

MAGMA FLOOD CONTROL DISTRICT
MINUTES OF THE
WEDNESDAY, DECEMBER 9, 2020 MEETING

Due to the impacts of the COVID-19 Pandemic, which have prompted declarations of a public health emergency at both the state and federal levels, the Meeting was conducted using measures to protect public health, including technological means, as permitted under Arizona law. The Meeting was properly posted within the boundaries of the District and a phone number of 1-800-829-7603 and a passcode of 44317254# was provided for individuals residing within and without the District to appear telephonically at the Meeting. The Agenda and telephonic call-in information were also posted on the District website, at the usual government building notice boards, and at the Florence Unified School District Anthem K-8 School -- 2700 N. Anthem Way, Florence, Arizona.

The Regular Meeting was called to order by Board President Vinson Dobson at 4:08 p.m. Appearing telephonically were District Board President Vinson Dobson, Director James Kenny, Director Tyler LeSueur, Kent Pace, General Manager, Board Assistant Secretary Larry Pfeifer, and District Counsel Stephen R. Cooper. There were no public members appearing in person or telephonically and introductions were not necessary.

General Manager Kent Pace gave a brief update on the ongoing repairs to the Magma Flood Control Retarding Structure as part of the Erosion Mitigation Project which is intended to address erosion and desiccation related surface cracking issues on the dam. On November 16, 2019, the District Board awarded Standard Construction Company Inc., a contract

for Phase 2 improvements in the amount of \$2,172,884.64. Phase 2 improvements consisted of repairing the surface of the dam by using heavy equipment to rip, cross-rip, and recompact the surface of the dam, then adding both rock mulch and hydro seed to mitigate future erosion on the dam. Currently Standard appears to have completed the Project and should submit a final pay application billing by year's end. Within recent months, subcontractors and suppliers working for the Contractor have begun asserting damage claims against the District due to the Contractor failing to fully compensate them for their work and their materials used in the repairs. Moreover, the Contractor has informally asserted claims for additional compensation from the District. The District respectfully disagrees with the Contractor's assertions and claims.

General Manager Pace next gave a brief update on the Intergovernmental Agreement ("IGA") with Pinal County for cost sharing and responsibilities for the Middle Magma Regional Flood Control Project. General Manager Kent Pace stated the IGA was approved by the Pinal County Board of Supervisors and subsequently signed on October 28, 2020.

General Manager Pace next gave a brief update on the first grant reimbursement from Natural Resource Conservation Service ("NRCS") for the Middle Magma Regional Flood Control Project. General Manager Pace noted the grant was going extremely well. The District, NRCS and JE Fuller are meeting bi-weekly. General Manager Pace stated the planning and design process will take two years including the required environmental and economic studies. The construction phase will likely occur over an additional two-year period.

The next item of business was consideration of the approval of the Minutes of the Regular Board Meeting held on October 21, 2020 and to ratify the actions of the October 21, 2020 Meeting. A motion was made by Tyler LeSueur to approve the Regular Meeting Minutes and to ratify the

actions taken at the Meeting. James Kenny seconded this motion. Thereafter, this matter was approved with President Vinson Dobson, Director Tyler LeSueur and Director James Kenny voting to approve these matters.

A motion was then made by Tyler LeSueur to approve the Executive Session Minutes of the October 21, 2020 Meeting. The motion was seconded by James Kenny. Thereafter, this matter was approved with President Vinson Dobson, Director Tyler LeSueur and Director James Kenny voting to approve these matters.

Director Tyler LeSueur moved to go into Executive Session which was seconded by Director James Kenny. The motion was approved.

The next item of business was an Executive Session which was conducted from 4:16 p.m. to 4:51 p.m. and thereafter the Public Meeting was reconvened at 4:51 p.m.

The next item of business was to instruct the General Manager to proceed as directed in Executive Session. A motion was then made by Tyler LeSueur to instruct the General Manager to proceed as directed in Executive Session. The motion was seconded by James Kenny. Thereafter, this matter was approved with President Vinson Dobson, Director Tyler LeSueur and Director James Kenny voting to approve these matters.

The next item of business was an Update on General Manager's efforts to complete District Board's prior authorization (January 2020) to proceed with costs associated with planning and design activities related to Middle Magma Regional Flood Control Project in an amount not to exceed \$750,000.

The next item of business was discussion and possible approval of the General Manager to enter into an agreement with JE Fuller for project planning services in an amount not to exceed

\$499,865. General Manager Paced noted of this funding request approximately \$400,000 will be subject to reimbursement by NRCS. A motion was made by Director James Kenny and seconded by Director Tyler LeSueur to approve authorization for the General Manager to take all actions necessary to enter into contract with JE Fuller for project planning services in an amount not to exceed \$499,865. Thereafter, this matter was approved with President Vinson Dobson, Director Tyler LeSueur and Director James Kenny voting to approve these matters.

The next items of business were Board reports. There were no reports to come before the Board.

The next item of business was General Manger reports. There were no other reports.

The next item of business was other business which came before the Board. There were no items of other business.

The next item of business was adjournment of the meeting at 4:59 p.m.

RESPECTFULLY SUBMITTED this ____ day of December 2020.

**STEPHEN R. COOPER, Attorney for
MAGMA FLOOD CONTROL DISTRICT**