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Qualifications to Provide

Special Voting Rights Act Counsel

Presented to:

The County of San Diego

September 20, 2021

Stephanie Smith

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TABLE OF CONTENTS

Cover Letter	1
A Multi-Dimensional Challenge	1
What Makes Our Team Different	1
Proposal	3
Firm Background & History	3
Proposed Team Assigned to this Relationship	3
Project Understanding	4
Scope of Work & Relevant Special Services	4
Other Public Sector Clients/Similar Services	5
Termination of All Public Sector Clients Within Past Three Years	6
Certifications RE Conflicts of Interest	7
Contracting And Fee Arrangements	7
APPENDIX A.....	RESUMES

COVER LETTER

September 20, 2021

EMAIL DELIVERY

Marguerite Mary Leoni, General Counsel to the
County of San Diego Independent Redistricting
Commission

Re: Proposal for Redistricting Legal Special Counsel Services

Dear Ms. Leoni,

Best Best & Krieger LLP (BB&K) is pleased to present this proposal to the County of San Diego (County) to provide professional redistricting consulting services. With 130 years of experience advising public agencies in California regarding all aspects of election law and election-related issues including districting, redistricting, initiatives, referendums, and voting rights, we are excited to assist the County with its redistricting needs.

A MULTI-DIMENSIONAL CHALLENGE

The redistricting process demands expertise in a variety of disciplines that aren't naturally found together in a single individual or firm. For this reason, it is common to find firms managing these processes that may have training in one field (e.g., demography) while lacking any formal training or expertise in other areas that are equally important (e.g., law). Unfortunately, redistricting processes also tend to be led by consultants who have spent their careers in private practice. Having never actually worked for a public agency, they often have difficulty appreciating the many ways in which the redistricting process can create ongoing challenges and long-lasting impacts for an agency's operations, officials, candidates, and constituents.

WHAT MAKES OUR TEAM DIFFERENT

The BB&K team delivers expertise and experience in each of the disciplines that are required to ensure the County redistricting process is handled seamlessly, professionally, in accordance with all legal requirements, and with the proper levels of engagement for the County, stakeholders and constituents. Specifically, we bring to the table:

Legal Expertise

BB&K's attorneys are true experts in election law, including the minutia of state and federal constitutional and statutory requirements that govern districting and redistricting. These include requirements under the Federal Voting Rights Act (FVRA), the 14th Amendment, the California Voting Rights Act (CVRA), and redistricting guidelines in the California Constitution, government code, elections code, and local charters and ordinances.

We also actively monitor and participate in case law that can shift the opportunities and risks associated with districting and redistricting. As legal questions arise, our team of attorneys will ensure that the County receives correct answers and insightful advice.

Expertise in Community Data

Understanding your community's characteristics is central to the redistricting process. Although census data forms the building blocks for any redistricting exercise, a deeper analysis of community characteristics, shifting demographics, voter data, election outcomes, and/or attitudinal profiles can help illuminate the process.

Public Agency Perspective

If you choose BB&K as your consultant for redistricting services, I will serve as project manager and primary contact and ensure that all tasks are completed on time. I am BB&K's director of election services and have more than 30 years of public sector experience, including 15 years as a city clerk in California. Having worked through multiple districting processes in different jurisdictions, I understand the mechanics, logistics, and the politics of redistricting from the agency's perspective as well as the importance of having that perspective well-represented throughout the process. As the County embarks on the redistricting journey, staff will find that I am an experienced ally for my clients; and I will help guide staff through the various stages of the process.

The hallmark of BB&K's success is the relationships we forge with our clients. Grounded in integrity, respect, and a shared commitment to excellence, these relationships create unity and ensure that we are fulfilling our role as a trusted advisor. We are excited at the prospect of building a strong relationship with the County. If you have any questions about our proposal or would like to discuss any aspect in further detail, please do not hesitate to contact me by email at [REDACTED] or by phone at [REDACTED].

Scott Smith is also signing this cover letter and he has the authority to bind the firm to all provisions of the RFP, any subsequent changes, and to a contract if awarded.

Sincerely,



Stephanie Smith
Director of Election Services
of BEST BEST & KRIEGER LLP

Sincerely,



Scott Smith, Partner
of BEST BEST & KRIEGER LLP

PROPOSAL

All California public agencies that hold elections by district must ensure that their district boundaries are mapped according to the latest U.S. Census results. Districting rules under the CVRA are very specific and complex, and the April 2022 deadline to complete redistricting activities from the 2020 U.S. Census results will approach fast. In addition, in the wake of the July 2020 California Appellate Court decision in *Pico Neighborhood Association v. City of Santa Monica*, uncertainties and risks of costly court challenges exist for public agencies until and unless cases are heard by the California Supreme Court.

The proposed team offers the County seamless and proficient consultant services at a competitive, flat fee to meet the County's redistricting needs. Our combined unique experience coupled with our unparalleled attention to client satisfaction will provide the County with services that exceed its redistricting goals.

BB&K's election law team is well versed in all aspects of the CVRA and FVRA. We have extensive experience helping public agencies respond to CVRA and FVRA violations claims and demands made to change districts by a well-coordinated cadre of plaintiffs. We help local public agencies convert to a "by-district" format, working to establish proportional voting districts as required by federal and state law. We also advise on redistricting/reapportionment issues that arise whenever a new federal census report is published.

FIRM BACKGROUND & HISTORY

Established in Riverside, California in 1891, BB&K is the most experienced and largest full-service public agency law firm in California; and our attorneys are especially well qualified to provide the highest quality legal representation. Today, over 230 attorneys serve public and private clients from 10 offices strategically located throughout California and one office in Washington, D.C. In 2010, 19 lawyers joined BB&K from the Sacramento firm of McDonough Holland & Allen. In 2011, BB&K acquired Miller & Van Eaton, a nationally recognized D.C.-based telecommunications firm, and six of its top attorneys.

BB&K is proud to trace the firm's success back to the groundwork of professionalism and community service laid by its founders 130 years ago. With meaningful experience in virtually all practices of law that may confront a public agency, we help our clients successfully maneuver through legal complexities and government mandates.

PROPOSED TEAM ASSIGNED TO THIS RELATIONSHIP

If you choose BB&K as redistricting special counsel, Stephanie Smith will serve as project manager and primary contact and ensure that all tasks are completed on time. As director of election services, she supervises BB&K's election services consulting initiative, which includes redistricting and demography services for client and non-client district-based agencies as well as election litigation services. She has more than three decades of hands-on experience in municipal government, including serving as city clerk to the cities of Murrieta and Lake Forest.

Stephanie will be supported by BB&K partners Scott Smith and Matthew "Mal" Richardson and of counsel William J. Priest in providing expanded election law counsel. Combined, they have decades of experience advising clients on election laws.

Full resumes of team members are attached as **Appendix A** for your consideration.

FIRM'S BACK-UP PROCEDURES

BB&K enjoys a stable workforce of attorneys and directors. This proposal has been staffed by one director and two long-term BB&K partners. BB&K assigns one long-term partner to each proposal in order to ensure the client will have continuity in project oversight.

PROJECT UNDERSTANDING

The County of San Diego is soliciting proposals for qualified attorneys or law firms ("proposer" or "firm") to assist the County in providing legal services related to the federal Voting Rights Act as applied to the redistricting of City Council and the County's districts. This proposal is not for demography services. BB&K understands that Counsel should have general expertise regarding the federal Voting Rights Act and the laws and processes related to redistricting, and specific expertise regarding the analysis of redistricting plans for compliance with the Voting Rights Act. BB&K further understands Counsel ideally also should have litigation experience in redistricting and Voting Rights Act cases.

SCOPE OF WORK & RELEVANT SPECIAL SERVICES

Specific Redistricting Special Counsel services include the following:

- BB&K will participate in initial telephonic discussions about data, communities of interest, project schedule, criteria, and special concerns of the jurisdiction
- BB&K will attend any virtual/telephonic calls to discuss project progress or answer questions
- In concert with the County's demographer and the County Counsel BB&K will review total population and voting age population
- In concert with the County's demographer, BB&K will review population data by election area and calculation of population deviations
- BB&K will review any potential divisions of "protected class" resident concentrations
- BB&K will draft a memo on population balance and any potential divisions of "protected class" population concentrations in the existing election areas map
- BB&K will review draft maps for population balance and any potential divisions of "protected class" population concentrations in the proposed election areas
- BB&K will prepare the required ordinance for adoption of the final map
- BB&K will attend the public hearing where the ordinance for adoption of the final map is presented for first reading

- BB&K will attend any of the required public hearings upon request
- BB&K will provide additional services at the request of the County

SIGNIFICANT FIRM DEVELOPMENTS WITHIN PAST THREE YEARS

BB&K is a financially sound, privately held partnership. This financial strength has afforded BB&K the ability to experience positive developments within the past three years. For example, in 2018, the firm merged with Jenkins & Hogin, a well-known firm for public agency law in the Los Angeles area.

OTHER PUBLIC SECTOR CLIENTS/SIMILAR SERVICES

The BB&K team has assisted hundreds of cities, special districts, and other public agencies in California with districting; redistricting; passing initiatives; calling referenda; supporting voting rights; and developing a statistically reliable understanding of their communities through expert analysis of census data, voter data, data visualization, and mapping.

BB&K currently provides counsel on election law and redistricting matters for the following public agencies:

City of Adelanto	Altadena Library District
City of Albany	City of Arcadia
City of Artesia	City of Big Bear Lake
Borrego Spring Fire Protection District	City of Chula Vista
City of Corona	City of Costa Mesa
Cucamonga Valley Water District	City of Davis
City of Downey	El Rancho Unified School District
Hi Desert Water District	City of Indian Wells
City of Long Beach	Fallbrook Regional Heath District
Mendocino Coast District Hospital	City of Newport Beach
City of Palm Desert	City of Pam Springs
City of Paso Robles	City of Pomona
City of Poway	City of San Bernardino
City of San Clemente	San Geronio Pass Water Agency
San Miguel Consolidated Fire District	City of Santee
City Solano Beach	Tahoe Donner Association
City of Vacaville	

We have also provided references and project summaries for your consideration. Please do not hesitate to contact any of the following references for a more in-depth discussion of our ability to provide redistricting services.

City of Palm Springs – Transition to Districts

Anthony J. Mejia, MMC, City Clerk

The City of Palm Springs transitioned to by-district elections in 2018. During the course of the transition, the community held over 40 public outreach and community engagement meetings in addition to four required public hearings. As part of the transition, the city moved from a directly elected mayor to an appointed, rotational mayor. BB&K supported the transition with project oversight, supervision of demographic analysis, federal and state Voting Rights Act legislation compliance, community outreach, training of public members in how to use an online mapping tool, public hearing support, ordinance preparation, and plan implementation.

City of Lake Forest – Transition to Districts

Debra D. Rose, City Manager

The City of Lake Forest transitioned to by-district elections in 2017. During the course of the transition, the community held four public outreach and community engagement meetings in addition to four required public hearings. BB&K supported the transition with project oversight, supervision of demographic analysis, federal and state Voting Rights Act legislation compliance, community outreach, training of public members in how to use an online mapping tool, public hearing support, ordinance preparation, and plan implementation.

City of Stanton – Transition to Districts

David J. Shawver, Mayor

The City of Stanton transitioned to by-district elections in 2017. During the course of the transition, the community conducted five public hearings and provided district election materials in multiple languages. BB&K supported the transition by providing project oversight, supervision of demographic analysis, federal and state Voting Rights Act legislation compliance, community outreach, training of public members in how to use an online mapping tool, public hearing support, ordinance preparation, and plan implementation.

TERMINATION OF ALL PUBLIC SECTOR CLIENTS WITHIN PAST THREE YEARS

BB&K does not have any terminated contracts within the past five years to report.

HOW BB&K IDENTIFIES CONFLICTS OF INTERESTS

BB&K maintains a comprehensive database on client representation. Prior to accepting any representation, the database is accessed to determine whether conflicts exist.

LITIGATION/LEGAL PROCEEDINGS WITHIN PAST FIVE YEARS

Below are the legal proceedings within the past five years.

- Cynthia Burch v. BB&K – Los Angeles Superior Court Case No. BC589437 (filed 7/28/2015) (dismissed 12/21/2017)
- Grant Roberts v. Patrick Monroe; BB&K – Los Angeles Superior Court Case No. BC622713 (filed 6/10/2016) (dismissed 11/3/2016)

- Alexa Foster & Alison Bell Rainey v. BB&K – Riverside Superior Court Case No. RIC1607793 (filed 6/23/2016) (dismissed pursuant to settlement 11/17/2017)
- Paul & George Darafeev v. BB&K – Riverside Superior Court Case No. RIC1802581 (filed 2/2/2018) (dismissed pursuant to waiver of fees owed to BBK 2/6/2018)
- Corrective Education Company v. BB&K – Los Angeles Superior Court Case No. 18STCV01229 (filed 10/15/18) (dismissed pursuant to settlement 01/29/2021)
- Airs Aromatics v. BB&K – Orange County Superior Court Case No. 30-2019-01109888-CU-PN-CJC (filed 11/05/2019). This case was filed by a former BB&K client alleging that an attorney who joined BB&K did not handle a matter correctly before joining BB&K. The complaint has no merit, and BB&K is vigorously defending the lawsuit.

QUALIFICATION OF RESPONDENTS

The attorneys on this team have the necessary relevant experience, which is covered in detail above. The resumes are included for review and consideration under **Appendix A**. Scott Smith's bar number is [REDACTED], Matthew (Mal) Richardson's bar number is [REDACTED], and William J. Priest's bar number is [REDACTED]. BB&K hourly rates are listed below for consideration.

Certifications RE Conflicts of Interest

All personnel assigned to work in connection with this representation are eligible to do so pursuant to section 21551(d)(1). None of the activities described in Elections Code Section 21551(c)(4)(B) - (D) were performed on a volunteer basis.

BB&K maintains a comprehensive database on client representation. Prior to accepting any representation, the database is accessed to determine whether there are any existing conflicts. Additionally, each attorney is separately emailed a description of the proposed representation and asked to comment on any potential conflicts. All partners and their secretaries have coded access to the conflicts database that includes and indexes the names of all clients, matters, opposing parties, and other parties as well as other information for all matters on which the firm is working or has worked. When new parties are associated with a client matter, the names of those parties are added to the conflicts database. The database is overseen and managed by BB&K's Billing and Client Information Department as well as the responsible attorney. BB&K currently represents the County in various legal matters and represents other clients involving the County from time to time. If granted the additional work for the County, we request to continue our ongoing conflicts agreement as described in the proposed modifications to the County's legal services agreement.

Contracting And Fee Arrangements

Fee Schedule – hourly based with this rate table:

Partner/Of Counsel	\$350
Associate	\$325
Paralegal	\$175
Director of Election Services	\$185

APPENDIX A

RESUMES

Stephanie Smith



Stephanie Smith
Director of Elections Services

Services

ARC: Advanced Records Center
California Public Records Act
Elections
Municipal Law
Special Districts

Education

Purdue University Global, B.S.

At a Glance

- Stephanie served as city clerk for the cities of Murrieta and Lake Forest.
- She served as state president on the City Clerks Association of California Executive Board.
- She is experienced in municipal elections, particularly in initiatives, recalls and referendums.

Profile

Best Best & Krieger LLP Director of Elections Services Stephanie D. Smith brings a wealth of hands-on municipal government experience to her role helping cities navigate the myriad of ever-changing election laws. Throughout her career she has handled multiple initiatives, two referendums and three recalls - all reaching the signature verification stage and several reaching the ballot.

Stephanie also supports public agencies with California Public Records Act compliance as a member of BB&K's ARC: Advanced Records Center.

Before joining BB&K, Stephanie served as city clerk for the cities of Murrieta and Lake Forest. Accredited as a Master Municipal Clerk by the International Institute of Municipal Clerks, Stephanie has more than three decades of experience in municipal government.

Stephanie served on the City Clerks Association of California Executive Board, most recently as president in 2018-2019. In addition to her bachelor's degree in management, Stephanie completed the Advanced Leadership Program through Continuing Education for Public Officials and is also a graduate of the CEPO Training for Trainers Program. She shares her knowledge and know-how as a trainer for the CCAC, as well as for the Master Municipal Clerk Academy and the California Building Officials Association.

Stephanie has authored more than 100 published articles on a variety of topics, including workplace change initiatives, personnel issues, business management, work/life balance and financial planning. Her book, "Values-Based Goal Setting: How to Dream Big and Live the Life You Were Meant to Live," was an Amazon #1 bestseller in the Vocational Guidance and Business & Money Short Reads categories.

A native Californian, Stephanie is married to Jim and they have two children who followed her footsteps into public service, as well as three grandchildren.

Scott C. Smith



Scott C. Smith
Partner

Services

California Environmental Quality Act (CEQA)
Economic Development, Real Estate, & Affordable Housing
Elections
General & Special Counsel
Government Policy & Public Integrity
Local Agency Formation Commission (LAFCO)
Municipal Law
Special Districts

Education

Brigham Young University Law School, J.D.
Utah State University, B.A.

Admissions

California

At a Glance

- Scott provides guidance on First Amendment issues to public and private clients.
- He serves as city attorney for the cities of San Clemente and Aliso Viejo and general counsel to the Santa Margarita Water District and the Orange County Local Agency Formation Commission.
- Scott helps local government agencies navigate election and campaign laws.

Profile

Best Best & Krieger LLP Partner Scott C. Smith advises public and private clients on issues of state and local regulatory law, including advice on critical issues relating to the First and Fifth Amendments, elections, voting rights and municipal law. Scott's career in public law at BB&K began immediately after law school graduation.

Scott's work includes providing regular legal guidance on issues surrounding First Amendment, election and campaign laws. He served as 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 and referendums, voter-approved taxes, election processes, and ballot issues, and district and redistricting. He advises local agency formation commissions on protest elections and incorporations.

Scott is also well-versed in helping public agencies navigate emerging legal trends relating to protected speech, social media, public records and privacy. Scott is often called upon to provide advocacy and litigation support to clients on Constitutional issues relating to the use of public spaces, including free speech on public websites, political speech in public forums and camping and homelessness in public spaces.

Scott's principal clients include the cities of San Clemente and Aliso Viejo, where he serves as contract city attorney. He also served as city attorney in Lake Forest, Santee, La Verne and Big Bear Lake. He is general counsel to the Santa Margarita Water District and Orange County Local Agency Formation Commission.

Scott has served two terms on the Executive Committee of the California State Bar Association's and California Lawyers Association's Public Law Section, where he served as co-editor in chief of the State Bar's Public Law Journal. Scott served for 10 years as general counsel to the California Chapter of the American Planning Association. He was president of the Orange County City Attorneys Association in 2016.

Matthew Richardson



Matthew Richardson
Partner

Services

Business
California Environmental Quality Act (CEQA)
Economic Development, Real Estate, & Affordable Housing
Elections
General & Special Counsel
Government Policy & Public Integrity
Municipal Law
Special Districts

Education

University of California, Los Angeles School of Law, J.D.
Brigham Young University, M.A.
Brigham Young University, B.A.

Admissions

California

At a Glance

- Mal is city attorney for the cities of Lake Forest and Stanton.
- He has extensive experience in complex land use and entitlements representing public and private entities.
- Mal represents public and private clients on issues related to the First Amendment and election and campaign law.

Profile

Matthew “Mal” Richardson is the co-chair of the firm’s Election Law Practice and advises public agency clients on issues related to election and campaign law, the First Amendment and municipal governance.

Mal has served as general and special counsel to numerous cities, with a specialized focus on election issues. Mal has guided clients through the processes required by the California Voting Rights Act, including helping cities transition from at-large to by-district elections, and providing advice and guidance on redistricting issues. In this context, Mal has worked closely with demographers, helping them understand the application of the relevant data to the political nuances of each public agency.

Mal’s experience with election and campaign laws also 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 has successfully guided clients through politically explosive referenda processes and recall campaigns and elections.

Mal is currently the city attorney for the cities of Lake Forest and Signal Hill. He previously served as the City Attorney for Stanton, and serves as special counsel for other public agencies throughout California, including cities, counties and special districts.

William J. Priest



William J. Priest
Of Counsel

Services

Business Licensing & Franchising
California Public Records Act
Elections
Fees, Taxes and Assessments
Government Policy & Public
Integrity
Municipal Law
Public Contracts & Construction
Public Finance

Education

Southern Illinois University
Carbondale, J.D.
University of California, Los
Angeles, B.A.

Admissions

California
Illinois

At a Glance

- Jim is well versed in local elections laws.
- He has extensive experience in land use, development and public finance law.
- He regularly assists clients in finding solutions to their particular finance challenges.

Profile

William J. "Jim" Priest represents public agencies as of counsel in the Municipal Law practice group of Best & Krieger LLP. Operating out of the firm's Ontario office, he provides both general and special counsel services to many cities, counties, special districts and other clients. Jim's particular areas of practice includes local elections, public finance, land use and ethics law.

Election Law

Jim is well versed in local election laws, running the gamut from initiative, referendum, vacancy and recall procedures, to political reform/campaign finance, to election recounts and contests. He devotes much of his time to helping clients comply with the California Voting Rights Act and the California Voter Participation Rights Act (Senate Bill 415) – laws that often require public agencies to change the timing and means by which they elect representatives (from at-large to by-district elections). He is also one of the firm's go-to legal advisors for clients that elect officers by-district and must, therefore, go through the "redistricting" process triggered by the 2020 U.S. Census.

He has worked with dozens of public agencies throughout the State on other local election issues – ranging from charter amendments to tax measures to land use elections. He is also experienced in many types of local tax, assessment and fee/rate setting procedures under Propositions 13, 62, 218 and 26 (which often require an election or similar approval process). He regularly assists clients in finding solutions to their particular financial challenges, whether through local tax measures, property assessments, utility rates or other revenue sources.

Municipal Planning

Jim has extensive experience in land use and development law. He serves as general counsel to the Palm Springs Planning Commission, most recently assisting the City in drafting proposed golf course redevelopment rules as well as a comprehensive update to its historic preservation ordinance.



William J. Priest

During his 12 years of service for the City of Covina, he served as general counsel to its Planning Commission and assisted the City with a variety of high-profile downtown development projects, including the Heritage Plaza Park, the Metrolink and Civic Center Parking Structures, City Ventures' "Covina 2" and "Covina 3" projects, and the Olson Company's "Vintage Walk" and "Citrus Walk" mixed-use developments.

He also assisted the City of Azusa in developing public parking facilities for its Metro Gold Line train stations as well as forming a dedicated joint powers authority, which will long-term manage more than 200 acres of undeveloped hillside property overlooking the City for conservation purposes.

As part of his municipal practice, Jim frequently advises clients on issues regarding the State Planning and Zoning Law, Subdivision Map Act, Brown Act, Public Records Act and similar laws.

Experience

Jim returned to BB&K after spending several years with Oliver, Sandifer and Murphy in Los Angeles, where he served as assistant city attorney for the cities of Gardena and Downey. During his prior tenure with BB&K, he served many public agencies, including the cities of Fontana and Ontario, as well as the March Joint Powers Authority.