

## SPECIAL BOARD MEETING AGENDA

4:00 PM Thursday, August 3<sup>rd</sup>, 2023  
UPUD Headquarters | 339 Main Street, Murphys, CA 95247

### OUR MISSION

*Union Public Utility District is dedicated to protecting, enhancing, and developing our water resources to the highest beneficial use for our customers, while maintaining cost-conscious, reliable service and providing gainful employment through responsible management.*

**Board Chambers are open to the public and the following alternative is available to members of the public who wish to participate in the meeting virtually:**

### **Microsoft Teams meeting** Join on your computer or mobile app

[Click here to join the meeting](#)

Meeting ID: 245 984 716 652

Passcode: 4fyAw9

[Download Teams](#) | [Join on the web](#)

### **Or call in (audio only)**

[+1 209-729-7215,,243420181#](#)

Phone Conference ID: 243 420 181#

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at 209-728-3651. Notification in advance of the meeting will enable UPUD to make reasonable arrangements to ensure accessibility to this meeting. Any documents that are made available to the Board before or at the meeting, not privileged or otherwise protected from disclosure, and related to agenda items, will be made available at UPUD for review by the public.

## ORDER OF BUSINESS

### CALL TO ORDER/THE PLEDGE OF ALLEGIANCE

1. ROLL CALL
2. APPROVAL OF AGENDA

**3. PUBLIC COMMENT:**

(LIMIT 5 MINUTES PER PERSON) Members of the public may address the Board on items not agendized. The public is encouraged to contact the General Manager or Board of Directors for consideration of items to be placed on the agenda. No action will be taken by the Board unless an item is agendized.

**4. OPEN SESSION**

- a. Termination of Legal Services Agreement for UPUD General Counsel Barbara Brenner | White Brenner LLP
- b. Adoption of Legal Services Agreement for UPUD General Counsel: Andrew J. Ramos | Bartkiewicz Kronick & Shanahan Law Firm
- c. Adoption of Legal Services Agreement for UPUD Special Counsel: Lutfi Kharuf | Best Best & Krieger LLP

**5. CLOSED SESSION:**

- a. Conference with Legal Counsel – Existing Litigation (Gov. Code §54956.9(d)(1)  
Name of Case: Hatfield v. Union Public Utility District, Calaveras County  
Superior Court Case No. 23CV46786
- b. Conference with Legal Counsel – Anticipated Litigation (Gov. Code §54956.9(d)(4): One (1) matter

**6. RETURN TO OPEN SESSION**

**7. REPORT ON CLOSED SESSION**

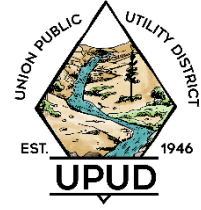
**8. DIRECTORS COMMENTS**

**9. NEXT BOARD MEETINGS & EVENTS**

- Wednesday, August 16, 2023 at 5:30 PM - Regular Meeting
- Wednesday, September 20, 2023 at 5:30 PM – Regular Meeting
- Wednesday, October 18, 2023 at 5:30 PM - Regular Meeting

**10. AJOURNMENT**

# Agenda Item



**DATE:** August 3, 2023

**TO:** UPUD Board of Directors

**FROM:** Jessica Self, General Manager

**SUBJECT:** Termination of Legal Services Agreement for UPUD General Counsel:  
Barbara Brenner | White Brenner LLP

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## **RECOMMENDED ACTION:**

Motion: \_\_\_\_\_ / \_\_\_\_\_ to approve the termination of the legal services agreement (also known as “Engagement Agreement”) for UPUD’s General Counsel, Barbara Brenner with White Brenner LLP.

## **SUMMARY:**

After careful consideration, and evaluation of the needs of the District, the Board of Directors has directed the General Manager to seek other options for legal services. The decision to terminate current General Counsel services is based on a thorough review of the needs of the District due to the legal complexities that UPUD is currently facing.

While UPUD recognizes the contributions made by Ms. Brenner during her tenure as General Counsel, the Board must be sure that legal counsel is properly aligned with UPUD’s strategic goals while enhancing our legal capabilities.

If the UPUD Board moves to approve the termination of the legal services agreement, the Board President will sign a formal termination letter, and the General Manager will immediately send the finalized document to Ms. Brenner via email and US mail. Upon termination, White Brenner LLP is required to return all records and files, confidential information and any other materials belonging to the District.

## **FINANCIAL CONSIDERATIONS:**

UPUD is responsible for all costs associated with outstanding work or services rendered by White Brenner LLP up until the termination date.

*Attachments:*        *White Brenner LLP Engagement Agreement*

April 22, 2022

**VIA EMAIL (Summer.nicotero@gmail.com)**

Summer Nicotero  
Union Public Utility District  
339 Main Street  
Murphys, CA 95247

**Re.: Engagement Agreement**

Dear Ms. Nicotero,

Thank you for selecting White Brenner LLP (the "Firm") to represent the Union Public Utility District (the "Client") as its General Counsel. In this letter agreement ("Agreement"), the words "you" and "your" refer to the Client, and the words "we," "us" and "our" refer to the Firm. It is understood and agreed that the Firm's representation of you does not include any tax-related advice or services with respect to this matter.

We look forward to a mutually satisfying relationship. I will serve as the principal contact. My direct dial number is 916-468-0625. You should never hesitate to contact me if, and when, any question arises.

You may from time to time ask us to perform additional or other services beyond the engagement described above. If you do request such services, we may need to clear a conflict of interest, or we may need to enter into a separate engagement letter with you. If the scope of our engagement changes, the terms set out in this Agreement will apply, unless we enter into a subsequent Agreement with you. Otherwise, the Firm will proceed in reliance upon the description and terms set forth in this Agreement. This engagement may be terminated by either you or us upon notice to the other, subject to applicable Rules of Professional Conduct. In order to avoid any misunderstanding, it is the Firm's standard policy to set out the terms of our engagement at the outset.

Limitation on Scope of Engagement. Unless specifically retained, our representation of you does not include representation of any of your companies, their parent, subsidiaries, affiliates, stockholders, officers, or directors ("Affiliates"). Accordingly, it is understood and agreed that any representation by the Firm of another client adverse to any Affiliates or other third parties does not constitute a conflict of interest and does not require your consent. This Agreement has no third-party beneficiaries, and the Firm owes no attorney-client duties to persons or entities other than the Client, even if the Client might owe them fiduciary or other duties.

Progress and Reporting. We will keep you reasonably informed concerning the representation and will communicate information and advice about significant developments in the matter. We may communicate by letter, telephone, cellular telephone, facsimile transmission, or email. You should, of course, feel free to communicate with us on any issue or matter that you feel deserves attention, and we will endeavor to respond promptly. In order for us to assist you effectively and efficiently, we assume you will provide us with the factual information you have which relates to the subject matter of our engagement, and that you will make any appropriate business or technical decisions. In addition, we encourage you to share with us at all times your expectations and any concerns regarding our services at any time during the course of our representation. We believe you should be actively involved in the strategy and management of your legal affairs, and our goal is to encourage candid and frequent communication between us.

Fees and Costs. The Firm will provide General and Special Counsel legal services at the blended hourly rate of \$325.00 per hour for all attorneys, paralegals, and law clerks, to the extent such services exceed the Retainer as defined below. Prior to any services rendered beyond the Retainer, oral notification will be provided to the General Manager.

We may retain other counsel to assist us on a contract basis. Before doing so, we will first negotiate a fee with them and obtain your consent to it.

We try to assign work to lawyers, paralegals and others who can provide the necessary services most efficiently, but I will continue to be responsible for the entire assignment. Hourly rates are normally adjusted once a year for work performed beginning in January. The Client consents to these rate adjustments unless you notify the Firm, in writing, to the contrary. We customarily send monthly invoices for services rendered and other charges incurred for your account during the previous month. The monthly invoice details the work performed and the types of charges incurred. Payment is due upon the receipt of our invoice. We also reserve the right to assess and collect late-payment charges at the rate of ten percent (10%) per year on past due accounts.

In addition, it is the Firm's policy to charge for travel, copying, messenger services, litigation deadline calendaring services, computer research services, filing fees, and other such out of pocket expenses. These expenses will be billed and payable contemporaneously with our fees.

Retainer. The Firm requires an annual retainer of \$7,000, for attendance once a month at the District Board meeting via Zoom, with up to four in-person appearances per year. (the "Retainer"). The Retainer includes all services rendered relative to the monthly meetings and preparation therefore. For legal services beyond the monthly meeting attendance, the hourly rates described above will apply.

Errors and Omissions Insurance. We have errors and omissions insurance to cover those services that we have agreed to provide.

Arbitration of Disputes. We anticipate a harmonious and satisfactory attorney-client relationship. If any disputes arise between us, we shall submit them to binding arbitration, which shall proceed pursuant to the Comprehensive Arbitration Rules and Proceedings of the Judicial Arbitration and Mediation Services (“JAMS”). If you do not wish to agree to arbitrate any dispute with us, you should not sign this Agreement. Your agreement to arbitrate is not necessarily a condition of our agreement to represent you, and upon request we will consider deleting the arbitration provision.

In the unlikely event that a dispute arises concerning our fees or your payment of them, you may choose to arbitrate the dispute under the auspices of the California State Bar Mandatory Fee Arbitration Program (“Mandatory Fee Arbitration”), as set forth in California Business and Professions Code section 6200 et seq. Those procedures permit a trial after arbitration, unless the parties agree in writing after the dispute has arisen, to be bound by the arbitration award. If after receiving notice of client’s right to arbitrate you do not elect to proceed under the Mandatory Fee Arbitration procedures and file a request for Mandatory Fee Arbitration within thirty (30) days, any dispute over fees, charges, costs, or expenses, will be resolved by binding arbitration as detailed herein. For more information on this program, please visit <http://www.calbar.ca.gov>.

Litigation. Parties to litigation have an obligation to preserve all potential evidence in their possession, custody, or control and to prevent loss or destruction of that evidence. While this particular matter does not currently involve litigation, there is a potential that the dispute could escalate into a lawsuit in the future. Accordingly, we need to discuss issues related to preservation of evidence at your first opportunity. In the meantime, please take all measures necessary to prevent the destruction or loss of potential evidence.

Termination. Unless terminated earlier, this representation and, unless the Firm represents you in other matters, the attorney-client relationship will terminate automatically upon your receipt of the Firm statement first reflecting completion of the substantive legal services described herein. Subsequent statements sent to collect expenses or unpaid balances, or the state of accounting/business records or client lists at the Firm, shall not extend the attorney-client relationship. After completion of the matter, changes may occur in laws or regulations that could have an impact on your future rights or responsibilities. Unless you engage the Firm after completion of this matter to provide additional services arising from the matter or any other matter, it is understood and agreed that the Firm will have no continuing obligation to advise you or any other person or entity with respect to future developments associated with this matter.

Return of Client Records. Upon your written request following any termination of this Agreement, the Firm will release to you all of your records and files, subject to the Firm’s right to retain copies of the same. The Firm shall have no duty or obligation to release any

of those materials to you without your written request. In the event you do not submit a written request to the Firm within thirty (30) days following termination of this Agreement, you agree that the Firm shall be entitled to destroy such records and files without any liability to you or your successors. At any time after the termination of this Agreement, the Firm may give you written notice that it desires to deliver your records and files to you. You agree to notify the Firm within thirty (30) days of the address to which such records and files shall be delivered, and if you do not respond within that thirty (30) day period, you agree the Firm may then destroy such records and files without any liability to you or your successors. You shall be responsible for all expenses related to the shipping and delivery of your files and records.

Consultation with Counsel. In the course of representing you, we may consult with our own counsel on our own behalf and without cost to you, whether outside counsel or attorneys inside the Firm who do not perform work for you on this matter, regarding our engagement of you, or one or more aspects of this engagement. To the extent that we are addressing the Firm's rights or responsibilities, a conflict of interest might be deemed to exist between the Firm and you, particularly if a dispute were to arise between us and you regarding the subject matter of this representation. You hereby consent to such consultation and waive any claim of conflict of interest based on such consultation or resulting communications that could otherwise disqualify us from continuing to represent you or from acting in our own behalf, even if doing so might be deemed adverse to your interests. You acknowledge that such communications are protected by our own attorney-client privilege from disclosure to you.

If you have any questions about any aspect of our arrangements or our invoices from time to time, feel entirely free to discuss those questions with me.

If the scope of the services we are to render to you and the terms of the engagement are satisfactory, please confirm your agreement by executing the consent form below and returning one executed copy of this Agreement to me, via email to [barbara@whitebrennerllp.com](mailto:barbara@whitebrennerllp.com).

Once again, thank you for this opportunity. We will endeavor to provide prompt and responsive legal services at all times.

Kind regards,


**White** Brenner LLP

*Barbara Brenner*

Barbara A. Brenner  
AEP/emh

**Agreed and Accepted:**

Union Public Utility District

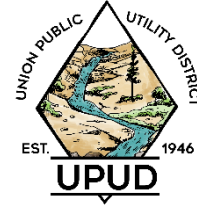
By: Summer Nicotero   
Summer Nictotero

Date: 4/26/2022

Title: General Manager



# Agenda Item



**DATE:** August 3, 2023

**TO:** UPUD Board of Directors

**FROM:** Jessica Self, General Manager

**SUBJECT:** Adoption of Legal Services Agreement for UPUD General Counsel: Andrew J. Ramos | Bartkiewicz Kronick & Shanahan Law Firm

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## RECOMMENDED ACTION:

Motion: \_\_\_\_\_ / \_\_\_\_\_ to approve the legal services agreement for UPUD's General Counsel, Andrew J. Ramos, with Bartkiewicz Kronick & Shanahan Law Firm (BKS).

## SUMMARY:

After careful consideration, and evaluation of the needs of the District, the Board of Directors has directed the General Manager to seek other options for legal services. The decision to pursue new General Counsel services is based on a thorough review of the needs of the District due to the legal complexities that UPUD is currently facing. The Board must be sure that legal counsel is properly aligned with UPUD's strategic goals while enhancing our legal capabilities.

UPUD General Manager recommends hiring Andrew Ramos with BKS as general counsel for Union Public Utility District. Mr. Ramos has been highly recommended by multiple water agencies in the region. He is a BKS firm shareholder, and his practices focus on advising and representing public agencies and water suppliers. Andrew has expertise in:

- Brown Act
- Public Records Request Act
- Conflicts of Interest
- Public Works Construction Law
- Proposition 218
- Water Rights

Mr. Ramos has represented, and continues to represent, numerous water agencies and other clients located upstream of the Sacramento-San-Joaquin Bay-Delta for many years. Some agencies include Yuba County Water Agency, Amador Water Agency, City of Modesto, and currently serves as general counsel to Blue Lake Springs Mutual Water Company.

BKS is an accomplished law firm located in Sacramento that specializes in water law and the representation of local government agencies. The attorney team concentrates in the areas of

municipal water, natural resources, and environmental law. The firm was established in 1989. For more information on BKS, visit their website at [bkslawfirm.com](http://bkslawfirm.com).

**FINANCIAL CONSIDERATIONS:**

Charges will accrue as defined in the attached Legal Services Agreement. The hourly rate for Mr. Ramos is the same as UPUD's current General Counsel. In addition, there is no retainer requirement.

*Attachments:        General Counsel Legal Services Agreement: Andrew J. Ramos | Bartkiewicz, Kronick & Shanahan Law Firm*

# BARTKIEWICZ, KRONICK & SHANAHAN

ANDREW J. RAMOS  
ajr@bkslawfirm.com  
916.244.3233 (direct)  
916.717.7278 (cell)

A PROFESSIONAL CORPORATION  
1011 TWENTY-SECOND STREET  
SACRAMENTO, CALIFORNIA 95816-4907  
TEL. (916) 446-4254  
www.bkslawfirm.com

## AGREEMENT FOR LEGAL SERVICES WITH UNION PUBLIC UTILITY DISTRICT

This Agreement is made by and between Bartkiewicz, Kronick & Shanahan, a professional corporation ("Attorney") and Union Public Utility District ("Client"), effective on August \_\_, 2023, who agree as follows:

**1. Scope and Duties.** Client retains Attorney to provide general counsel legal services to Client. Attorney also agrees to represent Client in pending litigation concerning a component of Client's water rates, either as lead counsel or co-counsel as determined by Client. Attorney may provide additional legal services as requested by Client and agreed in writing by Attorney. Andrew J. Ramos will be the principal attorney representing Client under this Agreement.

Client acknowledges that it is not retaining Attorney for any other matter at this time and that Attorney is not receiving any information from Client concerning any other matter. Attorney will provide those legal services reasonably required to represent Client in this matter and will take reasonable steps to keep Client informed of progress and significant developments, and to respond to Client's inquiries. Client will be truthful with Attorney, cooperate with Attorney, keep Attorney informed of developments and changed circumstances, abide by this Agreement and pay Attorney's bills in a timely manner.

**2. Billing Rates.** Client agrees to pay for Attorney's legal services at the 2023 hourly rate of \$325 per hour for Mr. Ramos. He will be assisted as needed by other attorneys in the firm whose rates are \$365 (Principal 1), \$275 (Associate 1), and \$235 (Associate 2). Attorney's rates are subject to adjustment annually (generally effective January 1), with notice to Client of the adjustment. Attorney charges in minimum one-quarter hour units.

**3. Costs and Expenses.** Client will reimburse Attorney for all necessary and actual costs and expenses incurred by Attorney, including, but not limited to, the following: messenger and other delivery fees; postage; photocopying (at \$.20/page black and white and \$.30 for color); parking; mileage (at the then-current IRS rate); computer-assisted research charges, travel costs and other out-of-pocket expenses incurred by Attorney. Attorney will itemize all costs incurred on each monthly statement. Attorney will obtain Client's written prior approval for any travel expenses.

**4. Statements.** Attorney will send Client a statement for fees and costs incurred every month, except that when the fees and costs for a particular month are minimal, they may be carried over to the next month's statement. Upon Client's request, Attorney will provide a statement within 10 days. Client will pay Attorney's statements within 30 days after each statement's date. Attorney's statements will clearly state the basis of the charges, including the amount, rate and basis for calculation of Attorney's fees.

If Client does not pay the statement in full within 30 days from the date of the statement, then Client will be charged interest on the balance due at the rate of 10% per year.

**5. Retainer Deposit.** Attorney does not request a retainer deposit.

**6. Disclaimer of Guarantee.** Attorney has made no promises or guarantees to Client about the outcome of Client's matter, and nothing in this Agreement will be construed as such a promise or guarantee. Attorney's comments about the outcome of Client's matter are expressions of opinion only.

**7. Termination.** Client may discharge Attorney at any time by giving notice of termination to Attorney. Attorney may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, Client's refusal to cooperate with Attorney or to follow Attorney's advice on a material matter, or any other fact or circumstance that would render Attorney's continuing representation unlawful or unethical. When Attorney's services conclude, all unpaid charges will become immediately due and payable. When Attorney's services conclude, Attorney may terminate this Agreement upon notice to Client and will, upon Client's request, deliver Client's files to Client, along with any Client funds or property in Attorney's possession. Attorney and Client each agree to sign any documents reasonably necessary to complete Attorney's discharge or withdrawal.

**8. Insurance.** Attorney at its sole cost and expense will procure and maintain for the duration of this Agreement the following types and limits of insurance: commercial general liability, \$1,000,000 per occurrence; professional liability, \$4,000,000 per claim; and, workers' compensation, statutory limits. Upon request, Attorney will provide to Client a certificate or certificates of insurance evidencing this insurance coverage.

**9. Disclosure of Other Clients.**

Attorney has represented, and continues to represent, numerous water agencies and other clients located upstream of the Sacramento-San Joaquin Bay-Delta ("Bay-Delta") for many years. Those agencies and clients include Yuba County Water Agency, Browns Valley Irrigation District, Yolo County Flood Control & Water Conservation District, the City of Folsom, the City of Roseville, Sacramento Suburban Water District, Amador Water Agency, Woodland-Davis Clean Water Agency, the City of Modesto and the Stanislaus Regional Water Authority (collectively, "Bay-Delta Clients"). The Bay-Delta-related issues on which we represent our Bay-Delta Clients include the development and implementation of water quality standards for the Delta, related water-right issues, the operation of the federal Central Valley Project ("CVP") and the State Water Project ("SWP"), the contracting for water supplies from the CVP and the SWP, legislative proposals related to the Delta, the transfer of water supplies for use within the CVP and SWP service areas and related issues.

Attorney previously represented the City of Angels (Angels Camp) concerning an assessment and Proposition 218 dispute.

Attorney has represented Tuolumne Utilities District regarding water rights issues involving the Stanislaus River tributaries other than the North Fork. Because Client utilizes supplies from a tributary to the North Fork Stanislaus River, there does not appear

to be a potential conflict of interest between simultaneous representation Client and Tuolumne Utilities District.

Attorney represents Blue Lake Springs Mutual Water Company in Arnold, California. The water company utilizes groundwater and Calaveras County Water District purchased supplies. There does not appear to be a potential conflict of interest between simultaneous representation of Client and the water company.

Except as described above, Attorney and Client are not aware of a conflict of interest in Attorney's representation of Client and the other clients of Attorney. In the event that a conflict is identified or arises in the future, if such a conflict is identified or arises in the future, Attorney would notify Client of the potential conflict, and discuss with the Client an appropriate way to address the situation.

**10. Notices.** Each party may notify the other at the following contacts:

CLIENT

c/o Jessica Self, General Manager  
Union Public Utility District  
339 Main Street  
Murphys, CA 95247  
jself@upudwater.org

BARTKIEWICZ, KRONICK &  
SHANAHAN

Andrew J. Ramos, at the address,  
telephone, and e-mail written above

If sent by U.S. mail, postage prepaid, notices will be deemed delivered five business days after their deposit with the U.S. Postal Service. If sent by e-mail or facsimile with receipt confirming delivery, notices will be deemed delivered the business day following the e-mail's or facsimile's transmission.

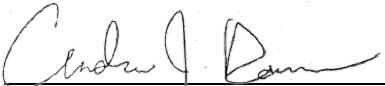
**11. No Third-Party Beneficiaries.** No third-party beneficiaries are intended or created by this Agreement.

**12. Entire Agreement.** This document constitutes the entire agreement between the parties. The parties acknowledge and agree that there are no understandings, agreements, terms or conditions with respect to the subject matter of this Agreement except for those contained in this writing.

**12. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California.

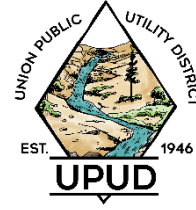
The foregoing is agreed to by the parties as of the date first written above.

BARTKIEWICZ, KRONICK & SHANAHAN UNION PUBLIC UTILITY DISTRICT  
A Professional Corporation

By:   
Andrew J. Ramos

By: \_\_\_\_\_  
President, Board of Directors

# Agenda Item



**DATE:** August 3, 2023

**TO:** UPUD Board of Directors

**FROM:** Jessica Self, General Manager

**SUBJECT:** Adoption of Legal Services Agreement for UPUD Special Counsel: Lutfi Kharuf | Best Best & Krieger LLP

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## RECOMMENDED ACTION:

Motion: \_\_\_\_\_ / \_\_\_\_\_ to approve the legal services agreement for UPUD's Special Counsel, Lutfi Kharuf, with Best Best & Krieger LLP (BBK).

## SUMMARY:

After careful consideration, and evaluation of the needs of the District, the Board of Directors has directed the General Manager to seek other options for legal services. The decision to pursue special counsel services is based on the legal complexities that UPUD is currently handling. Specifically, special counsel will defend UPUD against a ratepayer challenge and advise UPUD on responding to a voter initiative regarding water rates.

UPUD General Manager recommends hiring Lutfi Kharuf with BBK as special counsel for the District. Mr. Kharuf has been highly recommended as an expert in the state to defend challenges like the ones facing UPUD. He is a partner in the Special Districts and Public Finance practice groups of BBK. Lutfi works with public agencies on compliance with constitutional and statutory limitations on:

- Imposing fees, charges, and taxes
- Proposition 218
- Proposition 26

Prior to joining BBK, Mr. Kharuf worked as a bond, disclosure and issuer's counsel to cities, special districts, and other public agencies in California. Mr. Kharuf currently sits on the Legal Affairs Committee of the Association of California Water Agencies (ACWA) and is a board member of the San Diego County Bar Foundation.

BBK is recognized as a California Powerhouse for their water-related work. Mr. Kharuf and his partners have cross-disciplinary knowledge and experience to address and effectively resolve all matters related to governance, election law, rates and fees, special district services, and water-related policies and regulations. BBK was established more than 130 years ago and has

maintained a strong reputation nation-wide. For more information on BBK, visit their website at [bbklaw.com](http://bbklaw.com).

**FINANCIAL CONSIDERATIONS:**

Charges will accrue as defined in the attached Legal Services Agreement.

*Attachments:      General Counsel Legal Services Agreement: Lutfi Kharuf | Best Best & Krieger LLP  
Advance Conflict Waiver: Best Best Krieger LLP*



Lutfi Kharuf  
Partner  
(619) 525-1302  
lutfi.kharuf@bbklaw.com

August 1, 2023

**VIA E-MAIL**  
**JSELF@UPUDWATER.ORG**

Jessica Self  
General Manager  
Union Public Utility District  
339 Main Street  
Murphys, CA 95247

Re: Engagement Letter

Dear Ms. Self:

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to represent Union Public Utility District (“UPUD”). Specifically, we will defend UPUD against a ratepayer challenge and advise UPUD on responding to a voter initiative regarding water rates. This letter constitutes our agreement setting the terms of our representation. If you want us to represent you and agree to the terms set forth in this letter, after you review the letter, please sign it and return the signed copy to us.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

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

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

We have checked the following names against our client index: Union Public Utility District, Michael Hatfield, Stacy Tyler, Gold Country Legal Group, Sutter Creek Law, Eric Bottomly, Greg Rasmussen, Tom Quincy, Bruce Tallakson and Ralph Chick. Based on that check, we can represent UPUD. Please review the list to see if any other persons or entities should be included. If you do not tell us to the contrary, we will assume that this list is complete and accurate. We request that you update this list for us if there are any changes in the future.



### YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

We have already discussed with you the fee arrangement.

Other attorneys may be called upon from time to time to work on matters as particular needs arise and will be billed at current individual rates depending upon the area of expertise. Hourly rates for those attorneys fall within the following ranges for new work: Partners and Of Counsel \$425 per hour; Associates \$340 per hour, Paralegals, Law Clerks and Analysts \$180 per hour.

Our billing rates as described herein will be adjusted annually, for a cost of living adjustment (COLA) provided by the U.S. Department of Labor for the local area, with advance written notice to the client.

The billing policies are described in the memorandum attached to this letter, entitled “Best Best & Krieger LLP’s Billing Policies.” You should consider the Billing Policies memorandum part of this agreement as it binds both of us. For that reason, you should read it carefully.

### INSURANCE

We understand that you are not now insured or have any insurance that may cover potential liability or attorneys’ fees in this case. If you think you may have such insurance, please notify me immediately.

We are also pleased to let you know that Best Best & Krieger LLP carries errors and omissions insurance with Lloyd’s of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

### NEW MATTERS

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

### CIVILITY IN LITIGATION

In litigation, courtesy is customarily honored with opposing counsel, such as extensions to file pleadings or responses to other deadlines. In our experience, the reciprocal extension of such courtesies saves our clients’ time and money. By signing this letter you will be confirming your approval of this practice in your case.

HOW THIS AGREEMENT MAY BE TERMINATED

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

CLIENT FILE

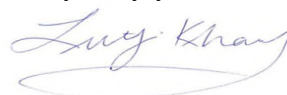
If you do not request the return of your file, we will retain your file for five years. After five years, we may have your file destroyed. If you would like your file maintained for more than five years or returned, you must make separate arrangements with us.

THANK YOU

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

If this letter meets with your approval, please sign and date it, and return the original to us. Unless you sign, date and return by August 15, 2023, we will not represent you in any capacity, and we will assume that you have made other arrangements for legal representation.

Very truly yours,



Lutfi Kharuf  
of BEST BEST & KRIEGER LLP

LK:hjb

AGREED AND ACCEPTED:

By: \_\_\_\_\_

Dated: \_\_\_\_\_

## BEST BEST & KRIEGER LLP'S BILLING POLICIES

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

### INVOICE AND PAYMENT OPTIONS

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide a W-9 upon request and discuss various accepted payment methods.

### FEES FOR PROFESSIONAL SERVICES

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

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute increments. Our attorneys are currently billed at rates from \$235 to \$895 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, paraprofessionals and law clerks are billed at rates from \$175 to \$300 per hour for new work. These rates reflect the ranges in both our public and our private rates. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Non-Attorney Personnel: BBK may employ the services of non-attorney personnel under the supervision of

a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-attorney personnel include, but are not limited to, case clerks, litigation analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request.

### FEES FOR ELECTRONICALLY STORED INFORMATION ("ESI") SUPPORT AND STORAGE

BBK provides Electronically Stored Information ("ESI") services for matters requiring ESI support, which are matters with a document population over 1GB – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data ("GB") processed and stored:

1GB -250GB:	\$10 per GB
251GB - 550GB:	\$8 per GB
551GB - 750GB:	\$6 per GB
751GB - 1TB:	\$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify PracticeSupportServices@bbklaw.com in writing. BBK also provides advanced ESI processing services at hourly rates for personnel in its Litigation Support Group. A copy of BBK's current rates for such services will be provided upon request.

### FEES FOR OTHER SERVICES, COSTS AND EXPENSES

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court

filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

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

#### ADVANCE DEPOSIT TOWARD FEES AND COSTS

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees (unless otherwise noted in our accompanying engagement letter). At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, when we issue our invoice to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

#### MONTHLY INVOICES AND PAYMENT

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

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

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full

amount is covered by the balance of an advance held in our trust account.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

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

#### CHANGES IN FEE ARRANGEMENTS AND BUDGETS

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

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

#### BEST BEST & KRIEGER LLP



Lutfi Kharuf  
Partner  
(619) 525-1302  
lutfi.kharuf@bbklaw.com

August 1, 2023

Jessica Self  
General Manager  
Union Public Utility District  
339 Main Street  
Murphys, CA 95247

Re: Advance Conflict Waiver re Representation of Other Clients in Water Law Issues

Dear Ms. Self:

Union Public Utility District ("UPUD") has requested Best Best & Krieger ("BBK") to represent UPUD. Specifically, BBK will defend UPUD in an action against a ratepayer challenge and rate initiative, and possibly other matters as needed (the "UPUD Matters"). BBK also represents a broad range of clients involved in water law issues that may be adverse or potentially adverse to UPUD in the future. It is possible that BBK may represent additional clients within or surrounding UPUD on water issues in the future. BBK is not handling any matter adverse to UPUD at this time, but such conflicts may arise due to BBK representing other clients on groundwater matters related to the same water basin used by UPUD, or groundwater matters that may have an impact on the water basins used by UPUD.

This letter is to request an advance waiver from UPUD so that BBK may represent other clients in the future on water issues adverse or potentially adverse to UPUD. If we are to represent other clients on water issues adverse to UPUD, we must still obtain UPUD's informed written consent to any potential or actual conflict of interest.

### **RULES OF PROFESSIONAL CONDUCT**

Rule 1.7 of the California Rules of Professional Conduct provides:

- (a) A lawyer shall not, without informed written consent from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person, or by the lawyer's own interests.

...

- (d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), . . . and:
  - (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
  - (2) the representation is not prohibited by law; and
  - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

**REPRESENTATION OF OTHER CLIENTS IN WATER LAW ISSUES –  
ADVANCE WAIVER OF CONFLICTS**

BBK represents many types of clients in a variety of matters. For many years, water law has been a large part of BBK's practice. BBK advises many of its clients regarding water law issues, such as surface water, ground water, imported water, water transfers, water quality, water rights, and various Delta related matters. These other BBK clients are routinely involved in water law issues which could directly or indirectly affect water supplies, rights and policies of UPUD because our other clients may share the same water basins as UPUD or have an impact on the water basins used by UPUD.

As far as we know, BBK is not currently representing any other client, on water issues adverse to UPUD. If another current, or new BBK client has an interest in water issues affecting UPUD, then BBK might be asked to provide advice and representation on that matter. Such work might include representation concerning groundwater sustainability agencies, transactions, negotiations, representation on CEQA or NEPA issues, administrative hearings before the State Water Resources Control Board or other state or federal agencies, regulatory permitting, disputes, or litigation ("Future Water Matters"), any of which could be adverse to UPUD's interest in water issues.

If we are representing UPUD on the UPUD Matters or any other issues, and another client asks BBK to represent it against UPUD on Future Water Matters, then we would otherwise first need to obtain consent from UPUD to represent the other client. Because of our lengthy relationship with many of our water purveyor clients, and because such a large part of our practice involves clients with a variety of water issues, we cannot risk refusal of such consent. Therefore, we ask that UPUD sign this letter giving UPUD's advanced consent now to any future representation of other current or future BBK clients in Future Water Matters adverse to UPUD so that we do not need to ask UPUD for such consent in the future.

As part of this advance consent, BBK shall promptly inform UPUD in writing of any future representation of a client(s) against or adverse to UPUD to provide UPUD the opportunity to determine if it wishes to replace BBK in those circumstances. If UPUD decides to continue to use BBK as counsel, and BBK agrees to continue representing UPUD in those circumstances, then we will establish an ethical screen so that the lawyers representing UPUD do not share any confidential information of UPUD with other lawyers at BBK and vice versa. Regardless of the

circumstances, BBK will not disclose any confidential information received from UPUD to any other client of BBK. Likewise, by signing this letter, UPUD agrees that it will not disclose any confidential UPUD information to BBK on any issues involving water rights, interests, policy or strategy concerning water issues.

### **POTENTIAL ADVERSE CONSEQUENCES**

Because BBK is not currently representing a client adverse to UPUD regarding water issues, it is impossible to predict exactly the facts related to any such future conflict, but we do believe it is possible to describe the reasonably foreseeable potential adverse consequences that would arise, which include the following:

- We may be tempted to favor the interests of one client over the other.
- Our exercise of independent judgment to UPUD may be impaired or clouded by our relationship with other clients.
- There may be an appearance of impropriety in our representation of both clients simultaneously on unrelated matters.
- We may inadvertently disclose confidential information to a client that UPUD would not like revealed.
- We may be restricted from forcefully advocating UPUD's position for fear of alienating another client depending upon the circumstances.

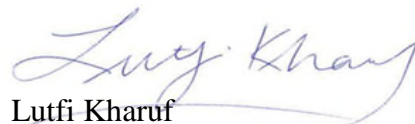
### **UPUD'S CONSENT**

If UPUD agrees to the above, we need an authorized representative of UPUD to sign this consent letter. This consent will not waive any protection that UPUD may have with regard to attorney-client communications with us in UPUD's matters. Those communications will remain confidential and will not be disclosed to any third party without UPUD's consent.

Please consider this matter carefully, and do not hesitate to contact us if UPUD has any questions or concerns. UPUD may wish to confer with independent legal counsel regarding this disclosure and UPUD's consent, and UPUD should feel free to do so.

UPUD's execution of this consent form will constitute an acknowledgment of full disclosure in compliance with the requirements of Rule 1.7 of the California Rules of Professional Conduct previously quoted in this letter, and UPUD's consent to proceeding with our representation of UPUD.

Sincerely,



Lutfi Kharuf  
of BEST BEST & KRIEGER LLP

August 1, 2023

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**CONSENT**

By this letter, Best Best & Krieger LLP has explained the existing and/or reasonably foreseeable potential risks and conflict(s) of interest in the above referenced matter, and has informed me of the possible consequences of this representation and these conflicts. I understand that I have the right to and have been encouraged to consult with independent counsel before signing this consent, and I acknowledge that I have been given sufficient time to do so. Notwithstanding the foregoing, I hereby consent and agree to the above.

Union Public Utility District

By: \_\_\_\_\_

Dated: \_\_\_\_\_