

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

July 28, 2020

FROM

MICHELLE D. BLAKEMORE, County Counsel

SUBJECT

Waiver of Conflict of Interest

RECOMMENDATION(S)

1. Approve Waiver and Consent that approves the waiver of actual or potential conflict of interest arising out of the representation of the County of San Bernardino by the Procopio law firm associated with the Glen Helen Grade Separation Project.
 2. Authorize the County Counsel or Chief Assistant County Counsel to execute the Waiver and Consent of the actual or potential conflict of interest.
- (Presenter: Michelle D. Blakemore, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

Approval of the Waiver and Consent will not require the use of additional Discretionary General Funding (Net County Cost). Sufficient appropriation exists in the Department of Public Works' (DPW) 2020-2021 budget to pay for the legal services that are being provided by Procopio.

BACKGROUND INFORMATION

DPW discovered possible construction defects in the Glen Helen Grade Separation Project (Project) and County Counsel retained the Procopio law firm to litigate the case against the prime construction contractor Skanska, the construction management firm, the design firm, and the performance bond sureties. Previously, on September 10, 2019, the Board of Supervisors waived the potential conflict between Procopio and two of Skanska's sureties: Fidelity and Deposit Company of Maryland (F&D) and Federal Insurance Company (Federal). Procopio has discovered that F&D is owned by Zurich Insurance Group, Ltd. Procopio has requested that the County execute waivers of any potential or actual conflict of interests with Zurich that Procopio may have with matters unrelated to the litigation about the Project. Attorneys and other personnel who work on matters involving Zurich will not work on the Project's litigation. County Counsel has reviewed the request and believes there would be minimal risk associated with the Waiver and Consent and believes it would be appropriate for the Board of Supervisors to approve the Waiver and Consent.

PROCUREMENT

Not applicable.

Waiver of Conflict of Interest
July 28, 2020

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Suzanne Bryant, Deputy County Counsel, 387-5455) on July 10, 2020; Finance (Carl Lofton, Administrative Analyst, 387-5404) on July 16, 2020; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on July 16, 2020.

Waiver of Conflict of Interest
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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Josie Gonzales Seconded: Robert A. Lovingood
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 28, 2020



cc: File- County Counsel
la 07/30/2020