



Proposal to Provide  
**City Attorney Services**

Presented to:  
**City of San Clemente**  
January 25, 2023

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## I. COVER LETTER

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January 25, 2023

### VIA ELECTRONIC SUBMITTAL

Janet Batchelor  
Management Analyst  
City of San Clemente  
910 Calle Negocio  
San Clemente, CA 92673

Re: Response to Request for Proposals to the City of San Clemente for City Attorney Services

Dear Ms. Batchelor and City Council,

On behalf of Best Best & Krieger LLP (BB&K), we are pleased to present our proposal to continue providing legal services to the City of San Clemente (City). BB&K is a full-service law firm with twelve offices throughout California, the Pacific Northwest, Texas and Washington, D.C. We have 250 attorneys providing a full range of legal services in every area the City may require. Established in 1891, BB&K has been providing comprehensive legal services to public agencies for more than 130 years.

Our attorneys have participated in the Orange County legal community for decades, with ties dating back to the original adjudication of water rights in the Santa Ana River. We consider our work in San Clemente central to our successes here. Our ties with San Clemente date from 2015 when we were honored to be chosen, after a rigorous selection process, to serve as your City Attorneys. That experience, together with my San Clemente residency – shared with other fortunate members of our service team – gives us intimate history, continuity, familiarity and ownership with the City and its affairs. Through our local Irvine office and our regular City Hall presence, we have provided the City the personalized service of a small firm while assisting it with complex, multi-disciplinary issues with the breadth, depth, and flexibility of our attorney roster. Having worked to protect the City through some difficult patches over the past few years, we would welcome the opportunity to work with this Council and its new manager on your goals going forward.

We are confident that our firm will present the City a compelling choice as the best qualified and most economical choice for City Attorneys. Our San Clemente experience and close physical proximity to you coupled with our efficiencies as California's largest public law firm assure this. We have proven our ability to control and reduce legal expenses in collaboration with the City Council and its directives. In fact, the City's professional consultant in a recent study suggested that several of our San Clemente best practices should be adopted by other cities.

Our contractor status enables the City to avoid the cumbersome costs of attorney staffing and overhead, together with the salaries, benefits, and defined-benefit retirement that an in-house legal department would require. We understand the challenges and opportunities facing the City.

*Best Best & Krieger LLP*

For these reasons, we believe we are uniquely positioned to continue to provide the highest quality services to the City.

We currently serve 55 cities across California as City Attorney. Nearly half the cities in California call upon our lawyers for one reason or another. We are confident we can continue to provide all the City's legal services at a competitive rate without compromising quality of service. BB&K can offer the City a full spectrum of legal services encompassing general counsel and specialized areas such as coastal law, land use, environmental law, eminent domain, conflict management, and employment matters. Our portfolio of Orange County city clients has allowed us to build efficiency and economies of scale into our delivery of services on issues common to you. In fact, several of our Orange County city clients cooperated and paid to assist San Clemente in the successful defense of its *Housing is a Human Right* lawsuit. San Clemente also pays only a portion of the costs of NPDES stormwater compliance as those costs are pro-rated among our SDRWQCB co-permittee clients.

BB&K proposes two alternative staffing plans to the City of San Clemente. First the firm offers that I, Scott C. Smith continue to serve as City Attorney to the City. I have over 37 years of experience representing public agencies at BB&K and was a charter member of our Orange County office when it opened in 2004. My practice includes Constitutional law, governance (including the Brown Act and Public Records Act), and land use and planning. In addition, I will be supported by a team of qualified BB&K attorneys who will be available to the City for all special counsel requests. I will continue to be the primary contact person for all matters and will supervise all legal services provided by our firm. We have designated the following attorneys to assist the City as needed: David King as Assistant City Attorney, Matthew E. Richardson and Megan K. Garibaldi to serve as additional city attorney counsel, Elizabeth W. Hull for transactional matters and Jeffrey V. Dunn, Christopher Pisano and Aryan Vahedy for litigation services.

Alternatively, the firm offers Shawn D. Hagerty to serve as City Attorney, with the same team serving the City in the same roles. Shawn has over 26 years of experience representing public agencies at BB&K. He will be supported by the same team as specified above and me.

Communication is the cornerstone of our legal services. Our primary goal is to continue as an integrated, meaningful player on the City's team. We will work hard to understand the City's expectations and needs, provide timely and accurate responses to your requests, anticipate and identify any potential legal pitfalls, and cultivate an effective and efficient working relationship. BB&K attorneys are always available and accessible to accommodate client needs. We understand that time-sensitive demands require special attention.

As discussed in greater detail below, our proposed team has unparalleled experience – including San Clemente experience – in working on projects relating to transportation, infrastructure, water and water infrastructure, homelessness, the Coastal Act, and housing. We believe our skills and relationships in these areas, especially with the County, the Sheriff, and other Orange County cities, have been key to significant City successes since it engaged us in 2015. We believe they will continue to be key to the future quality of life in your community.

BB&K will continue to serve the City from its Irvine office located at 18101 Von Karman Avenue, Suite 1000, Irvine, CA 92612. The general telephone number for the Irvine office to reach me or Shawn is (949) 263-2600 and I can be reached directly at (949) 263-6561 or on my cell phone at

██████████ The firm's Irvine office is less than 30 miles from City Hall. The rates set forth in this proposal are valid for at least 90 days.

On behalf of BB&K, we would be honored to continue providing legal services to the City of San Clemente. We appreciate your consideration of our proposal. Shawn and I are partners of the firm and authorized to execute a contract with the City for legal services. Please let me know if I can answer any questions you may have or if you would like to further discuss this proposal.

Sincerely,



Scott C. Smith  
of BEST BEST & KRIEGER LLP

## II. BACKGROUND AND APPROACH

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### A. Approach and Availability

Should BB&K be selected to continue providing city attorney legal services, Scott Smith or Shawn Hagerty will be available immediately to serve as City Attorney. BB&K has found that we can reduce the cost of legal services if our appointed city attorney holds office hours on the same day as City Council meetings. Scott or Shawn will be available to attend all City Council meeting and hold agreed-upon office hours. We are happy to discuss this arrangement or any other arrangement that the City may prefer.

City Manager and City Council inquiries will receive immediate response but in all cases will receive an initial response in not less than four hours. The City Attorney will always be available by phone, cell phone, or email. The firm is committed to responding to City requests within the time frame they require. We will return missed calls from Council and your City Manager within the hour and expect to turn work around in no longer than 72 hours, unless we make alternative arrangements with you. We can often respond to routine matters immediately, as it is likely that one of our attorneys has already handled a matter of the same or similar nature. Given the depth of the firm's resources, in both personnel and experience, the firm is capable of responding to complex requests in an expedited manner.

### B. Description of Law Firm, Management and Team Members

BB&K proposes two alternative staffing plans to the City of San Clemente. First the firm offers that Scott C. Smith continue to serve as City Attorney. He will be the primary contact person for all matters and will supervise all legal services provided by our firm. We have designated the following attorneys to assist Scott as needed: David King as Assistant City Attorney, Matthew E. Richardson and Megan K. Garibaldi to serve as additional city attorney counsel, Elizabeth W. Hull for transactional matters and Jeffrey V. Dunn, Christopher Pisano, and Aryan Vahedy for litigation services. Alternatively, the firm offers that Shawn D. Hagerty serve as City Attorney with the same team serving the City in the same roles.

In addition to our proposed attorney team, any of the firm's 250 attorneys can be called upon should the City face matters in special counsel areas and added to the team upon further review with the City. Our excellent paralegals, who possess decades of experience in core public law issues such as the Brown Act, the Public Records Act, and all matters of conflicts of interest, will also be available to the City as will our deep bench of experienced paralegals, secretaries, IT staff, librarians, and other administrative personnel.

The firm is managed by a five-person executive committee chaired by the firm's managing partner, Eric L. Garner. Additional firm leadership members include office managing partners, practice group leaders and other profession staff. Currently, 50 equity partners contribute capital to fund the business.

### III. METHODOLOGY

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Our methodology for delivering San Clemente services will be to continue in our established pattern with you, altering course as the Council and City Manager might direct. We believe this plan is facilitated in large part by our proximity to the City and the advanced technological platform we employ. We will continue to provide our broad bench of more than 200 public lawyers through a team of lawyers who should seem like they're on-site at City Hall's third floor, and who often are.

The BB&K Municipal Law practice group focuses on helping public clients successfully maneuver through legal complexities and governmental mandates. We offer comprehensive guidance on all matters involving day-to-day operations, governance, and regulation. Because BB&K has a history of extensive involvement in all aspects of municipal law, we have pioneered methods to deliver advisory and litigation services in a comprehensive and cost-effective manner. Our innovative approach to municipal law ensures the highest quality and most timely representation available in California.

BB&K has experience in every legal area the City has identified in its RFP, including environmental law, real estate, drafting and implementation of agreements and contracts, and litigation. We provide service-oriented solutions to complex legal issues facing public agencies in virtually every area of interest to the City. The following describes the general areas of law covered by our firm relating to City Attorney duties called for in the City's work plan. Additional services offered are further described under Section VI.

Our municipal law practice group divides itself into sub-specialty areas, with assignments made to each to track and stay current on some area of municipal law. We have internal resources to share that information and to self-identify in areas of specialization. Our San Clemente team's primary responsibilities are to San Clemente and are considered internally your "first line" lawyers. Nevertheless, every lawyer is available and assigned as needed to work on your matters at these rates.

## IV. WORK PLAN

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### A. On-Site Work Plan

If BB&K is selected to serve as City Attorney, the City will be primarily served from our Irvine office. We believe that, in addition to physical proximity, quality service and enduring relationships depend on communication technology, flexibility, and responsiveness. Consequently, BB&K has invested in state-of-the-art teleconference technology as well as video and electronic conference services. We will work side by side with the City Council, management, and staff to employ a suitable level of face-to-face communication or communication technology as you see fit, with our default expectation being face-to-face meetings with you.

If BB&K is awarded a contract, Scott or Shawn and David will work with the City to continue in mutually acceptable office hours, which should not require much deviation from our current schedule for those meetings.

### B. Conceptual Plan for Services

A city attorney, whether in-house or by contract, is a representative of the city itself. A city attorney should be a zealous advocate, but also professional and courteous at all times, not only to the City Council and City staff but to all members of the community. When working with other public and private entities on the client's behalf, such as business owners, a city attorney should foster a respectful working relationship while working zealously to achieve the city's objectives.

The firm's role as San Clemente City Attorney is to provide legal representation to the City, which includes not only defending the City in all legal matters but, more importantly, proactively ensuring that the City complies with the law at all times. Scott or Shawn and the BB&K assigned team will work with the City to achieve its goals rather than stand in the City's way; accordingly, it is important that name, as City Attorney, be involved in City projects from inception to ensure that projects are neither held up by legal hurdles nor hindered by litigation risk.

### C. Structure of Working Relationship

We serve at the pleasure of the City Council and take our direction from the Council. In practice, we look to the City Manager for direction on regular interaction with City staff and to the City Council for direction on the City's priorities, goals, and vision. We authored the San Clemente City Council's policy on the interrelationship between Council and staff. Two of our fundamental goals are to fully and clearly understand the City's goals and to build and maintain trust among the City Council, the City Manager, and other city staff. Communication is vital to a strong relationship; thus, it is imperative to create a culture of frequent communication. To that end, our dedicated City Attorney and Assistant City Attorney will be fully accessible via phone and email to all City staff, the City Manager, and the City Council.

We understand that the City Council as a whole is our client. We deliver the same advice to all councilmembers and govern ourselves by the vote of the Council majority. Furthermore, if we provide substantive advice to one member of the City Council, we inform all members. This practice instills trust that our advice is impartial and consistent and prevents the City from being surprised about the implications of legal issues. We were instrumental in helping the City develop

new, model policies about Council's interrelationship with staff and the City Attorney discussed in greater detail below.

Like the City Manager, we take our overall direction from the City Council. Then, we work alongside the City Manager and top-level staff to execute the City Council's direction. Typically, we receive requests for legal services through the City Manager, a department head, or directly through the City Council. Requests will be fielded and addressed promptly consistent with Council policy. Regular communication will help promote mutual understanding of legal work to be performed.

#### **D. In Service Training**

BB&K provides in-service training in all of its practice areas. BB&K was one of the first law firms in California to provide ethics training courses tailored to meet the specific requirements of AB 1234; since then, the firm has obtained certification from the Fair Political Practices Commission (FPPC) and the Attorney General to teach ethics courses. In fact, since the beginning of 2006 when AB 1234 went into effect, BB&K has provided ethics training for thousands of local public officials, including the San Clemente City Council, its committees and commissions, and staff.

Besides ethics, BB&K regularly provides in-service training on open government, labor and employment, and governance issues. We teach about the Brown Act and the Public Records Act, which significantly reduces risk for our clients. Labor and employment subjects include harassment avoidance, performance evaluation, and all facets of employment law. Finally, we train officials on governance issues, applicable law, and roles and responsibilities. We will continue to provide training to new members of the Council, commissions and committees as they are appointed.

#### **E. Transmittal of Requests**

While each client is different, we generally expect that requests for legal service be made through the City Manager, department heads, or the City Council as a body. Our goal is to ensure that we are informed of and have the opportunity to address all potential legal issues, while also being mindful of management's preferences and the need for consistency and efficiency. We will work with the City Council and City Manager to develop protocols for transmitting requests to the City Attorney and for identifying matters that require legal review or assistance. We will keep the City Manager and/or the department head informed about any staff requests. By working collaboratively with management, we are consistently able to conform our service delivery model to our clients' needs.

#### **F. Response Time**

City Manager and City Council inquiries will receive an immediate response. The City Attorney and Assistant City Attorney will always be available by phone, cell phone, or email. The firm is committed to responding to City requests in the most efficient time frame the matter requires. Given the depth of the firm's resources, in both firm personnel and experience, the firm is capable of responding to complex requests in an expedited manner. Routine matters can often be responded to immediately, as it is likely that one of our attorneys has already handled a matter of the same or similar nature.

**G. Timely Responses**

The City Attorney will work with the City Council and City staff to determine the preferred systems or mechanisms for the most effective mode of communication.

The City Attorney and the Assistant City Attorney will ensure availability as described above, so all inquiries from the City are addressed quickly.

Specifics in this area are provided below in Section VII (Project Schedule).

**H. Example Invoice**

A typical invoice that BB&K provides to a public agency client has been provided in **Appendix A**.

## V. PROJECT ORGANIZATION AND STAFFING

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### A. Managing Requested City Attorney Services

Our proposed attorneys maintain strong and healthy practices at this time. However, they are available to begin work on the requested legal services immediately.

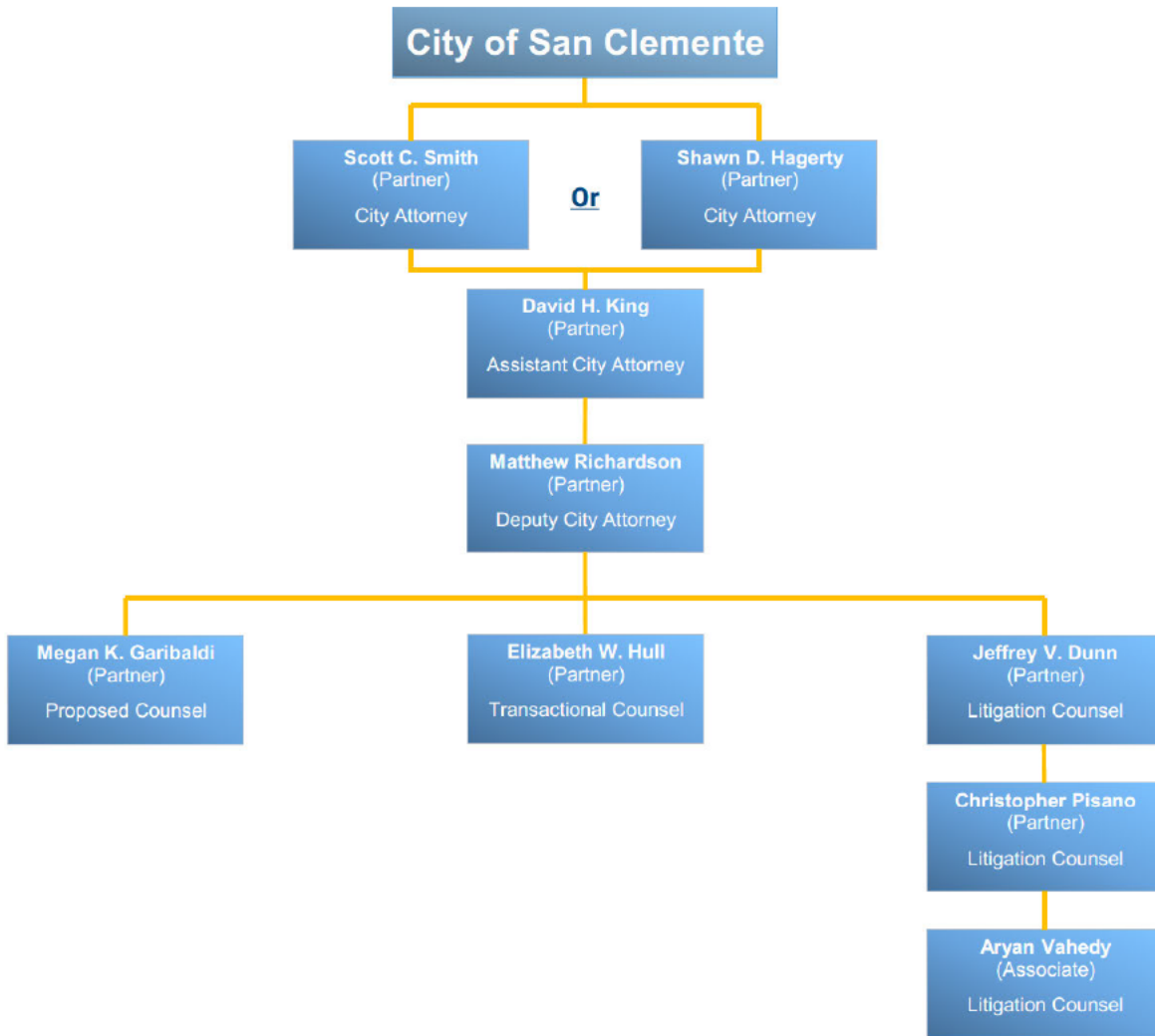
If we are awarded a contract with the City, we will not make any changes in personnel without prior discussion with the City. We do not foresee any staffing changes. No known current or future professional commitments exist that will hinder our availability to serve you as City Attorney.

BB&K has a full range of experience in every legal area the City may need. Nonetheless, when faced with an issue or case requiring expert advice (such as a complicated piece of litigation), our City Attorney will consult with the City Manager to evaluate the level of expertise needed. He will determine whether BB&K attorneys have experience with the issue at hand and identify counsel with relevant experience. If the decision to hire another attorney rests with the City Council, he will provide an analysis of services and rates to the Council; moreover, he will collaborate with the City Manager to find the City the best and most efficient person or firm to provide the expert services required.

### C. Alternative Attorney Team and Organization Charts

BB&K proposes two alternative staffing arrangements to the City of San Clement. First, the firm proposes Scott C. Smith to serve as City Attorney, David King to serve as Assistant City Attorney, and David or Mal Richardson to serve as Planning Commission Attorney. Under this scenario Scott will be the primary contact person for all matters and will supervise all legal services provided by our firm. Second, alternatively, the firm proposes Shawn Hagerty to serve as City Attorney with no other changes to the City team. Both Scott and Shawn exhibit comprehensive leadership which will avoid duplication of efforts among our attorneys and help minimize legal costs.

Additionally, Scott or Shawn will be supported by a strong, experienced, and diverse legal team. Short summaries of their experience are found below. All proposed attorneys are licensed to practice law in the State of California.



One of BB&K’s core strengths is the depth and diversity of knowledge and municipal law expertise available in our firm. In addition to the proposed team, the City will be able to draw from the vast resources of the entire firm. With our full range of public agency experience, BB&K is well positioned to proactively advise the City in all its legal needs.

Scott C. Smith, Alternative Proposed City Attorney



Phone	(949) 263-6561
Email	<a href="mailto:scott.smith@bbklaw.com">scott.smith@bbklaw.com</a>
Location	Irvine
Education	Brigham Young University Law School, J.D.; Utah State University, B.A., <i>valedictorian</i>
CA Bar Number	120736 (1985)

Scott C. Smith has called BB&K home since law school graduation. His municipal, land use, and environmental law practice includes work on large-scale entitlement and development agreements, public-private partnerships, housing, growth management initiatives, project permitting, local agency formation (LAFCO), and land use initiatives. As a partner in the firm's Municipal Law practice group, he grew up in the firm's Riverside office before helping to open BB&K offices in San Diego and Orange Counties. The Los Angeles Daily Journal named Scott one of California's "Top 25 Land Use Attorneys." His practice includes election law, first amendment, and other Constitutional law issues.

Scott's principal clients include the cities of San Clemente and Aliso Viejo, where he serves as City Attorney. He also served previously as City Attorney in Lake Forest, Santee, La Verne, and Big Bear Lake and provided city attorney services, either as General or Special Counsel, to the cities of Yorba Linda, Claremont, Corona, La Verne, Fontana, and Vista. He is General Counsel to the Santa Margarita Water District. He serves as General Counsel to Orange County and Marin Local Agency Formation Commission and as special counsel to other LAFCOs.

Scott enjoys working on complex real estate and regulatory matters, usually for public agencies. He coordinates BB&K's service teams to acquire and consolidate real estate, review environmental impacts, obtain state and federal permits and licenses, assure water availability, and meet affordable housing goals. BB&K has quadrupled in size since Scott started, and he played a key part in building the firm's bench in important areas of public agency representation. His approach is to work collaboratively and constructively as he coordinates these firm resources for clients.

Some of Scott's most significant projects include:

- Constitutional law – advises cities and special districts on issues of First Amendment rights, homelessness, elections, and due process. He also provides advice relating to fair housing and the federal and state Americans with Disabilities Act (ADA) statutes.
- Election law – special counsel to Los Angeles County in developing special legislation and county enactments for a special tax to address homelessness. He also advises the firm's city clients on issues relating to growth management initiatives.
- Local agency formation – represents Orange County LAFCO in review of several cityhood applications and pre-annexation/development agreements for Newport


Coast (Newport Beach), Talega (San Clemente), Tonner Hills (Brea), Bolsa Chica, and Sunset Beach (Huntington Beach).

- Land use regulation – advises clients on the regulation of sensitive land uses, including vacation rentals, sober living homes, and retail marijuana dispensaries. He has worked on various general plans and housing element certifications.
- Retail and commercial uses – assists clients in retention of retail uses and revitalization of aging commercial centers. He is currently working on the new master development plan for the Aliso Viejo Towne Center.

Scott currently serves as the Orange County delegate to the League of California Cities Legal Advocacy Committee. He served as president of the Orange County City Attorneys Association in 2016 and served as vice-president of the California State Bar Public Law Section’s Executive Committee. He served as co-editor in chief of the California State Bar’s Public Law Journal.

Scott served for 10 years as general counsel to the California chapter of the American Planning Association and trained new planners for that organization. He presented papers to the International Municipal Lawyers Association on billboard abatement, transfer of development rights, CEQA, and procedural due process. Scott served as a land use and environmental law instructor for the University of California, San Diego Extension and University of California, Los Angeles Extension courses. He regularly presents ethics training to public officials.

**Shawn D. Hagerty, Alternative Proposed City Attorney**

	Phone	(619) 525-1327
	Email	<a href="mailto:shawn.hagerty@bbklaw.com">shawn.hagerty@bbklaw.com</a>
	Location	San Diego
	Education	University of Wisconsin, J.D., with honors College of William and Mary, B.A., with honors, religion
	CA Bar Number	182435 (1996)

Shawn Hagerty works with public agencies as both general and special counsel to avoid and to solve complex legal problems. His experience serving public agencies gives him a deep understanding of the proper role of a city attorney; the need to be responsive to a city’s needs; and how critical it is to provide clear, understandable, and independent advice. Shawn is committed to working in concert with his municipal clients to deliver legal solutions that allow his clients to achieve their policy goals.

Shawn’s legal experience qualifies him to provide expertise to the City in the areas of municipal law, land use, open meeting, conflict of interest, and litigation management. He started his career as a public agency litigator with an emphasis on real property litigation and acquisition. This litigation experience informs his approach to general counsel work and helps him manage litigation in a cost effective manner.

Since 2003, Shawn has served as City Attorney for the City of Santee. In this role, he has regularly provided all of the legal services the City is seeking in the RFP, including day-to-day advisory matters and complex legal challenges. He has worked closely with the Santee City Council and the City Manager to guide the city through major land use projects such as Sky Ranch and Fanita Ranch, major regional issues such as the Sycamore Canyon Landfill Expansion, the Las Colinas Women's Detention Facility Expansion, proposed power plants, and the Castlerock Project/Annexation.

Shawn has also managed significant litigation matters for Santee, including multiple mobile home rent control lawsuits, eminent domain matters for major transportation projects, lawsuits related to drainage and inverse condemnation matters, and employment issues. Although Santee is very different than the City, there are similarities in terms of the date of incorporation, population, use of the Sheriff for law enforcement, and legal issues they face, including the California Voting Rights Act and marijuana regulation.

Since 2009, Shawn has also served as corporate counsel to Civic San Diego, a nonprofit corporation that provides permitting, economic development, and project management services to the City of San Diego in specific portions of the City. Civic is a complex organization that requires a solution based, proactive, and creative legal approach. The legal work for Civic requires effective and timely communication and clear and independent legal advice.

Shawn also provide special counsel services to municipal clients in the areas of water quality law, land use, elections, and public records act matters. He has particular expertise in municipal storm water requirements. His special counsel work helps bring perspective to his general counsel work and his management of special counsels. Shawn is active in many municipal law organizations and often teaches or lectures on municipal issues. He has written several amicus briefs on behalf of the League of California Cities (League), including several briefs on public records act issues. He served as a member of the League's committee that prepare a publication entitled "The People's Business: A Guide to the California Public Records Act." Shawn was a member and chair of the League's Legal Advocacy Committee. He has taught land use planning at the University of California, San Diego Extension and regularly presents on planning issues at IMLA, AEP, and other organizations. Shawn is currently a member of BB&K's Executive Committee. He is licensed to practice law in the State of California.

### Awards

- Best Attorney, San Diego Metro Magazine, 2021
- The Best Lawyers in America®, Land Use and Zoning Law, 2016–2023
- *San Diego Super Lawyers*, Environmental, 2007, 2014–2022
- Land Use & Zoning Law Lawyer of the Year in San Diego, Best Lawyers®, 2020
- *The San Diego Daily Transcript's* Annual 100 Influential Leaders in San Diego, 2016
- International Municipal Lawyers Association Amicus Service Award, 2016

**David H. King, Proposed Assistant City Attorney**


	Phone	(949) 263-6581
	Email	<a href="mailto:david.king@bbklaw.com">david.king@bbklaw.com</a>
	Location	Los Angeles
	Education	Loyola Law School, J.D. University of California, Los Angeles, B.A., English, with a minor in political science
	CA Bar Number	251649 (2007)

David H. King is an associate clinical professor at his alma mater, Loyola Law School, teaching legal research, writing and ethical lawyering and a seasoned and respected public sector attorney who practices as of counsel with Best Best & Krieger’s Municipal Law team. David draws on his many years of experience in both private practice and academia to provide municipal clients with big-picture and day-to-day counsel on matters such as the Political Reform Act, the Brown Act, ethics and election law. He has also successfully represented clients in complex litigation and advises on transactional matters.

David serves as deputy city attorney to cities across Southern California, including Downey, Lomita, Malibu, Palos Verdes Estates and West Hollywood. Before joining BB&K, David practiced at Hensley Law Group, Jenkins & Hugin, LLP and Alvarez-Glasman & Colvin, serving as deputy city attorney and assistant city attorney to nearly 10 other California cities.

David previously held roles with the State Bar of California Public Law Section’s Executive Committee and served as an editor of the Public Law Journal. He also served as a chapter editor of The California Municipal Law Handbook, which is edited annually by the League of California Cities City Attorneys’ Department.

**Matthew Richardson, Proposed Deputy City Attorney**

	Phone	(949) 263-6562
	Email	<a href="mailto:matthew.richardson@bbklaw.com">matthew.richardson@bbklaw.com</a>
	Location	Irvine
	Education	University of California School of Law, Los Angeles, J.D. Brigham Young University, M.A. and B.A., comparative literature
	CA Bar Number	239305 (2005)

Matthew “Mal” Richardson advises public and private clients on issues related to regulatory and land use law, with a focus on complex land transactions, the First Amendment, election and campaign law, and municipal governance.

Mal is the city attorney for the cities of Lake Forest, Signal Hill and Stanton. He also serves as special counsel for numerous public agencies throughout California, including cities, counties,

and special districts. He provides advice on regulatory issues, land use matters, the First Amendment and election law. Mal has also served as general counsel for the Association of California Cities since 2012. He regularly presents ethics training to public officials.

Much of Mal's work focuses on navigating the complexities of the First Amendment on behalf of public and private clients. Mal has drafted numerous sign codes, revamped election sign laws in the wake of *Reed v. Gilbert*, and advised public and private clients on advertising and digital media. Mal also provides regular guidance on free speech in public and non-public venues and the interplay of government regulation and private speech rights, as well as public camping and homeless issues.

Mal also serves as general and special counsel to public agencies on election and campaign laws. His experience includes drafting ballot measures, advising on the proper use of public funds in campaigns, and providing ongoing counsel throughout the campaign and election process.

Mal also has extensive experience in complex land use issues. Since 2010, Mal has served as lead counsel for the Opportunities Study Project, a large-scale commercial, residential and mixed-use project in Lake Forest, involving the rezoning and development of more than 900 acres. He coordinates BB&K's service teams to acquire and consolidate real estate, review environmental impacts, obtain state and federal permits and licenses, assure water availability and meet affordable housing goals. With experience as counsel for both public and private entities, Mal employs a collaborative approach to the land use and entitlement process.

He also served as a land use and regulatory law instructor for the University of California, Irvine Extension.


**Megan K. Garibaldi, Proposed Counsel**

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	Location	Irvine
	Education	University of Southern California, Gould School of Law, J.D. University of California, Santa Barbara, B.A., law and society, B.A., religious studies, <i>cum laude</i>
	CA Bar Number	268558 (2009)

Megan Garibaldi advises public agencies and private entities on local government law, with an emphasis on land use and entitlement, planning, zoning, affordable housing and state environmental laws. Megan also focuses on real estate and economic development work. Megan serves as the city attorney for the City of Hawaiian Gardens, interim general counsel for the Laguna Beach County Water District and special counsel on litigation matters for a number of Southern California agencies. A partner in the Municipal Law practice group of BB&K, Megan regularly counsels clients on land use decisions and project development. When her clients face legal challenges to their decisions or projects, she successfully and zealously advocates for them

in court. Megan’s goal is to find practical solutions while providing her clients the best possible results.

**Elizabeth Wagner Hull, Proposed Transactional Counsel**

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	Location	Irvine
	Education	University of San Diego School of Law, J.D. University of California, Los Angeles, B.A.
	CA Bar Number	178106 (1995)

Elizabeth W. Hull serves as general counsel and special counsel to public agencies throughout Southern California. She is a partner in the Municipal Law practice group of Best Best & Krieger LLP, serves on the firm's Executive Committee and is based in the Irvine and San Diego offices. Elizabeth also focuses on economic development and community development work for public and private clients.

Elizabeth serves as special counsel to the successor agencies of numerous cities, including Azusa, Lake Forest and Ontario. She is assistant city attorney to the cities of Avalon and San Juan Capistrano and is general counsel to the Helix Water District.

She regularly provides advice to public agencies on real estate transactions and negotiating and drafting a variety of agreements, including:

- Disposition and development agreements
- Affordable housing agreements
- Public-private partnerships
- Other agreements necessary to facilitate development

Prior to joining BB&K, Elizabeth served as assistant city attorney for Development Services for the City of Chula Vista. During her more than eight years with Chula Vista, she represented and advised city departments, the City Council and the Chula Vista Redevelopment Corporation and Redevelopment Agency on a wide range of redevelopment, planning, land use and construction issues. She also provided advice to the City Council, Board members and commissioners on the Brown Act, Public Records Act, Political Reform Act and other conflict of interest laws. Elizabeth advised the City, Clerk, Community Development, Housing, General Services, Planning and Building departments and served as staff attorney to the Planning, Ethics and Charter Review commissions.

As legal advisor to the General Services Department, Elizabeth advised on the acquisition of land for, and drafted the agreements required to, construct a variety of public works projects utilizing traditional low-bid, construction manager and design-build project delivery systems. These projects were as varied as street repair, corporation yard remodel and the design-build of a new police facility and civic center. The design-build projects are valued at more than \$100 million.

She is also a frequent presenter at conferences on the Brown Act, Political Reform Act, Infrastructure Financing Districts and other issues in development. Earlier in her career, Elizabeth was a prosecutor in the City of San Diego, and prosecuted more than 20 jury trials.

**Jeffrey V. Dunn, Proposed Litigation Counsel**

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	Location	Irvine
	Education	Brigham Young University, J. Reuben Clark Law School, J.D.; Brigham Young University, B.S.
	CA Bar Number	131926 (1987)

Jeffrey V. Dunn is a highly sought after legal counsel to public agencies in complex litigation matters. Recognized as one of California’s leading local government litigation attorneys, he was selected as one of California Lawyer magazine’s “Attorneys of the Year” for 2014 and the Daily Journal’s “Top 20 Municipal Attorneys” in 2013 and “Top 25 Municipal Attorneys” in 2011. He was also recognized as one of California’s “Top 100 Attorneys” by the Daily Journal in 2013 and 2016.


Jeff is frequently retained by local governments on other complex litigation matters.

- Jeff successfully represents clients in disputes involving the California Public Records Act and the Ralph M. Brown Act. He has represented the County of Los Angeles in accusations of violating open meeting laws. In a related case, he successfully defended the County of Los Angeles Board of Supervisors against a lawsuit by the Los Angeles Times seeking court-ordered disclosure of confidential discussions concerning highly publicized issues regarding the King/Drew Medical Center.
- In 2014, Jeff successfully represented the Western Riverside Council of Governments in its lawsuit to recover unpaid traffic mitigation impact fees from the City of Beaumont. After a four week trial, the Orange County Superior Court awarded \$43 million to Jeff’s client and \$14 million in prejudgment interest, which makes the trial court judgment more than \$57 million. The Daily Journal selected the trial court decision as a “Top Verdict by Impact” for 2014.
- In 2015, Jeff successfully represented the Castaic Lake Water Agency against a legal challenge to the \$73 million acquisition of a private water company. The winning trial court decision secures a public water supply for tens of thousands of residents and businesses in Los Angeles County.

Jeff gained national recognition for his successful representation in one of the most controversial issues facing California cities and counties – municipal regulation of marijuana distribution facilities. He was trial and appellate counsel in key published decisions affirming local government’s authority to protect public safety and local land use authority, including the unanimous decision by the California Supreme Court in *City of Riverside v. Inland Empire Patients’ Health and Wellness Center* (2013) 56 Cal.App.4th 729. He discussed this subject on NBC’s Nightly News; in the Washington Post; and in other national and local television, radio, and print media.

Jeff is often asked to represent local government interests in matters of statewide importance. He has successfully argued cases before the California Supreme Court, including *Claremont Police Officers Association v. City of Claremont*, (2006) 39 Cal.4th 623, which affirmed the city’s right to implement a study to determine whether police officers engaged in racial profiling. He also successfully represented the City of Lake Forest in federal court litigation involving the Americans with Disabilities Act (ADA) in *James v. City of Costa Mesa* (2012) 684 F.3d 825.

**Christopher Pisano, Proposed Litigation Counsel**

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	Location	Los Angeles
	Education	University of Southern California School of Law, J.D. Georgetown University, B.S.
	CA Bar Number	192831 (2005)

BB&K Partner Christopher Pisano represents public agencies and private corporations in a variety of litigation matters, including land use, property valuation, water rights, health care litigation, unfair competition, inverse condemnation, construction, civil rights and general business disputes.

Chris has represented numerous public agencies in state and federal court matters, including:

- County of Los Angeles
- County of Shasta
- County of Tulare
- Oxnard Harbor District
- Gold Coast Health Plan
- LA Care Health Plan

- Los Angeles County Metropolitan Transportation Authority
- Riverside County Transportation Commission
- Corona Housing Authority
- Housing Authority of the City of Los Angeles
- Kern County Water Agency

The cities of Azusa, Coachella, Colton, Covina, Culver City, Long Beach, Newport Beach, San Clemente, Paso Robles, Thousand Oaks, Yorba Linda, Ventura and West Hollywood, among others

Chris quickly became the go-to litigator for public agencies in a variety of COVID-19-related disputes. He was called upon to defend a sheriff's department in a class action over COVID-19 outbreaks in the jail. Chris represented San Clemente in a lawsuit against TCA alleging it improperly withheld documents relating to the proposed SR-241 extension.


In a recent notable victory, Chris defended Shasta County's Registrar of Voters against a lawsuit seeking a last minute court order to force the County to extend the deadline to collect signatures in the attempted recall of three supervisors. In less than one week, Chris and the BB&K trial team prepared for trial and filed their opposition, earning a rejection of the suit.

Other recent work includes representing the Los Angeles Metropolitan Transportation Authority in its condemnation of subsurface easements to allow for the Metro Purple Line tunnel extension. He is also defending a California county in federal civil rights lawsuits over its marijuana law enforcement.

In addition, Chris represents public agencies in water rights disputes. This includes representing the State Water Contractors and two additional contractor agencies in the California Department of Water Resources Water Operations Cases. The case includes eight lawsuits against the DWR and other state agencies claiming that an Incidental Take Permit unlawfully limits how much water suppliers can receive from the Sacramento-San Joaquin River Delta to serve their customers. Chris represents other cities over water rights in matters that often involve many parties, including environmental groups, farmers, businesses and other landowners and whose outcomes impact wide swaths of water customers.

Chris represented the County of Los Angeles and the Housing Authority for the City of Los Angeles in class action and representative action litigation for housing and employment benefits, and defended several cities and counties against claims of wrongful arrest, wrongful search and seizure and excessive force. Chris also represents Gold Coast Health Plan in a broad range of health insurance coverage and other contract disputes with health care providers, and also represents Riverside Medical Clinic in an insurance coverage dispute. He also served as lead trial and appellate counsel for the City of Covina in a 2011 published search and seizure case before the U.S. Ninth Circuit Court of Appeals – *Dougherty v. City of Covina, et al.* – in which the appellate court affirmed dismissal on the grounds that the investigating officers were entitled to qualified immunity, and that plaintiffs did not plead sufficient facts to attribute liability to the city and supervising officers.

Aryan Vahedy, Proposed Litigation Counsel

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	Location	Irvine
	Education	University of San Diego School of Law, J.D. University of California, Riverside, B.S., Biology
	CA Bar Number	323802 (2018)

Aryan Vahedy is an experienced litigator who represents private and public entities in business, insurance and real estate disputes. Aryan understands the unique and complex challenges that businesses face, and helps his clients successfully navigate the pitfalls of litigation. With this understanding, he is also able to carefully craft litigation strategies that are resolute and cost-effective.

Aryan counsels business owners, entrepreneurs, developers, and title insurance companies and their insureds on issues involving liability, ownership, encumbrances and valuations. Aryan also represents municipalities and other government entities in various types of causes of action, including contractual disputes and negligence matters.

## VI. RELATED EXPERIENCE

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### A. City Attorney Qualifications

BB&K currently serves as city attorney to 55 cities and as general or special counsel to more than 800 public agencies. We help public clients successfully maneuver through legal complexities and government mandates. Because BB&K has a history of extensive involvement in all aspects of municipal law, we have pioneered methods to deliver advisory and litigation services in a comprehensive, efficient, and cost-effective manner.

Our public law experience in addition to our environmental law expertise make BB&K the best choice for the City's legal counsel. Our protocol is proactive, not reactive. Not only do we track current trends in both state and federal law, we are frequently involved in creating those trends. Our advice to the City would be based on the cumulative knowledge of one of the largest public agency law firms in the state plus our intimate knowledge of trends and developments in Southern California relating to environmental and water law.

### California Land Use Law

A core function of BB&K is to provide land use and planning services to our clients. We work on every aspect of the land use and planning process, from general plans to specific plans, from tentative maps to conditional use permits, from development agreements to zoning codes, and related real estate matters. We work closely with staff and elected officials to advise on all planning matters.

Land development is subject to a complex array of federal, state, and local regulatory requirements and intense government scrutiny. Understanding the interplay of various development, planning, and zoning laws – and assuring compliance with all applicable rules – requires deep regulatory knowledge, legal skill, and experience. Our primary focus in recent months has been to assist our municipal client in their response to increasingly complex and preemptive State legislation relating to local housing.

BB&K's multi-disciplinary Land Use, Planning, & Zoning practice group provides comprehensive, cost-efficient guidance. It is comprised of attorneys from all relevant practice areas, including our environmental law and natural resources, litigation, municipal law, public finance, and telecommunications practices, among others. We advise on issues including public-private partnerships; commercial, industrial, and residential, in-fill and mixed-use developments; infrastructure/project finance; open-space acquisitions; habitat preservation and conservation easements; and compliance with CEQA, NEPA, and other regulatory requirements.

Representing cities, public agencies, private developers, and landowners, we establish, oversee, and serve as project management leaders for large projects, assuring that the many, varied, and complicated issues are addressed by the most qualified, highly experienced lawyers. We advise clients regarding the practical consequences of their decisions and assist them in arriving at the best solutions to meet their goals.

BB&K's land use, planning, and zoning attorneys advise on land acquisition, development, regulation, and implementation of general and specific plans and plan amendments, zone

changes, subdivisions, conditional use permits, variances, and other planning entitlements. They also regularly review zoning ordinances, specific plan documents, and CEQA documents for our city clients and their boards and commissions as well as assist clients with legal review of other specialized land use and entitlement matters, including: state housing law; California Mitigation Fee Act (AB 1600) compliance, including rules regarding impact fees, dedications, conditions, and exactions; development agreements; Subdivision Map Act compliance; Permit Streamlining Act requirements; California Land Conservation Act (Williamson Act) compliance; sign regulations and billboard agreements; growth control; adult use regulations; historic preservation, design review, and architectural regulation; vested rights; religious land use and Institutionalized Persons Act of 2000; and density bonus/inclusionary housing.

Additionally, we represent clients in land use, permitting, zoning, and litigation as well as assert and defend our clients' interests before regulatory bodies.

### San Clemente Application

Our land use law experience in San Clemente includes two updates to the City's Housing Element and adoption and successful defense of the following key projects:

- Two updates of the City's Housing Element, including early HCD signoff of its 2022 update
- Adoption and successful defense of the City's SB 2 (emergency shelter) Ordinance (BB&K helped the City recover from the court's invalidation of its prior ordinance, including HCD's signoff of a new one and vindication of that update in litigation challenging it)
- Short-term Rental Ordinance (BB&K helped draft a comprehensive set of locational and operating requirements, which is one of the few in California to survive court challenges and obtain Coastal Commission recognition)
- General plan amendments and zoning code and specific plan amendments to eliminate the SR-241 extension from all City planning laws as replaced by the Los Patrones Parkway Extension

### Labor/Employment

Labor is a business' most valuable resource. Subject to ever-evolving and often overlapping federal and state laws, facing broadening classes of protected workers and an increase in retaliation and other worker claims, it has never been more important for employers to assure that their policies and practices are legally compliant and their liability risk is minimized.

Attorneys in BB&K's Labor & Employment practice group provide comprehensive guidance to employers. From resolving day-to-day employment issues through establishing policies and providing training and litigation defense, we help employers stay focused on productivity, avoid workplace disruptions, and reduce the risk of costly litigation. Clients range from small to large public agencies. BB&K's labor and employment team combines depth of experience, large firm resources, and small firm teamwork to form a premier labor and employment law practice. Our prominence in employment law allows us to draw on the expertise of group members who specialize in representing certain types of entities or areas of employment.

Our labor and employment attorneys represent employers in all types of complex employment matters and litigation including: labor negotiations; sexual harassment; wrongful termination; public employment termination; employee handbooks and employment policies; employee health and safety; workers' compensation; unemployment compensation; discrimination; employee privacy/background investigations; workplace investigations; workplace violence; family and medical leave; disability discrimination; drug and alcohol testing; wage and hour law; and training services.

We assist our clients in responding to unions organizing campaigns, and we provide negotiating services to many of our clients. We have carried matters through various impasse resolution procedures and have assisted our clients during strikes and other concerted activities.

We regularly represent clients in civil rights litigation and in employee discipline hearings and litigation. We practice before the National Labor Relations Board, the Agricultural Labor Relations Board, the Public Employment Relations Board, and in state and federal courts.

BB&K provides in-house training services to clients for the prevention of litigation and to ensure compliance with all state and federal laws regulating employment. Our attorneys are available to give presentations to supervisors, human resources professionals, and employees concerning the prevention of discrimination, harassment, and retaliation; use of performance improvement plans; compliance with disability laws; prevention of workplace violence; procedures for the hiring and separation of employees; employee discipline; First Amendment protected speech; alcohol and drugs in the workplace; conducting investigations; and other employment issues. Our presentations are tailored for the specific needs of the client and can accommodate a handful of management staff or an entire workforce.

In addition, BB&K presents an annual labor and employment update seminar, which educates clients on significant developments in the law during the previous year related to all aspects of employee management, including new legislation, wage and hour issues, discrimination and harassment, wrongful termination, family and medical leaves, and employee privacy.

### San Clemente Application

We have an impeccable record in helping the San Clemente City Council pursue its labor and employment goals while maintaining a high level of cooperation with its employee association. We were instrumental in settling two formal employees association grievances and several individual grievances arising from the individual activities of a City Councilmember. We assisted in a major overhaul of CASA's organizational structure and helped preserve pension entitlements for CASA staff through our negotiations with the State over their status. We assisted in an overhaul of the City's Employment Policies.

### Real Estate Law

BB&K's public and private real estate attorneys handle a broad spectrum of real estate matters for public clients throughout California and beyond. They provide assistance in every aspect of real estate law, including real estate finance, sales, and acquisitions; ground leasing; office and industrial development and leasing; residential development and subdivisions; retail development and leasing; commercial lease disputes; entitlements; land use and environmental law; workout

transactions; construction matters; and complex real estate litigation.

In all aspects of our real estate practice, BB&K attorneys provide value to clients by leveraging decades of experience and a broad range of legal expertise to find practical and innovative solutions to their real estate needs. We actively participate in making our clients' projects and transactions succeed.

Our real estate attorneys have extensive experience advising public agencies. With eight offices throughout California, we are able to put state-wide knowledge and connections to work for our clients. Completing complex deals often requires a team approach. When our clients are faced with legal, financial, or regulatory challenges, our real estate attorneys can draw upon the knowledge and experience of seasoned attorneys in numerous practice areas related to real estate, including environmental law, public and private finance, natural resources and water rights, land use and entitlements, municipal and redevelopment law, litigation, bankruptcy, business transactions, and tax planning.

Our attorneys provide specialized service in the following areas: acquisition/investment/disposition, leasing, financing, development of natural resources, residential and commercial common interest developments, entitlements/regulatory compliance, redevelopment/affordable housing, and litigation. We have a qualified team that assists city clients with all aspects of Surplus Land Act compliance. They know the technical requirements of that exacting law and have developed good working rapport with State regulators who oversee that compliance.

#### San Clemente application

We have assisted the City in every step of its Surplus Land Act with noticed sale of several significant City parcels. We were able to assist the City in statutory compliance and transactional real estate in connection with its pandemic and post-pandemic outdoor dining ordinance and related right-of-way leases.

Our work on the complex cooperative agreements between San Clemente and Santa Margarita Water District will enable both agencies to achieve much greater efficiencies and synergy as they work together to recycle wastewater and to distribute, sell, and store recycled water.

We assisted the City in sorting through its ownership rights in Cyprus Shore and in acquiring new access to relocate its damaged utilities there.

We are currently working with the Shorecliffs developer to establish and plot golf cart access for every street and grade crossing.

#### Environmental Law - CEQA/NEPA and Endangered Species

BB&K's environmental lawyers guide public agency clients through all aspects of the CEQA/NEPA and land use entitlement process, assuring full compliance with CEQA/NEPA requirements. From pre-project planning, document preparation, noticing and approvals through ensuing litigation — a single team helps at every stage, minimizing costs and delays while maximizing environmental protection. We prepare local CEQA/NEPA guidelines for more than 70 public agencies, including cities, school districts, water districts and special districts, and are proficient at reviewing, preparing and revising environmental impact reports, notices of exemption, initial studies,

negative declarations, findings and statements of overriding considerations and addenda. Additionally, we advise on mitigation monitoring and reporting plans.

Experienced in every type of project that breaks ground, BB&K lawyers have successfully advised on CEQA/NEPA issues and challenges for diverse projects including: infrastructure; commercial, residential and mixed-use projects; industrial facilities and warehouse; specific and general plans; and habitat conservation plans and projects.

Skilled at the subtleties of CEQA/NEPA review and related permitting, we tailor our analysis to reflect rapidly evolving laws, such as those involving greenhouse gas emissions, endangered species and other potential areas of vulnerability. Our lawyers' deep understanding of CEQA/NEPA enables us to represent clients before administrative boards and trial and appellate courts throughout California.

We fully grasp the interplay of CEQA/NEPA and other environmental statutes, including the state and federal Endangered Species Acts, and state and federal Clean Water Acts, enabling our clients to rely on one team at one firm to navigate them through CEQA/NEPA and all related environmental law requirements.

Developing projects without properly addressing endangered species laws can be a costly, if not fatal, error. Proactive planning is key to containing costs, obtaining required approvals and enabling projects to proceed.

BB&K attorneys have decades of experience addressing endangered species and other environmental regulatory challenges to public and private development. We are adept at managing the interplay of environmental laws, including the California and federal Endangered Species Acts, the Natural Community Conservation Planning Act, the federal Clean Water Act, state water quality laws and others. With long-standing, effective working relationships with the wildlife agencies that administer these laws, we have earned the respect of regulators and can streamline assessment reviews, approvals and permitting – speeding up the process and containing costs while assuring endangered species and their habitats are protected.

We help public agencies, including cities, counties and special districts, as well as developers, landowners and others in the private sector, develop, implement, strategize and manage species and habitat issues, and negotiate related agreements. We draft, review and obtain approval for conservation easements, assist with establishing and managing conservation banks for endangered species and sensitive habitats and negotiate transactional aspects of mitigation property acquisitions. Additionally, we regularly handle Section 7 formal consultations, assist in obtaining incidental take permits, navigate the biological opinion process, and advocate regarding proposed new species listings and critical habitat designations. We are on the cutting edge in asserting our clients' interests before various regulatory bodies and in courts, and as counsel for public agencies charged with ESA compliance. Our litigators have repeatedly prevailed in endangered species cases. Water Use Including Law, Regulations, and Local Issues.

#### San Clemente application

We were instrumental in negotiating and bringing to effect the transfer and protection of a nearly 200 acre conservation easement in Pico Canyon and continue in our work with City environmental

and legislative consultants to seek grant funding and implementation of that project, which will serve as a significant community natural resource but also a preemptive bar on a Pico Canyon freeway.

We have served as City CEQA Council in every aspect since 2015, working on such major projects as two general plan updates and the City's Local Coastal Program. In 2020 we successfully defended a CEQA challenge brought to the City's public camping ordinance and defeated completely a motion by advocates for \$700,000 in attorney's fees.

### Tax (Federal, State, Local)

Combining a nuanced understanding of the complex and ever-changing tax laws with creativity, BB&K tax attorneys provide pragmatic advice to clients to help structure their businesses, compensation arrangements, benefit programs, and transactions to limit their tax exposure and avoid tax disputes. BB&K tax attorneys represent individuals, businesses, nonprofits, and public agencies regarding tax-related issues in courts at all levels before the Internal Revenue Service (IRS) and other regulatory authorities and at the negotiating table.

Our tax attorneys have decades of experience resolving tax challenges with a primary focus on employment taxes affecting compensation and benefit arrangements. We regularly handle payroll tax audits of both private employers and public agencies and tax-exempt employee benefits and retirement plans and arrangements (including appeals of adverse IRS and The Employee Retirement Income Security Act of 1974 [ERISA] determinations).

We approach audits in a cooperative manner rather than taking a confrontational approach when dealing with taxing authorities. As a result, BB&K has developed a favorable reputation with field auditors, giving us an advantage in successfully resolving issues for our clients.

BB&K attorneys have represented clients before virtually every federal and California tax authority—the IRS, the Franchise Tax Board, the Board of Equalization, the Employment Development Department, and the County Assessor's office—from initial audit through final appeal.

We not only understand the federal and state tax principles that affect compensation and benefits, including the constructive receipt doctrine, mandatory Social Security obligations, and applicable provisions of the Internal Revenue Code, but we apply those principles in light of state laws that impact compensation and benefits. Thus, we can appreciate the limitations of state laws, regulations, and administrative guidance on compensation and benefits when the tax implications are not addressed and apply those tax implications to provide our clients with a comprehensive understanding of their employee benefit program. Similarly, we do not render tax advice without also considering the implications of state laws that are applicable to the public agency that we are advising.

Additionally, BB&K attorneys provide extensive legal advice to public agencies throughout California on revenue matters associated with the adoption, levy, and defense of taxes, fees, charges, and assessments. We take an active role in helping clients with the requirements of Propositions 13, 62, and 218.

Our San Clemente Team has experience working with a variety of subsidiary districts, including parks and recreation districts.

### Code Enforcement

BB&K is prepared to provide and utilize a comprehensive approach to our code enforcement services. We offer extensive experience in code enforcement, and we understand the importance of ensuring that code enforcement actions are cost effective. BB&K assists in prosecuting violations such as public nuisances, substandard housing, abandoned and structurally unsafe buildings, illegal dumping or storage, illegal businesses, fire hazards, destruction of environmentally sensitive land, un-permitted uses in residential zones, and water theft. BB&K has top-notch experience in prosecuting municipal code violations, and we are prepared to file these cases criminally or civilly. Basic code enforcement is part of our general services; and in the prosecutorial area, our attorney team will provide specialized service in the following areas:

**Administrative Proceedings.** BB&K has developed a wealth of experience in the context of code enforcement administrative proceedings. Whether the proceedings are administrative hearings under a uniform code, the City's own municipal nuisance ordinance, or in the context of use permit or license revocations, our attorneys have the knowledge to get the desired result. BB&K attorneys are experienced in advising municipal clients, prosecuting administrative actions before local administrative bodies, and successfully defending administrative decisions in court.

**Civil Litigation.** BB&K leads the field in using creative civil code enforcement remedies. We have assisted several of our clients in obtaining receiverships to rehabilitate substandard housing. Receiverships are effective cost-recovery tools, since—upon the completion of the rehabilitation—the property can be sold and the city can use these funds to offset its attorneys' fees and costs. The use of this remedy has led to BB&K's statewide recognition as a leader in the abatement of substandard housing under the California housing law. In addition, we are familiar with and use other civil code enforcement remedies available to municipalities.

**Cost Recovery.** BB&K realizes that the cost of code enforcement often reduces the effectiveness of a code enforcement program. Thus, the firm strives to assist its municipal clients in maintaining the financial viability of their code enforcement programs. We do this by using strategies such as cost recovery ordinances, administrative fines and penalties ordinances, nuisance abatement liens and assessments, attorneys' fees statutes, and civil compromises in criminal prosecutions.

**Criminal Prosecutions.** BB&K has the capacity to criminally prosecute municipal code violations. Several of our attorneys bring their prosecutorial experience from district attorney offices throughout California to address our clients' code enforcement issues.

**Ordinance Drafting.** BB&K attorneys are experienced in drafting and reviewing ordinances, which has proven to be beneficial to our municipal clients. Recently, our attorneys have drafted ordinances relating to administrative fines and penalties, adult businesses, leafleting, charitable and business solicitation, graffiti abatement, loitering, and property maintenance ordinances.

We routinely work with city and agency staff to address areas of local codes that need to be changed due to changes in the law and local circumstances and to ensure that local noticing and

publishing requirements are met. As city attorneys, we believe this is an essential component of being a part of a city's management team.

The North Orange County Public Safety Collaborative (the "Collaborative") retained BB&K to assist it to collaboratively address homelessness issues across its 11 member cities. The member cities' law enforcement chiefs have requested a study of each city's strengths and areas for improvement with regard to addressing homelessness in their communities.

We will assist the Coalition with a report addressing each city's: (1) regulatory landscape (e.g., code provisions governing property storage and camping), (2) programming and policies aimed at addressing homelessness (3) existing collaborations with other cities, government entities, and non-profits, (4) environmental challenges affecting the homeless, (5) infrastructure (e.g., shelter beds, transitional and supportive housing), (6) personnel (e.g., homeless outreach coordinators), (7) mental health and substance abuse resources, (8) budget (e.g., how much is being spent to address homelessness and what is it being spent on), (9) outcomes and lessons learned from (1) – (8) above (including how outcomes are measured), and (10) opportunities for future collaboration and/or improvement. Our report is intended to provide law enforcement and staff with knowledge, tools, and strategies for effectively responding to homelessness in their community. Ideally, the report will give member cities fresh ideas for refining their policies and practices and facilitate further collaboration across the Collaborative.

### San Clemente application

We have worked with the City's contract prosecutor to build in due process division of effort to ensure that City code enforcement processes are divided between prosecutorial and hearing functions.

Like much of California and Orange County, San Clemente and our Orange County city clients have experienced an alarming increase in the numbers and condition of unhoused persons in their jurisdictions, with the difficult secondary effects of that phenomenon. Our South County clients, like others, found themselves dragged into the larger litigation brought by Housing Is a Human Right of Orange County and other plaintiffs' advocates against the County and several other cities. Some clients were named in the lawsuit, others received an "informal" invitation by federal judge David Carter to appear in the action. The San Clemente Council was unhappy with the sole remedy imposed by Judge Carter in that case – exclusively the provision of temporary shelters – and sought to commit their resources to a more holistic approach to the problem. Our South County clients decided to band separately in a mutual defense to share BB&K work product and defense resources to address these challenges.

We first assisted them in updating and risk-proofing their emergency shelter ordinances, public camping ordinances, and protocols for seizure of personal property. We also worked with law enforcement and fire authorities to develop special protocols relating to camping and fire danger in urban interface areas. We advised our client cities on their development of shelter and transitional housing models and social services intervention in this area consistent with Constitutional principles. We also provided advice on the use of CC&Rs and other private deed restrictions to direct or constrain public camping.

Scott served as lead attorney in organizing the defense of the federal and state lawsuits brought against San Clemente and our other clients, with successful results in all. The federal Los Angeles judge awarded our motion to dismiss the federal case and the plaintiffs withdrew their CEQA case against San Clemente. We and the County recently settled another state action brought against San Clemente with the adoption of model personal property protocols, without any commitment to develop or operate emergency shelters. Scott assisted the City in drafting and defending ordinances relating to shopping carts and the disposal of abandoned personal property.

### **Sober Living Facilities**

BB&K has significant experience advising clients in the area of sober living facilities. Our firm has represented more than a dozen cities throughout Southern California on the application of the federal Fair Housing Amendments Act, Americans with Disabilities Act, and Rehabilitation Act to local regulation of sober-living homes. BB&K's experience includes handling approvals, denials, and appeals; advising litigation teams; coordination with federal and state licensing agencies; and writing local, federal and state legislation. BB&K attorney Todd Leishman testified before the U.S. House of Representatives Judiciary Committee's Subcommittee on the Constitution and Civil Justice at a hearing entitled, "Examining Sober Living Homes." He was invited to testify on the need for federal law to clearly allow local government to regulate addiction-recovery businesses that operate "sober-living homes" to better protect residents from harm. We work closely with our clients' legislative advocates to monitor state efforts to preempt this important local prerogative.

### **San Clemente application**

BB&K drafted and successfully defended a sober living home ordinance resulting in the abatement of more than 30 unlicensed facilities (in contrast to a multi-million judgement against Newport Beach's ordinance and nearly a decade of litigation Costa Mesa has faced with its ordinance). That ordinance has been presented as a model for balancing neighborhood preservation with disability accommodation before State and Congressional committees.

### **Public-Private and Public-Public Partnerships**

Public-private partnerships (P3) offer public agencies and the private sector ways to employ cooperative arrangements to achieve shared goals. Our P3 attorneys provide strategic advice to public and private clients that reflects both the long-term and short-term goals of the parties. Our attorneys have pioneered new and evolving public-private contractual arrangements for public infrastructure projects and commercial and industrial projects. We take a non-adversarial, solution-oriented approach that considers all interested parties' needs and the P3 project's expected lifecycle to ensure a smooth development process.

We can help the City establish and manage any public-private partnerships that may be needed for the construction of its new town center. From idea development through negotiation, procurement, implementation and completion, we advise on all aspects of public-private partnerships and joint ventures including: commercial/retail/industrial incentives; housing and mixed use projects; major downtown projects, hotels, and convention centers; procurement and alternative service delivery; property leasing and joint-use arrangements; public facilities, educational facilities, and infrastructure procurement and financing; and statutory development agreements.

Our team integrates public agency law, land use, commercial law, real estate transactions and finance, public finance, and construction law experience, positioning us to provide comprehensive guidance to ensure success. We have excellent working relationships and mutual respect with County administrators and lawyers responsible for County land deals and partnerships.

### San Clemente application

Using the breadth of our firm's expertise and our key relationships with County, CalTrans, and OCTA staff and counsel, we were able to negotiate and finalize partnership agreements and settlements with CalTrans, the County, OCTA, and Save San Onofre Coalition that eliminated the SR-241 extension from their transportation master plans and any environmental financial incentive to build that highway.

### Bidding and Procurement

BB&K routinely provides legal advice and services in all aspects of public contracting ranging from construction to risk management. We prepare sophisticated model public works bid packages and contract documents as well as purchasing and other related contracts tailored to individual clients' objectives.

We frequently help our clients avoid construction and other contract disputes. Our attorneys have extensive experience with bid protests and other contract award issues; both patent and latent construction defects; contractor and subcontractor performance issues; contract claims; contractor default issues; prompt payment disputes; liquidated damages issues; performance and payment bond issues; contract scheduling; and dispute resolution.

We also provide advice regarding compliance with competitive bidding, prevailing wage laws, and state and federal procurement laws. Additionally, we assist special districts with complex negotiations and litigation matters relating to public works projects.

### San Clemente application

We have reviewed, commented on, and executed every San Clemente contract approved since our engagement. Soon after our engagement, we performed a top-to-bottom review of all City contract templates and trained staff on their use. We systematized document comparisons with staff so that we only need to review alternations to those standard templates. We update our templates annually. This builds efficiency and rapid response into that process. We have a San Clemente lawyer on site weekly and as called upon to review and execute contracts as staff needs them.

### Telecommunications (Advisory and Administrative Proceedings)

BB&K lawyers have been among the leading advocates on telecommunications issues for more than three decades. We guide our public clients through the ever-changing maze of federal and state regulations that affect local agencies' telecom authority. We have an extensive knowledge base of local telecommunication ordinances that maximize local control while minimizing risks of federal preemption.

San Clemente application

We assisted the City in a comprehensive rewrite of its telecommunication facility ordinance to conform to preemptive federal law but to exercise what limited review is left to municipalities. We assisted the City in avoiding several challenges to its ordinance with that effort. We helped the City bifurcate its telecommunications permitting authority from its leasing authority to maximize control in the latter area.

Election Procedures and Law

BB&K provides a wide range of advice to our clients on local, state, and federal election laws. We routinely assist clients during all stages of the elections process, including initiative drafting, filing, publication, and circulation; spending limits; ballot arguments; campaign regulations; election contests; election timing; ballot security; recall procedures; ballot recounts; election result contests; and other post-election matters.

We regularly provide advice to clients on the conduct of regular, special, and consolidated elections. We also advise clients on voter registration issues, candidate qualification and nomination procedures, ballot pamphlet issues, and ethics laws.

San Clemente application

We have represented the City in connection with a failed measure for conversion to by-district elections and successful measures relating to converting the city clerk and city treasurer positions to appointive offices.

Brown Act

BB&K attorneys are fully qualified in advising clients on the interpretation and application of the Brown Act. Advice often pertains to requirements for agenda preparation, posting, and distribution; closed session topics and reporting; notices and agendas for special and emergency meetings; adding agenda items after an agenda is posted; conducting meetings by teleconference; application of the Brown Act to committees of official bodies; and avoiding violations and penalties.

Conflicts of Interest

BB&K attorneys frequently provide advice and training workshops to elected and appointed public officials regarding conflict of interest laws, including the Political Reform Act, self-interested contracts (Government Code Section 1090), campaign contribution conflicts, incompatibility of public offices, and Assembly Bill (AB) 1234. We stay abreast of the most recent decisions from the Fair Political Practices Commission (FPPC) and frequently draft requests for FPPC written advice for clients. We enjoy excellent rapport with the FPPC and its attorneys and assign one lawyer to be a standing conduit between our clients and them to foster continuity and trust.

San Clemente application

Since our appointment, every FPPC inquiry and investigation filed relating to San Clemente officials has resulted in vindication of the official in question.

## Public Records Act

BB&K regularly advises clients on all aspects of California's Public Records Act. We routinely brief our clients on pending legislation and pertinent cases. With the emergence of new technology, we advise clients regarding the use of email, records retention, and the public's right to access electronic information. We often speak at seminars and workshops regarding updates to the Public Records Act and email/technology issues. Our attorneys were involved with the preparation of the League of California Cities' book on the Public Records Act and represented the League of California Cities in the seminal California Supreme Court case relating to public officials' private email accounts. We are currently working with many cities throughout California to expedite and assist with the increased public records demands.

## San Clemente application

We prototyped our firm's current Advanced Records Center PRA response program in San Clemente and have provided regular training to staff in this area. We have assisted them in responding to thousands of demands since our first engagement here.

## Litigation

In his capacity as City Attorney, Scott or Shawn will monitor all litigation and keep the City Council informed at all critical stages of a case. When the Council meets in closed session, Scott or Shawn will present to the Council available options, explaining the strengths and weaknesses of the case honestly and strategically so Council can make the best decision in light of the City's economic and political realities.

Because BB&K has a history of extensive involvement in litigation on behalf of our municipal clients, we understand how to deliver advisory and litigation services in a comprehensive and cost-effective manner. Our approach ensures the highest quality and most timely representation available in California. It would be hard to find another law firm in California that has the level of experience that BB&K possesses in municipal law and municipal law litigation. Many of our alumni serve on the California and federal benches.

One of BB&K's hallmarks is its ability to offer municipal and public agency clients a full range of litigation support. BB&K is readily able to handle all the City's potential litigation needs, including labor and employment, contracts, construction, environmental issues, condemnation and eminent domain, land use, CEQA, and water. We regularly enforce ordinances on behalf of our public agency clients and strive to avoid costly litigation whenever possible. In addition, having both public law and litigation "under one roof" affords BB&K the opportunity to tailor its litigation services to better meet the particular needs of its municipal clients and promotes more effective litigation management as well as cost savings.

Our litigators have extensive experience representing public entities in all manner of tort liability cases, including premises liability, dangerous condition of public property, trip-and-falls, inverse condemnation, vehicle accidents, civil rights, police misconduct, and excessive force. BB&K's litigators are well-versed in the Tort Claims Act and related laws. We work regularly with the CJPIA and have an excellent relationship with your public risk pool.

### San Clemente Application

We have been able to advance the San Clemente City Council's strategic goals by bringing or defending litigation in the following cases:

- *Capistrano Shores v. City of San Clemente* (walk-away settlement of litigation spanning two decades and challenge to City's new LCP)
- *San Clemente v. TCA* (SR-241 deleted from State and regional transportation master plans)
- *Emergency Shelter Coalition v. San Clemente* (successfully defended the City's last cycle Housing Element and Emergency Shelter Overlay)
- *Vacation Rental Alliance* and *Shikli* cases (successful defense of the City's STLU ordinance)
- *Memorialcare v. San Clemente* (preserved the City's opportunity to acquire and reconvey the hospital site through an RFP process; rezone to residential project)
- *Housing is a Human Right v. San Clemente* (dismissal of federal case, successful defense of City's anti-camping and public camp ordinances; settlement of personal property case with minimal statutory payment shared with County; prevailed in CEQA challenge)
- *Cyprus Shore Claim* (apparent resolution of claim relating to alleged contribution of City facilities to bluff failure)
- We are currently representing the City in its condemnation action to acquire a fee interest in 10 acres on Avenida Pico adjacent to the Rancho San Clemente Business Park, known as the "Triangle Site." The Property is the last remaining undeveloped land in approximately 200 contiguous acres of open space designated for habitat preservation under a master conservation easement held by the City. The Complaint names Emergency Shelter Coalition ("ESC") as the purported record owner.
- We are also currently defending the City in the Public Records Act lawsuit brought by Laura Ferguson.
- We have represented the City in two important, successful stipulated results in DOJ investigations, first, in connection with a complaint filed in connection with the City's sober living home regulations, and second, in connection with a DOJ investigation into disabled access for the City's "last-mile" Lyft program.

### **B. References**

Please do not hesitate to contact any of the following references for a more in-depth discussion of our ability to provide legal services for the City of San Clemente. Some of our references do not make their addresses available publicly, but will provide them through separate side-contact.

## BB&K References

Former San Clemente Mayor Bob Baker  
[REDACTED]

Former San Clemente Mayor Dan Bane  
[REDACTED]

Former San Clemente Mayor Chris Hamm  
[REDACTED]

Former San Clemente Mayor Kathy Ward  
[REDACTED]

Former San Clemente City Manager, Current Pomona City Manager  
James Makshanoff, City Manager  
City of Pomona  
505 South Garey Ave.  
Pomona, CA 91766  
(909) 620-2051  
James.Makshanoff@pomonaca.gov

Former San Clemente City Manager, Current Big Bear Lake City Manager  
Erik Sund, City Manager  
City of Big Bear Lake  
39707 Big Bear Blvd.  
Big Bear Lake, CA 92315  
(909) 866-5831  
esund@citybigbearlake.com

Oversight of all City legal services (2015 to present). Scott Smith City Attorney/Mal Richardson Assistant City Attorney; Alisha Winterswyk CEQA and land use. Elizabeth Hull, Jeff, Dunn, and Chris Pisano (for work listed above)

David Doyle, City Manager  
City of Aliso Viejo  
12 Journey, Suite 100  
Aliso Viejo, CA 92656  
(949) 425-2510  
[ddoyle@avcity.org](mailto:didoyle@avcity.org)

Oversight of all City legal services (2015 to present). Scott Smith City Attorney/Mal Richardson Assistant City Attorney; Alisha Winterswyk CEQA and land use. Elizabeth Hull, Jeff, Dunn, and Chris Pisano (for work listed above)

Carolyn Emery  
Orange County Local Agency Commission  
2677 North Main Street, Suite 1050  
Santa Ana, CA 92705  
(714) 640-5100  
[cemery@oclafco.org](mailto:cemery@oclafco.org)

Oversight of all general counsel services (2004 to present; client from 1994 to present). Scott Smith general counsel.

Marlene D. Best  
City of Santee, City Manager  
10601 Magnolia Ave.  
Santee, CA 92071  
(619) 258-4100 x.295  
[mbest@CityofSanteeCa.gov](mailto:mbest@CityofSanteeCa.gov)

Oversight of all City legal services (2003 to present). Shawn Hagerty City Attorney.

Andrew Phillips  
Civic Communities, President & CEO  
8989 Rio San Diego Dr., Suite 100  
San Diego, CA 92108  
(619) 533-7127  
[phillips@civicsd.com](mailto:phillips@civicsd.com)

Oversight of all general counsel services (2009 to present). Shawn Hagerty general counsel.

Mark Hensley, Managing Partner  
Hensley Law Group  
2600 W. Olive Avenue, Suite 500,  
Burbank, CA 91505,  
(310) 488-0782  
[mhensley@hensleylawgroup.com](mailto:mhensley@hensleylawgroup.com)

Former legal colleagues of David King.

Gregg Kovacevich, Attorney  
Hensley Law Group  
2600 W. Olive Avenue, Suite 500  
Burbank, CA 91505  
(858) 220-1232  
[gk@hensleylawgroup.com](mailto:gk@hensleylawgroup.com)

Former legal colleagues of David King.

## VII. PROJECT SCHEDULE

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Our San Clemente service methodology will continue to be driven in large part by the Council's meeting and agenda schedule, with standard practices occurring as follows:

1. *First and third Monday mornings.* Internal virtual service team meeting with attorneys with San Clemente work in progress.
2. *First and third Mondays.* Office hours and briefings with Councilmembers and/or City Manager.
3. *First and third Tuesdays.* Office hours, Councilmember briefings, preparation for and attendance at City Council meeting.
4. *First and Third Wednesdays.* Management staff meeting and Planning Commission.
5. *Every Thursday.* Office hours with review and execution of agenda report and contracts.
6. *Second and Fourth Mondays.* Agenda-setting meeting with City Management and City Clerk staff.
7. *Weekly.* Office hours with Community Development staff.
8. *Monthly.* Transmittal to Council of written update on litigation and major transactional work in progress.

We expect to perpetuate this schedule under our retainer with the named service team, with attendance at meetings with Councilmembers and/or the City Manager staffed by the City Attorney or Assistant City Attorney. When onsite, our attorneys do not bill San Clemente unless they're engaged in San Clemente work.

We try to answer and return calls as soon as possible, but for calls from the City Council or the City Manager, we will immediately answer the call or – if we're in a court appearance, another meeting, or a non-confidential public setting – we will immediately text you a time to expect our call.

We have a large bench to assist with work and can commit to a 72 hour turnaround unless our assessment of the work suggests it will take longer, in which case we will immediately inform you.

## VIII. COST DATA

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BB&K recognizes the need to keep legal costs under control. We have a longstanding commitment to the affordable delivery of legal services to municipalities and public agencies. Given the depth and breadth of our experience, we are able to get the job done in much less time, resulting in lower costs. We strive to be flexible with our rates and fee structures. Part of that flexibility is a willingness to work with clients to customize rates and fee structures, including those listed below. We believe that with the efficiencies we offer, we can continue to provide our services within the City's currently adopted and historical legal budgets.

Ultimately, the City's legal costs are driven by the amount and complexity of the work it asks us to handle. A third part review of San Clemente's City Attorney Department and BB&K contract commissioned a third-party study by Management Partners noted that the City's legal costs in the end was "a result of policy determinations made by City leaders." (Please see Council agenda presentation dated June 15, 2021.) Over the course of the last few years, Council direction in this regard has resulted in a reduction of the City's legal budget by approximately 50%, excluding the \$1.9 million carriage by BB&K of the City's litigation fees to stop the SR-241 extension.

### A. Compensation

This proposal presents three compensation alternatives for continuation of BB&K's San Clemente engagement. Our contingent fee arrangement for the TCA litigation would remain in place as an overlay on all three.

#### 1. Modified broad retainer.

This alternative is essentially a continuation of the City's desire to fund legal services under a fixed-fee, quasi-departmental retainer, as we currently provide. Under this arrangement, our scope of services covers all ongoing, regular services, with the exception of those occasional services (e.g., general plan update), specialized legal services or applicant-reimbursable (e.g., development entitlements) services it wanted excluded from the retainer. Unlike most other firms' retainer agreements, which pay the firm a higher rate for taking longer to do work, our innovative San Clemente retainer places that risk on BB&K. Our rates actually go down if we're inefficient. This alternative would keep those incentives aligned as they are currently.

Please see **Appendix B** – Pricing Approach

General Counsel Retainer: \$42,323 per month (covering items under Retainer General Counsel Services defined below).

Non-Retainer General Counsel Services, as needed: \$282 per hour for attorneys; \$170 per hour for paralegals, clerks, analysts and consultants

Public Records Act Work with Advanced Record Center Team: \$217 per hour (includes attorney, paralegals, analysts)

Special Counsel Services (as defined below): \$355 per hour for attorneys; \$180 per hour for paralegals, clerks, analysts and consultants

Applicant-Initiated Reimbursable Services: then-current private rates

2. Hourly engagement.

This alternative gives the City full control of every increment of its legal costs at rates that are very competitive for attorneys with the credentials and experience of our proposed team.

Please see **Appendix B** – Pricing Approach

General Counsel: \$275 per hour for attorneys; \$170 per hour for paralegals, clerks, analysts and consultants (covering items under Retainer General Counsel Services defined below).

Non-Retainer General Counsel Services, as needed: \$275 per hour for attorneys; \$170 per hour for paralegals, clerks, analysts and consultants

Public Records Act Work with Advanced Record Center Team: \$217 per hour (includes attorney, paralegals, analysts)

Special Counsel Services (as defined below): \$355 per hour for attorneys; \$181 per hour for paralegals, clerks, analysts and consultants. Or as an alternative to that blended rate, we can offer a tiered rate option of \$375 per hour for partners or of counsel, \$295 per hour for associates and \$180 per hour for paralegals, clerks, analysts and consultants)

Applicant-Initiated Reimbursable Services: then-current private rates

3. Hybrid - Narrow City Council Focused Retainer.

Under this alternative, we would convert the fixed fee portion of our work to cover matters directly related to Council interface, i.e., regular City Council meetings, and Councilmember inquiries. The City currently asks us to itemize that work in a separate San Clemente matter, so we would be able to provide this to the Council under the current “carve out” on a minimal fixed fee bases.

With discipline on staff requests and the City’s filling of its current non-attorney vacancies , this alternative could reduce San Clemente legal costs quite significantly. (In other words, the work of planners, engineers, clerks, and finance staff have considerable overlap with our services and tend to go down when clients have these positions fully filled.) We believe this alternative retainer would give the City full advance of cost control measures that Management Partners called “quite arguably best practices that should be followed by others.”

Please see **Appendix B** – Pricing Approach

City Council Focused Retainer: \$9,800 a month which includes Council meeting attendance, pre and post agenda meetings, councilmember inquiries, briefings and debriefings.

**Retainer General Counsel Services, which include:**

- Advise the City Council, City Boards and Commissions, and all City officials on legal matters pertaining to municipal government, including the Brown Act and parliamentary procedures for running meetings.

- Attendance at all regular City Council and Planning Commission meetings (unless excused) and other meetings as requested.
- Coordinate and manage the services and costs of all outside legal counsel within budgetary limits as approved by the City Council.
- On a monthly basis, provide a written status report of assigned projects, requests, and litigation in order to keep the City Council informed of important legal issues and to facilitate the City Council's periodic evaluation of the City Attorney.
- Provide legal advice to staff upon request of the City Manager.
- Prepare and/or review all ordinances, resolutions, municipal contracts, joint powers agreements, and other agreements and contracts entered into by the City.
- Research and submit legal opinions on municipal or other legal matters as requested by the City Council or City Manager,
- Alert the City in a timely manner on new State or Federal legislation or judicial decisions that may impact the City and propose appropriate action(s) to assure compliance.
- Provide legal work pertaining to land use issues including but not limited to property acquisitions, property disposals, public improvements, easements, dedications and right-of-way vacations.
- Enforce City codes, zoning regulations, and building standards through administrative and judicial actions.
- Attend staff meetings at the request of the City Manager (currently held bi-monthly).
- Provide designated office hours or times of availability at City Hall as requested by the City,
- Communicate with the press, when authorized to do so, regarding City legal matters.
- Promptly response to calls, e-mails, and correspondence from the City Council and staff.
- Review current documents, policies, and forms to ensure compliance to current laws.
- Prepare agenda reports originating with the City Attorney's Office and up to two hours review of reports originating in other departments.

**Non-Retainer General Counsel Services, which include:**

- Attendance at special meetings of the City Council and Planning Commission meetings and meetings of other Boards, Committees, and Commissions as requested

- Review of agenda reports originating in other departments in excess of two hours (upon notification to City Manager's office or department head)
- Review and assistance with Public Records Act requests
- General Plan and Housing Element Updates and Local Coastal Program
- Non-litigation work involving the Transportation Corridor Agencies, Orange County Fire Authority, and other multi jurisdictional agencies

**Special Counsel Services, which include:**

- Litigation and formal administrative or other adjudicatory hearing matters falling under the Ralph M. Brown Act's definition of "pending litigation"
- Labor relations and employment matters, which include providing guidance on personnel matters, including policy and procedures affecting employees
- Non-routine real estate matters
- Land acquisition and disposal matters
- Successor Agency and housing matters
- Taxes, fees and charges matters
- Public construction disputes
- Non-routine contract negotiation matters
- Non-routine land use and development matters
- Environmental matters, which include assisting in the preparation of Environmental Impact Reports and compliance with the California Environmental Quality Act (CEQA)
- Water law matters
- Tax and ERISA related matters
- Toxic substances matters
- Complex public utility matters
- Advocacy matters
- Other matters mutually agreed upon.

**B. Reimbursements**

BB&K does not charge for routine word processing, legal assistants, clerical costs, administrative support staff, secretarial costs, and office costs, including telephone and fax charges. Reimbursement of costs advanced by BB&K on behalf of the City as well as other expenses will be billed at actual cost. These currently include, but are not limited to, travel costs (mileage) at the IRS authorized rate; actual expenses for being away from our offices on City business; postage; legal research; and any cost of printing or reproducing documents, photographs, or other items necessary for legal representation.

## IX. STATEMENT OF COMPLIANCE

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This proposal is in strict compliance with the Request for Proposal and Draft Agreement and no exceptions to either are proposed. Please see **Appendix C**.

## X. CONFLICTS OF INTEREST

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### A. Current Contracts with the City of San Clemente

BB&K has a current contract with the City of San Clemente for City Attorney services. The contact person is Scott Smith, services provided are city attorney and special counsel service and the contract dates back to 2015.

### B. Political Contributions

BB&K nor any of its attorneys has made any political contributions of money, in-kind services or loans made to any member of the City Council within the last three years.

### C. Current Public Agency Clients

Because BB&K is a large law firm that specializes in municipal and public agency law, we have represented literally thousands of public entities in performing a significant amount of legal services. A list of our City Attorney clients is below:

ALBANY, CITY OF	GOLETA, CITY OF	POMONA, CITY OF
ALISO VIEJO, CITY OF	GUSTINE, CITY OF	ROLLING HILLS, CITY OF
APPLE VALLEY, TOWN OF	HAWAIIAN GARDENS, CITY OF	SAN BERNARDINO, CITY OF
ARCADIA, CITY OF	HERMOSA BEACH, CITY OF	SAN CLEMENTE, CITY OF
ARTESIA, CITY OF	HILLSBOROUGH, TOWN OF, CA	SAN JACINTO, CITY OF
ATWATER, CITY OF	INDIAN WELLS, CITY OF	SAN JUAN CAPISTRANO, CITY OF
AVALON, CITY OF	JACKSON, CITY OF	SANTA ANA, CITY OF
AZUSA, CITY OF	LA HABRA HEIGHTS, CITY OF	SANTA PAULA, CITY OF
BIG BEAR LAKE, CITY OF	LAFAYETTE, CITY OF	SANTEE, CITY OF
CALEXICO, CITY OF	LAKE FOREST, CITY OF	SHAFTER, CITY OF
CLAYTON, CITY OF	LOMITA, CITY OF	SIGNAL HILL, CITY OF
COACHELLA, CITY OF	MALIBU, CITY OF	ST. HELENA, CITY OF
COLMA, TOWN OF	ONTARIO, CITY OF	STANTON, CITY OF
COLTON, CITY OF	PALM DESERT, CITY OF	UPLAND, CITY OF
EL PASO DE ROBLES, CITY OF	PALM SPRINGS, CITY OF	WEST HOLLYWOOD, CITY OF
ESCALON, CITY OF	PALOS VERDES ESTATES, CITY OF	WILLIAMS, CITY OF
FAIRFAX, TOWN OF	OF	WINTERS, CITY OF
FONTANA, CITY OF	PLEASANT HILL, CITY OF	WOODLAND, CITY OF
GALT, CITY OF	PLYMOUTH, CITY OF	

### D. Terminated Public Agency Clients

BB&K has not had a contract for city attorney services terminated within the past five years.

### E. Potential Conflicts

We have fastidiously avoided conflicts on interest in our representation of the City. We can think of only one or two occasions where conflicts arose; in each case the City suggested waiving the conflict of interest. On one significant project, the clients (San Clemente and Santa Margarita Water District) opted to have us firewall lawyer teams, then share effort in writing agreements

around staff-negotiated deal points. We have a standing firm policy of avoiding representation of the County of Orange in order to be available for any representation you have vis-à-vis the County, the Sheriff, or their related agencies. Unlike other firms you'll meet, we rarely represent developers and have never had the occasion to do so in San Clemente since our engagement. Our Orange County competitors not only do this, but are often found advocating appellate decisions contrary to the interests of cities.

**F. Current or Known Future Professional Commitments**

Each of our service team members is available on the evening and hours we commit them to above.

Scott currently serves as City Attorney to the cities of Aliso Viejo and San Clemente. He serves as General Counsel to the Santa Margarita Water District and Orange County Local Agency Formation Commission. The firm does not believe there to be any foreseeable or potential conflicts of interest that could result from such representation.

Shawn Hagerty serves as City Attorney for Santee, which meets on a different week. Shawn also attends a department head meeting every Monday at 9:30 a.m. and the Santee City Council meets the second and fourth Wednesdays of each month at 6:30 p.m.

David and Mal are both available to attend Planning Commission meetings.

David's commitments are as follows:

Second Monday of each month at 6:00 p.m. - Lomita Planning Commission;  
Third Tuesday of each month at 6:00 p.m. - Palos Verdes Estates Planning Commission;  
Fourth Thursday of each month at 8:30 a.m. - Fenner Valley Water Authority; and  
He teaches at Loyola Law School on Tuesdays and Thursdays from 12:00 to 4:00 p.m.

## XI. INSURANCE COVERAGE

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We are able to meet the City's insurance requirements. BB&K carries professional liability (errors and omissions) coverage with Lloyd's of London and certain London Companies with a total limit of liability in excess of \$1,000,000 per claim and \$2,000,000 in the annual aggregate including claims expenses. The firm also carries general liability, business automobile liability, and employer's liability insurance with standard coverage consistent with a business of our type and nature as well as workers' compensation coverage as required by law.

**APPENDIX A – EXAMPLE INVOICE**

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Indian Wells  
(760) 568-2611  
Irvine  
(949) 263-2600  
Los Angeles  
(213) 617-8100  
Bend, OR  
(541) 382-3011



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, CA 92502  
Phone: (951) 686-1450 | Fax: (951) 686-3083 | www.bbklaw.com  
Tax ID # 95-2157337

Ontario  
(909) 989-8584  
Sacramento  
(916) 325-4000  
San Diego  
(619) 525-1300  
Walnut Creek  
(925) 977-3300  
Washington DC  
(202) 785-0600

CITY OF SAN CLEMENTE  
ATTN: CITY MANAGER  
910 CALLE NEGOCIO  
SAN CLEMENTE, CA 92672

December 7, 2022  
953355  
SCOTT SMITH  
Page 1

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**INVOICE SUMMARY**

*For Professional Services Rendered Through November 30, 2022:*

Our Client # 55452  
SAN CLEMENTE, CITY OF

Matter # 55452.01100  
Re: GENERAL (RETAINER)

Current Fees:	\$	20,749.96
Current Reimbursable Costs:	\$	11.00
Total Current Billings For This Matter:	\$	20,760.96

Matter # 55452.01110  
Re: CITY COUNCIL (RETAINER)

Current Fees:	\$	7,473.67
Total Current Billings For This Matter:	\$	7,473.67

Matter # 55452.01120  
Re: PLANNING COMMISSION (RETAINER)

Current Fees:	\$	3,819.47
Total Current Billings For This Matter:	\$	3,819.47

**Invoice Due and Payable Upon Receipt**

Matter # 55452.01200

Re: CITY CLERK (RETAINER)

Current Fees:	\$	887.88
Total Current Billings For This Matter:	\$	887.88

Matter # 55452.01400

Re: COMMUNITY DEVELOPMENT/PLANNING (RETAINER)

Current Fees:	\$	4,329.80
Current Reimbursable Costs:	\$	163.20
Total Current Billings For This Matter:	\$	4,493.00

Matter # 55452.01410

Re: COMMUNITY DEVELOPMENT/BUILDING (RETAINER)

Current Fees:	\$	272.81
Total Current Billings For This Matter:	\$	272.81

Matter # 55452.01500

Re: PUBLIC WORKS/GENERAL (RETAINER)

Current Fees:	\$	458.65
Total Current Billings For This Matter:	\$	458.65

Matter # 55452.01520

Re: PUBLIC WORKS/UTILITIES (RETAINER)

Current Fees:	\$	4,186.93
Total Current Billings For This Matter:	\$	4,186.93

Matter # 55452.01600

Re: BEACHES, PARKS & RECREATION (RETAINER)

Current Fees:	\$	143.83
Total Current Billings For This Matter:	\$	143.83

TOTALS FOR ALL MATTERS ON THIS INVOICE

Current Fees:	\$	42,323.00
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Current Reimbursable Costs:	\$	174.20
Total Current Billings For All Matters:	\$	<u>42,497.20</u>

Matter # 55452.01100

Re: GENERAL (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/01/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/01/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.20
11/01/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.80
11/02/22	[REDACTED] Partner: SCOTT SMITH	2.20
11/02/22	[REDACTED] Partner: SCOTT SMITH	0.30
11/03/22	[REDACTED] Partner: SCOTT SMITH	1.40
11/03/22	[REDACTED] Associate 2: CARL C. JONES	0.70
11/04/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/04/22	[REDACTED] Partner: SCOTT SMITH	0.80
11/04/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	N/C
11/07/22	[REDACTED] Partner: HONGDAO NGUYEN	0.30

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/07/22	[REDACTED] Partner: ELIZABETH W. HULL	0.50
11/07/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/07/22	[REDACTED] Partner: SCOTT SMITH	0.80
11/07/22	[REDACTED] Partner: SCOTT SMITH	0.70
11/07/22	[REDACTED] Partner: SCOTT SMITH	0.40
11/07/22	[REDACTED] Partner: SCOTT SMITH	0.40
11/07/22	[REDACTED] Associate: RYAN E. STAGER	0.40
11/07/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	2.30
11/08/22	[REDACTED] Partner: SCOTT SMITH	2.20
11/08/22	[REDACTED] Associate 2: CARL C. JONES	1.00
11/08/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.80
11/09/22	[REDACTED] Partner: SCOTT SMITH	1.40

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/09/22	[REDACTED] Associate 2: CARL C. JONES	0.10
11/09/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.40
11/09/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.40
11/10/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.10
11/10/22	[REDACTED] Partner: SCOTT SMITH	1.30
11/10/22	[REDACTED] Associate 2: CARL C. JONES	1.60
11/11/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/14/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/14/22	[REDACTED] Associate: RYAN E. STAGER	0.20
11/14/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	1.70
11/15/22	[REDACTED] Partner: SCOTT SMITH	5.30
11/15/22	[REDACTED] Partner: SCOTT SMITH	0.30

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/15/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/15/22	[REDACTED]	1.10
	Associate 2: CARL C. JONES	
11/16/22	[REDACTED]	1.50
	Partner: SCOTT SMITH	
11/16/22	[REDACTED]	0.80
	Partner: SCOTT SMITH	
11/16/22	[REDACTED]	0.30
	Partner: SCOTT SMITH	
11/16/22	[REDACTED]	2.60
	Associate 2: CARL C. JONES	
11/17/22	[REDACTED]	1.80
	Partner: SCOTT SMITH	
11/17/22	[REDACTED]	1.10
	Associate 2: CARL C. JONES	
11/17/22	[REDACTED]	0.40
	Paralegal: NATALIE R. WRIGHT	
11/18/22	[REDACTED]	0.20
	Partner: SCOTT SMITH	
11/18/22	[REDACTED]	0.50
	Paralegal: NATALIE R. WRIGHT	
11/21/22	[REDACTED]	1.10
	Partner: SCOTT SMITH	

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/21/22	[REDACTED] Partner: HONGDAO NGUYEN	0.30
11/21/22	[REDACTED] Associate: RYAN E. STAGER	0.30
11/21/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	2.40
11/22/22	[REDACTED] Partner: SCOTT SMITH	1.80
11/23/22	[REDACTED] Partner: SCOTT SMITH	5.20
11/28/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.60
11/28/22	[REDACTED] Partner: SCOTT SMITH	10.30
11/28/22	[REDACTED] Partner: HONGDAO NGUYEN	0.30
11/28/22	[REDACTED] Associate: RYAN E. STAGER	0.20
11/28/22	[REDACTED] Associate 2: CARL C. JONES	0.70
11/29/22	[REDACTED] Associate 2: CARL C. JONES	1.60

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/30/22	[REDACTED]	0.40
	Partner: SCOTT SMITH	
11/30/22	[REDACTED]	4.90
	Associate 2: CARL C. JONES	

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
SCOTT SMITH	Partner	43.40
MATTHEW E. RICHARDSON	Partner	0.80
HONGDAO NGUYEN	Partner	0.90
ELIZABETH W. HULL	Partner	0.50
RYAN E. STAGER	Associate	1.10
CARL C. JONES	Associate 2	15.40
NATALIE R. WRIGHT	Paralegal	9.90
	Total Hours:	72.00

**Total Fees for Professional Services: \$ 20,749.96**

**Reimbursable Costs:**

ON-LINE RESEARCH

11/30/22	COURTALERT.COM, INC. - ON-LINE RESEARCH - COURTALERT.COM, INC.	11.00
	Subtotal:	11.00

**Total Reimbursable Costs: \$ 11.00**

**Total Current Billings For This Matter: \$ 20,760.96**

Matter # 55452.01110

Re: CITY COUNCIL (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/01/22	[REDACTED]	2.20
	Partner: SCOTT SMITH	
11/01/22	[REDACTED]	2.20
	Partner: SCOTT SMITH	
11/01/22	[REDACTED]	0.30
	Partner: MATTHEW E. RICHARDSON	
11/01/22	[REDACTED]	0.30
	Partner: SCOTT SMITH	
11/01/22	[REDACTED]	1.40
	Paralegal: NATALIE R. WRIGHT	
11/02/22	[REDACTED]	0.50
	Partner: MATTHEW E. RICHARDSON	
11/02/22	[REDACTED]	0.70
	Paralegal: NATALIE R. WRIGHT	
11/03/22	[REDACTED]	1.10
	Partner: SCOTT SMITH	
11/03/22	[REDACTED]	0.50
	Partner: MATTHEW E. RICHARDSON	
11/04/22	[REDACTED]	0.40
	Associate 2: CARL C. JONES	
11/07/22	[REDACTED]	0.70
	Partner: MATTHEW E. RICHARDSON	

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/08/22	[REDACTED] Associate 2: CARL C. JONES	1.80
11/09/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.30
11/14/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.90
11/14/22	[REDACTED] Partner: SCOTT SMITH	0.50
11/15/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.40
11/16/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.30
11/16/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	3.40
11/17/22	[REDACTED] Partner: SCOTT SMITH	0.40
11/17/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	1.10
11/18/22	[REDACTED] Partner: SCOTT SMITH	0.70

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/18/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	2.50
11/21/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	1.10
11/22/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	1.90
11/22/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.50
11/29/22	[REDACTED] Partner: SCOTT SMITH	2.50
11/29/22	[REDACTED] Partner: MATTHEW E. RICHARDSON	0.10
11/30/22	[REDACTED] Partner: SCOTT SMITH	0.20

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
SCOTT SMITH	Partner	10.10
MATTHEW E. RICHARDSON	Partner	3.60
CARL C. JONES	Associate 2	2.20
NATALIE R. WRIGHT	Paralegal	13.00
	Total Hours:	28.90

**Total Fees for Professional Services:** \$ 7,473.67  
**Total Current Billings For This Matter:** \$ 7,473.67

Matter # 55452.01120

Re: PLANNING COMMISSION (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
10/03/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/01/22	[REDACTED]	0.30
	Partner: MATTHEW E. RICHARDSON	
11/02/22	[REDACTED]	3.20
	Partner: MATTHEW E. RICHARDSON	
11/03/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/08/22	[REDACTED]	0.80
	Partner: MATTHEW E. RICHARDSON	
11/10/22	[REDACTED]	0.20
	Partner: MATTHEW E. RICHARDSON	
11/14/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/15/22	[REDACTED]	0.50
	Partner: MATTHEW E. RICHARDSON	
11/15/22	[REDACTED]	0.90
	Associate: RYAN E. STAGER	
11/15/22	[REDACTED]	0.70
	Paralegal: NATALIE R. WRIGHT	
11/16/22	[REDACTED]	0.40
	Partner: MATTHEW E. RICHARDSON	

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/16/22	[REDACTED]	5.20
	Associate: RYAN E. STAGER	
11/17/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/28/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/30/22	[REDACTED]	0.20
	Partner: MATTHEW E. RICHARDSON	

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
MATTHEW E. RICHARDSON	Partner	6.10
RYAN E. STAGER	Associate	6.10
NATALIE R. WRIGHT	Paralegal	0.70
	Total Hours:	12.90

**Total Fees for Professional Services:** \$ 3,819.47  
**Total Current Billings For This Matter:** \$ 3,819.47

Matter # 55452.01200

Re: CITY CLERK (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/03/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.60
11/09/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.50
11/15/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.50
11/16/22	[REDACTED] Municipal Analyst: STEPHANIE SMITH	0.20
11/18/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	1.80
11/30/22	[REDACTED] Municipal Analyst: STEPHANIE SMITH	0.70

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
STEPHANIE SMITH	Municipal Analyst	0.90
NATALIE R. WRIGHT	Paralegal	3.40
	Total Hours:	4.30

**Total Fees for Professional Services:** \$ **887.88**  
**Total Current Billings For This Matter:** \$ **887.88**

Matter # 55452.01400

Re: COMMUNITY DEVELOPMENT/PLANNING (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/01/22	[REDACTED] Partner: TODD R. LEISHMAN	0.10
11/07/22	[REDACTED] Partner: TODD R. LEISHMAN	2.80
11/07/22	[REDACTED] Associate: RYAN E. STAGER	0.30
11/08/22	[REDACTED] Partner: TODD R. LEISHMAN	1.10
11/08/22	[REDACTED] Associate: JOHN M. NATALIZIO	0.60
11/08/22	[REDACTED] Associate: RYAN E. STAGER	1.80
11/09/22	[REDACTED] Partner: TODD R. LEISHMAN	0.50
11/09/22	[REDACTED] Associate: RYAN E. STAGER	2.40
11/10/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.40
11/17/22	[REDACTED] Partner: HONGDAO NGUYEN	0.20

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/17/22	[REDACTED] Associate: RYAN E. STAGER	0.30
11/21/22	[REDACTED] Associate: JOHN M. NATALIZIO	1.40
11/22/22	[REDACTED] Associate: JOHN M. NATALIZIO	1.80
11/29/22	[REDACTED] Associate: JOHN M. NATALIZIO	0.80

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
TODD R. LEISHMAN	Partner	4.50
HONGDAO NGUYEN	Partner	0.20
JOHN M. NATALIZIO	Associate	4.60
RYAN E. STAGER	Associate	4.80
NATALIE R. WRIGHT	Paralegal	0.40
	Total Hours:	14.50

**Total Fees for Professional Services: \$ 4,329.80**

**Reimbursable Costs:**

COLOR COPIES		
11/30/22		163.20
	<b>Total Reimbursable Costs:</b>	<b>\$ 163.20</b>
	<b>Total Current Billings For This Matter:</b>	<b>\$ 4,493.00</b>

Matter # 55452.01410

Re: COMMUNITY DEVELOPMENT/BUILDING (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/01/22	[REDACTED] Paralegal: NATALIE R. WRIGHT	0.30
11/03/22	[REDACTED] Associate: JOHN M. NATALIZIO	0.70

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
JOHN M. NATALIZIO	Associate	0.70
NATALIE R. WRIGHT	Paralegal	0.30
	Total Hours:	1.00

**Total Fees for Professional Services:** \$ 272.81  
**Total Current Billings For This Matter:** \$ 272.81

Matter # 55452.01500

Re: PUBLIC WORKS/GENERAL (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/17/22	[REDACTED]	0.30
	Partner: PAULA C.P. DE SOUSA	
11/17/22	[REDACTED]	0.80
	Paralegal: NATALIE R. WRIGHT	
11/22/22	[REDACTED]	0.40
	Partner: PAULA C.P. DE SOUSA	
11/23/22	[REDACTED]	0.40
	Paralegal: NATALIE R. WRIGHT	

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
PAULA C.P. DE SOUSA	Partner	0.70
NATALIE R. WRIGHT	Paralegal	1.20
	Total Hours:	1.90

**Total Fees for Professional Services:** \$ 458.65  
**Total Current Billings For This Matter:** \$ 458.65

Matter # 55452.01520

Re: PUBLIC WORKS/UTILITIES (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/07/22	[REDACTED]	3.50
	Associate: JOANNA M. GIN	
11/09/22	[REDACTED]	0.20
	Associate: JOANNA M. GIN	
11/09/22	[REDACTED]	1.20
	Associate: JOANNA M. GIN	
11/16/22	[REDACTED]	2.90
	Associate: JOANNA M. GIN	
11/17/22	[REDACTED]	0.40
	Associate: JOANNA M. GIN	
11/18/22	[REDACTED]	3.60
	Associate: JOANNA M. GIN	
11/22/22	[REDACTED]	2.10
	Associate: JOANNA M. GIN	

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
JOANNA M. GIN	Associate	13.90
	Total Hours:	13.90

**Total Fees for Professional Services:** \$ 4,186.93  
**Total Current Billings For This Matter:** \$ 4,186.93

Matter # 55452.01600

Re: BEACHES, PARKS & RECREATION (RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/09/22	[REDACTED]	0.70

Paralegal: NATALIE R. WRIGHT

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>
NATALIE R. WRIGHT	Paralegal	0.70
	Total Hours:	0.70

<b>Total Fees for Professional Services:</b>	<b>\$</b>	<b>143.83</b>
<b>Total Current Billings For This Matter:</b>	<b>\$</b>	<b>143.83</b>

Indian Wells  
(760) 568-2611  
Irvine  
(949) 263-2600  
Los Angeles  
(213) 617-8100  
Bend, OR  
(541) 382-3011



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CITY OF SAN CLEMENTE  
ATTN: CITY MANAGER  
910 CALLE NEGOCIO  
SAN CLEMENTE, CA 92672

December 7, 2022  
953355  
SCOTT SMITH

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**INVOICE SUMMARY**

*For Professional Services Rendered Through November 30, 2022:*

Our Client # 55452  
SAN CLEMENTE, CITY OF

Current Fees:	\$	42,323.00
Current Reimbursable Costs:	\$	174.20
Total Current Billings For This Matter:	\$	<u>42,497.20</u>

**Payment Remittance:**

Invoice # 953355

**ACH or Wire Electronic Payment (Please Reference Invoice Number):**  
Bank of America Corporate Center | 100 North Tryon Street, Charlotte, NC 28255  
ACH Routing #: 121000358 Wire Routing # 026009593 Swift Code: BOFAUS3N  
BBK Account # 14961-50991

**Lockbox:** Best Best & Krieger LLP | P.O. Box 743074 | Los Angeles, CA 90074-3074  
**Courier Delivery Address:** Bank of America Lock Box Services | Lockbox 743074 | 2706 Media Center Drive | Los Angeles, CA 90065-1733

**Credit Card:** Please visit [bbklaw.com/clientpay](http://bbklaw.com/clientpay) to pay by Visa, MasterCard, Discovery or American Express

Please mail 1099 form to: Best Best & Krieger LLP | 3390 University Avenue, 5th Floor | P.O. Box 1028 | Riverside, CA 92502

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(916) 325-4000  
San Diego  
(619) 525-1300  
Walnut Creek  
(925) 977-3300  
Washington DC  
(202) 785-0600

CITY OF SAN CLEMENTE  
ATTN: CITY MANAGER  
910 CALLE NEGOCIO  
SAN CLEMENTE, CA 92672

December 7, 2022  
953369  
SCOTT SMITH  
Page 1

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**INVOICE SUMMARY**

*For Professional Services Rendered Through November 30, 2022:*

Our Client # 55452  
SAN CLEMENTE, CITY OF

Matter # 55452.09115  
Re: SPECIAL MEETINGS (NON-RETAINER)

Current Fees:	\$	1,128.00
Total Current Billings For This Matter:	\$	1,128.00

Matter # 55452.09135  
Re: GENERAL PLAN UPDATE/HOUSING ELEMENT (NON-RETAINER)

Current Fees:	\$	2,425.20
Current Reimbursable Costs:	\$	77.86
Total Current Billings For This Matter:	\$	2,503.06

TOTALS FOR ALL MATTERS ON THIS INVOICE

Current Fees:	\$	3,553.20
Current Reimbursable Costs:	\$	77.86
Total Current Billings For All Matters:	\$	3,631.06

**Invoice Due and Payable Upon Receipt**

Matter # 55452.09115

Re: SPECIAL MEETINGS (NON-RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/17/22	[REDACTED]	3.20
	Partner: SCOTT SMITH	
11/17/22	[REDACTED]	0.80
	Partner: SCOTT SMITH	

Summary of Fees:

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>	<u>Rate/Hr</u>	<u>Amount</u>
SCOTT SMITH	Partner	4.00	282.00	1,128.00
	Total Hours:	4.00		
	<b>Total Fees for Professional Services:</b>		<b>\$</b>	<b>1,128.00</b>
	<b>Total Current Billings For This Matter:</b>		<b>\$</b>	<b>1,128.00</b>

Matter # 55452.09135

Re: GENERAL PLAN UPDATE/HOUSING ELEMENT (NON-RETAINER)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/01/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/01/22	[REDACTED]	0.10
	Associate: RYAN E. STAGER	
11/02/22	[REDACTED]	3.20
	Associate: RYAN E. STAGER	
11/14/22	[REDACTED]	1.00
	Partner: TODD R. LEISHMAN	
11/14/22	[REDACTED]	0.70
	Associate: RYAN E. STAGER	
11/15/22	[REDACTED]	0.70
	Associate: RYAN E. STAGER	
11/17/22	[REDACTED]	0.60
	Associate: RYAN E. STAGER	
11/18/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/20/22	[REDACTED]	1.30
	Associate: RYAN E. STAGER	
11/21/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	
11/21/22	[REDACTED]	0.40
	Associate: RYAN E. STAGER	

<u>Date</u>	<u>Description</u>	<u>Hours</u>
11/22/22	[REDACTED]	0.20
	Associate: RYAN E. STAGER	
11/23/22	[REDACTED]	0.10
	Partner: MATTHEW E. RICHARDSON	

**Summary of Fees:**

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>	<u>Rate/Hr</u>	<u>Amount</u>
MATTHEW E. RICHARDSON	Partner	0.40	282.00	112.80
TODD R. LEISHMAN	Partner	1.00	282.00	282.00
RYAN E. STAGER	Associate	7.20	282.00	2,030.40
	Total Hours:	8.60		
	<b>Total Fees for Professional Services:</b>		<b>\$</b>	<b>2,425.20</b>

**Reimbursable Costs:**

PRINT COST				
11/30/22		0.51		
COLOR COPIES				
11/30/22		77.35		
	<b>Total Reimbursable Costs:</b>		<b>\$</b>	<b>77.86</b>
	<b>Total Current Billings For This Matter:</b>		<b>\$</b>	<b>2,503.06</b>

Indian Wells  
(760) 568-2611  
Irvine  
(949) 263-2600  
Los Angeles  
(213) 617-8100  
Bend, OR  
(541) 382-3011



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

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Sacramento  
(916) 325-4000  
San Diego  
(619) 525-1300  
Walnut Creek  
(925) 977-3300  
Washington DC  
(202) 785-0600

CITY OF SAN CLEMENTE  
ATTN: CITY MANAGER  
910 CALLE NEGOCIO  
SAN CLEMENTE, CA 92672

December 7, 2022  
953369  
SCOTT SMITH

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**INVOICE SUMMARY**

*For Professional Services Rendered Through November 30, 2022:*

Our Client # 55452  
SAN CLEMENTE, CITY OF

Current Fees:	\$	3,553.20
Current Reimbursable Costs:	\$	77.86
Total Current Billings For This Matter:	\$	<u>3,631.06</u>

**Payment Remittance:**

Invoice # 953369

ACH or Wire Electronic Payment (Please Reference Invoice Number):  
Bank of America Corporate Center | 100 North Tryon Street, Charlotte, NC 28255  
ACH Routing #: 121000358 Wire Routing # 026009593 Swift Code: BOFAUS3N  
BBK Account # 14961-50991

Lockbox: Best Best & Krieger LLP | P.O. Box 743074 | Los Angeles, CA 90074-3074  
Courier Delivery Address: Bank of America Lock Box Services | Lockbox 743074 | 2706 Media Center Drive | Los Angeles, CA 90065-1733

Credit Card: Please visit [bbklaw.com/clientpay](http://bbklaw.com/clientpay) to pay by Visa, MasterCard, Discovery or American Express

Please mail 1099 form to: Best Best & Krieger LLP | 3390 University Avenue, 5th Floor | P.O. Box 1028 | Riverside, CA 92502

**APPENDIX B – PRICING APPROACH**

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# EXHIBIT A – PRICING APPROACH

Option A Retainer/fixed fee cap (with an explanation of what it covers) plus hourly fees for litigation or special projects

MONTHLY FIXED RETAINER/HOURLY			
Retainer Fee	Services	Hourly Fee	Services Not in Retainer
\$ 42,300	routine day-to-day as currently covered under retainer	\$ Various - See Costs Data Section	special counsel services outlined in Cost Data Section
OTHER COSTS (Photocopying, Westlaw, or Lexis fees, overhead factor, etc.)			
Fee	Item	Services at No Cost	
\$ Various	See Cost Data Section for further explanation	Secretarial, administrative, support services and data entry	

Option B Hourly fees for all work (no retainer/fixed fee)

HOURLY FEE – NO RETAINER			
Hourly Fee	Services	Attorney & Personnel	Minimum Increment
\$ Various	Various - see Cost Data Section for further explanation	Various - See Cost Data Section for further explanation	BB&K's minimum increment is .1 which represents 6 minutes or less of time spent
OTHER COSTS (Photocopying, Westlaw, or Lexis fees, overhead factor, etc.)			
Fee	Item	Services at No Cost	
\$ Various	See Cost Data Section for further explanation	Secretarial, administrative, support services and data entry	

Option C Proposers' choice. Explain any billing methodology you wish. Utilize space below or include an additional attachment to expand.

PROPOSER'S CHOICE
BB&K can offer a lower retainer for councilmember inquiries if desired at \$9,500 a month. For special counsel services we can offer title rates as outlined in the Cost Data Section in the proposal.

**APPENDIX C – STATEMENT OF COMPLIANCE**

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