

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
SITTING AS THE GOVERNING BODY OF THE FOLLOWING:
SAN BERNARDINO COUNTY
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
AND RECORD OF ACTION**

February 8, 2022

FROM

TOM BUNTON, County Counsel

BRENDON BIGGS, Chief Flood Control Engineer, Flood Control District

SUBJECT

Agreement with Procopio, Cory, Hargreaves & Savitch LLP for Specialized Legal Services

RECOMMENDATION(S)

1. Acting as the governing body of San Bernardino County:
 - a. Authorize the Purchasing Agent to increase Purchase Order No. 4100206590 with Procopio, Cory, Hargreaves & Savitch LLP by \$200,000, from \$200,000 to a not-to-exceed amount of \$400,000, in order to continue the provision of specialized legal services in connection with the San Bernardino County Flood Control District Cactus Basin 4 & 5 Project (Four votes required).
 - b. Authorize the County Counsel, Chief Assistant or Principal Assistant County Counsel to change or add attorneys, paralegals, consultants or other legal staff assigned to the project.
2. Acting as the governing body of San Bernardino County Flood Control District:
 - a. Authorize the Purchasing Agent to increase Purchase Order No. 4100206590 with Procopio, Cory, Hargreaves & Savitch LLP by \$200,000, from \$200,000 to a not-to-exceed amount of \$400,000, in order to continue the provision of specialized legal services in connection with the San Bernardino County Flood Control District Cactus Basin 4 & 5 Project (Four votes required).
 - b. Authorize the County Counsel, Chief Assistant or Principal Assistant County Counsel to change or add attorneys, paralegals, consultants or other legal staff assigned to the project.

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

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The costs for the identified legal services will be funded with property tax revenue. Sufficient appropriation and revenue are included in the Flood Control District's (District) Zone 2 (1920002522) 2021-22 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The District Cactus Basin 4 & 5 Project (Project) is located within the City of Rialto, South of Interstate 210, between Cactus Avenue and Ayala Drive and south of Renaissance Boulevard.

The Project consists of excavation and construction of a dam and outlet-works to create temporary holding capacity for storm run-off. This Project will help mitigate impacts from the construction of the Interstate 210 freeway by reducing the downstream peak storm flows. This Project is immediately upstream of the previously constructed Cactus Basin 3 and 3A Project, both of which are a major component of the overall flood control system designed to provide 100-year flood protection to residences, businesses, and public infrastructure adjacent to the Cactus Channel and Rialto Channel in the cities of Rialto and Colton. On August 11, 2015 (Item No. 46), the Board of Supervisors (Board) approved the plans and specifications for construction of the Cactus Basin 3 and 3A Project, which was completed on October 12, 2017.

On August 21, 2018 (Item No. 69), the Board approved the Project plans and specifications and authorized the District Chief Flood Control Engineer to advertise the Project for bids. On January 29, 2019 (Item No. 47), the Board awarded the construction contract for the Project to RockForce Construction, LLC (RockForce) in the amount of \$14,574,460.

Approval of this item will allow the County and District to continue to utilize Procopio, Cory, Hargreaves & Savitch LLP (Procopio) for specialized legal construction services required to complete the Project. The legal services provided include consultation regarding the termination of RockForce, negotiations with the bonding company, Arch Insurance, and the review/resolution of contractor, subcontractors and other claims arising from this Project. It is anticipated that these legal services from Procopio will continue to be required in order to complete the Project.

PROCUREMENT

Pursuant to Title 1, Division 2, Chapter 19, Section 12.1908 of the County Code and County Policy 11-04, County Counsel is authorized to select and retain through a purchase order, specialized legal counsel for a particular matter not to exceed \$200,000 per fiscal year. Contracts for specialized legal services in excess of \$200,000 per fiscal year require the Board's approval.

On May 4, 2021, the Purchasing Department approved Purchase Order No. 410095549 in the amount of \$50,000 to retain Procopio to provide specialized legal construction advice related to the Project. Purchase Order No. 410095549 has been fully expended. On July 21, 2021, the Purchasing Department approved Purchase Order No. 4100206590 in the amount of \$50,000. On August 4, 2021, Purchase Order No. 4100206590, was increased by \$75,000, from \$50,000 to \$125,000, and on September 20, 2021, it was increased by \$75,000, from \$125,000 to \$200,000.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Julie Surber, Principal Assistant County Counsel, 387-5455) on December 20, 2021; Purchasing Department (Leo Gomez, Purchasing Manager, 387-2063) on January 6, 2022; Finance (Jessica Trillo, Administrative Analyst, 387-4222 and Carl Lofton, Administrative Analyst, 387-5404) on January 6, 2022; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on January 25, 2022.

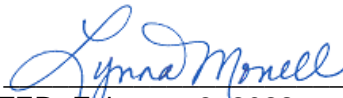
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Record of Action of the Board of Supervisors
San Bernardino County
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Dawn Rowe
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: February 8, 2022



cc: File - County Counsel
File - Flood Control Operations
CCM 02/14/2022