

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

December 17, 2024

FROM

TOM BUNTON, County Counsel

SUBJECT

Amendments to Agreements with Kaplan Kirsch LLP and Langan CA, Inc. for Technical Expert Services

RECOMMENDATION(S)

1. Approve **Amendment No. 2 to Agreement No. 21-125** with Kaplan Kirsch LLP, formerly Kaplan Kirsch & Rockwell LLP, to continue legal representation of San Bernardino County through specialized legal services related to the Chino Groundwater Project and cost recovery against responsible parties, extending the agreement for one additional year, for a total contract term of February 9, 2021 through February 8, 2026, with no change in the contract amount of \$3,400,000.
2. Approve **Amendment No. 3 to Agreement No. 21-126** with Langan CA, Inc., formerly Langan Engineering and Environmental Services, Inc., to continue providing technical expert services in connection with possible litigation against responsible parties for cost recovery related to the Chino Groundwater Project, extending the contract for one additional year, for a total contract term of February 9, 2021 through February 8, 2026, with no change to the contract amount of \$2,000,000.

(Presenter: Tom Bunton, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). Sufficient appropriation is included in the Litigation 2024-25 budget and will be included in future recommended budgets, as necessary.

BACKGROUND INFORMATION

Since 1990, the County has conducted activities at the Chino Airport property, located at 7000 Merrill Avenue, in Chino, to identify potential sources of contamination, characterize identified source areas and remediate discovered soil and groundwater contamination known as the Chino Groundwater Project. The groundwater is suspected to have been contaminated due to past usage of Volatile Organic Compounds (VOCs) by prior occupants of the Chino Airport property.

**Amendments to Agreements with Kaplan Kirsch LLP and Langan CA,
Inc. for Technical Expert Services
December 17, 2024**

The County developed a Remedial Action Plan (RAP) for implementation of a pump-and-treat system to treat the contamination, in coordination with the Chino Desalter Authority and a revised version of the RAP was approved by the Water Board on November 4, 2020.

The groundwater pump and treat system is being jointly implemented with the Chino Desalter Authority through a Granular Activated Carbon (GAC) Treatment Plant, extraction and treatment program. The County's GAC Treatment Plant commenced operation on April 25, 2023, pumping from three Chino Desalter Authority wells. The treatment will connect to the County's onsite and offsite wells once construction of the wells is complete.

Due to the specialized nature of the Chino Remediation Project, the County retained outside counsel since 2010. Pursuant to Title 1, Division 2, Chapter 19, Section 12.1908 of the County Code, County Counsel is authorized to select and retain through a purchase order, specialized counsel for a particular matter not to exceed \$200,000 per fiscal year. Contracts for services in excess of that amount require the Board of Supervisors (Board) approval.

The primary attorney assigned to the project is Thomas A. Bloomfield originally with the Gallagher & Gallagher law firm until he changed firms to Kaplan Kirsch LLP (Kaplan), formerly Kaplan Kirsch & Rockwell LLP, in 2019. Kaplan provides specialized legal services for the Chino groundwater remediation and investigation of prior occupants and tenants of the Chino Airport (potential responsible parties) to assist with the cost of the remedial activities. As the scope and size of the project increased, on February 9, 2021 (Item No. 29), the Board approved Agreement No. 21-125 with Kaplan in the amount of \$3,400,000, for the period of February 9, 2021 through February 8, 2024, with two one-year options to extend. On July 11, 2023 (Item No. 22), the Board approved Amendment No. 1 to Agreement No. 21-125 to exercise the first one-year extension of the Agreement to February 8, 2025, with no change to the amount of \$3,400,000.

A necessary element in the investigative process is the use of an environmental expert to review environmental investigation and cleanup documentation concerning the Chino groundwater remediation, and information about the sources and events surrounding the release of hazardous substances to soil and groundwater and provide expert advice regarding analysis of this information. The expert utilized by the County is Langan CA, Inc. (Langan), formerly Langan Engineering and Environmental Services, Inc.

Langan was initially paid by Kaplan due to their environmental expertise in hydrogeology, engineering and geotechnical experience, until the Board approved Agreement No. 21-126 on February 9, 2021 (Item No. 29), in the amount of \$500,000 for the period of February 9, 2021 through February 8, 2024, with two one-year options to extend the contract period. On April 26, 2022, the Board approved Amendment No. 1 to Agreement No. 21-126 (Item No. 30) to increase the contract amount by \$750,000, from \$500,000 to a total amount of \$1,250,000. On July 11, 2023 (Item No. 22), the Board approved Amendment No. 2 to Agreement No. 21-126, increasing the amount by \$750,000, from \$1,250,000 to \$2,000,000 and extending the term through February 8, 2025. The amendment was done to accommodate staffing time and dedication required to understand and dissect the array of activities that have occurred at the Chino Airport since the 1940s.

In 2023, Langan underwent a corporate change to increase its scope of services in California and formed a state-specific wholly owned subsidiary known as Langan CA, Inc. It requested to assign Agreement No. 21-126 and amendments to the new entity, which assignment was

**Amendments to Agreements with Kaplan Kirsch LLP and Langan CA,
Inc. for Technical Expert Services
December 17, 2024**

approved through a "Consent to Assignment" signed by County Counsel on November 11, 2023, as authorized under the agreement. Accordingly, Agreement No. 21-126 was reassigned the new SAP No. 4400025106 to continue payment without interruption. No other changes to the agreement were made.

Amending the Kaplan and Langan agreements will allow for the additional time needed to finalize the investigation and determine the County's best strategy for cost recovery.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Maria Insixiengmay, Deputy County Counsel, 387-5455) on November 14, 2024; Purchasing (Jessica Barajas, Supervising Buyer, 387-2065) on November 20, 2024; Finance (Carl Lofton, Administrative Analyst, 387-5404) on November 26, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on December 2, 2024.

**Amendments to Agreements with Kaplan Kirsch LLP and Langan CA,
Inc. for Technical Expert Services
December 17, 2024**

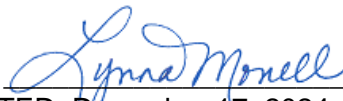
Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 17, 2024



cc: County Counsel - Magana w/agree
Contractor - c/o County Counsel w/agree
File - w/agree

MBA 12/26/2024