting Law Violation Claims

Body-Worn Cameras, the Prosecutor, and the Question of Public Access

BB&K Attorney Gary Schons Examines Police Body Cameras From a Variety of Angles for the California District Attorneys Association’s Prosecutor’s Brief

U.S. Supreme Court Holds States and Localities May Continue to Draw Voting Districts Based on Total Population

Total Population, However, May Not Be the Only Standard Upon Which Voting Areas Can Be Based
California Court Interprets Stockton’s Term Limit Non-Cumulatively to Allow Repeat Runners
Case Illustrates Why How a Measure is Worded Matters

City Ordinance Banning New Outdoor Billboards, but Authorizing Relocated Ones, Upheld by California Court
Authorizing Relocated Ones Upheld by Court; Constitutional Challenges Rejected; Injunction Order to Remove Billboard Affirmed

New California Law Enforcement Reporting Requirements for Officer-Involved Shootings and Use of Force, Attorney General Hopes Data Will Promote Transparency

California Appellate Court Holds Unruh Act Does Not Apply to Legislative Action
Decision Comes in Short-Term Rental Ordinance Litigation

California Appellate Court Clarifies Proper Amount of Evidence Required to Support Restitution Order
Question Considered in Graffiti Abatement Case

Federal Appeals Court Questions State Senator’s Order to Remove a Dissident from the Senate Building
Removal Order Could Have Violated the First Amendment

Attorney-Privileged Documents Mistakenly Released Under PRA Still Exempt
California Appellate Court Rules in Case Likely to be Decided by State Supreme Court
Anti-Discrimination Housing Laws Tackled by U.S. Supreme Court
Public Agencies May Face Litigation, but Court-Imposed Safeguards to Limit Liability

California Supreme Court Holds Prosecutors Must File Pitchess Motions to Examine Police Personnel Records
Law Enforcement Agencies Should Seek Guidance When Prosecutors Ask to Review Officer-Witness Files

Hotels Need Not Provide Guest Registry to Law Enforcement
U.S. Supreme Court Strikes Down Los Angeles City Ordinance Requiring Hotel Operators to Provide Guest Register Records to Police Officers on Demand

Closed Session Final Decision and Vote Details Must Be Publicly Reporter at the Same Public Meeting
BB&K Attorneys Gary Schons and Tori Hester Explore Open Meeting Laws in California Special District Magazine

Water District Case Clarifies California Public Records Act Exemption for Utility Customers
"Customer" Includes a Business or Corporation, Judge Rules

Attorney Billing Invoices Privileged From Disclosure Under PRA
California Court of Appeal Rules Attorney-Client Privilege Exemption Covers Billing Invoices

Ninth Circuit to Rehear Second Amendment Case
Case Challenges San Diego County Sheriff's Policy on Issuance of
Concealed Carry Permits

LEGAL ALERTS | MAR 23, 2015
Ninth Circuit Draws Clear Distinction Between California's Meeting Disruption Statutes
Skid Row Demonstration Disrupts a Neighborhood "Walk," But Police Make an Arrest for the Wrong Violation

LEGAL ALERTS | MAR 16, 2015
California Supreme Court to Hear PRA Case on Inadvertent or Accidental Disclosure of Privileged Records
Case Involves Attorney-Client Privileged Documents Released During Litigation

LEGAL ALERTS | DEC 12, 2014
Accidental Disclosure Waives Privilege Under Public Records Act
Court of Appeal Says Privilege Removed Under PRA By Inadvertent Disclosure of Privileged Documents

LEGAL ALERTS | NOV 20, 2014
It Is Now a Crime to Help a Public Official Make a Contract that Holds Personal Financial Interest
California Legislature Expands Government Code Section 1090 Liability to Those Who Aid and Abet

LEGAL ALERTS | NOV 12, 2014
New Groundwater Legislation Update: Comments Recommended Regarding Groundwater Basin Prioritization
Public Agencies Wishing to Dispute Basin Prioritization or Boundaries Should Submit Comments As Soon As Possible

LEGAL ALERTS | OCT 28, 2014
California Attorney General Offers Guidance on Scope of Government Code Section 1090
Pair of Recent Opinions Clarifies Conflict-of-Interest Statute
Use of School Grounds for Campaign and Election Activities
The Education Code and the Courts Have Established Rules and Regulations for Campuses

LEGAL ALERTS | OCT 20, 2014
FPPC Goes on Offense to Identify and Fine Gift Reporting Failures
"Pro-Active" Approach Already Resulted in Fines for Public Officials

LEGAL ALERTS | SEP 23, 2014
Getting "Schooled" by the FPPC
AB 1234 Ethics Training Can Safeguard School Officials from FPPC Reporting Violations

LEGAL ALERTS | SEP 15, 2014
State Controller Rolls Out an Open Data Website on Local Government Finances
New Website Promotes Government Transparency

- "Special Responsibilities of a Prosecutor (Rule 3.8)," Daily Journal, April 25, 2017
- "Body-Worn Cameras, the Prosecutor, and the Question of Public Access," California District Attorneys Association’s Prosecutor’s Brief, April 2016
- "Even Pre-Litigation Is Not a Contact Sport," San Diego County Bar Association’s For the Record, July 17, 2015
- "Conflict Law Doesn’t Apply to UC Faculty," Daily Journal, Sept. 8, 2014