



Board Agenda Item 80

DATE: June 20, 2023

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Fresno County Senate Bill 1 Project List and Anticipated Force Account Projects

RECOMMENDED ACTION(S):

- 1. Approve and authorize Chairman to sign a Resolution establishing a list of road and bridge projects to be performed with Department of Public Works and Planning's Road Maintenance and Rehabilitation Account funds for FY 2023-24; and**
- 2. Declare the FY 2023-24 Anticipated Day Labor Overlay Road Segment projects identified on Exhibits A and B are intended to be performed by force account in accordance with California Public Contract Code, section 22031(g).**

Approval of the first recommended action will authorize the projects to be performed with the Department of Public Works and Planning's (Department) Road Maintenance and Rehabilitation Account (RMRA) funding for FY 2023-24. The initial Project List must be submitted by July 1, 2023, but your Board may add, delete or revise the list at any time and as often as necessary. Approval of the second recommended action will allow the Department to comply with California Public Contract Code (PCC), section 22031(g), which limits the amount of new road construction and reconstruction that can be completed by County forces and requires that projects intended to be performed by force account be declared by the Board of Supervisors or the County Road Commissioner each fiscal year. This item is countywide.

ALTERNATIVE ACTION(S):

If the first recommended action is not approved, the County Road Fund 0010 would not receive an estimated \$25,996,788 from the RMRA for FY 2023-24 (Exhibit C). Your Board may approve the recommended action in its original form or in modified form and direct the Department to return at a later date to modify the Project List. As long as the initial list is adopted by your Board and submitted to the California Transportation Commission (CTC) by July 1, 2023, your Board may direct the Department to return at any time and as often as necessary to modify the Project List by adding, deleting, or revising projects.

If the second recommended action is not approved, county forces will be unable to perform some of the anticipated maintenance and reconstruction projects identified in Exhibits A and B by force account. If not approved, it would require Department staff to bid out additional maintenance and construction projects, causing delays in delivery of service and resulting in additional project costs. Your Board may approve the second recommended action in its original form or in modified form and direct the Department to return at a later date to modify the project list.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The Road Repair and Accountability Act of 2017 (Senate Bill 1 or SB 1) (Beall, Chapter 5, Statutes of 2017) requires a \$212,959 annual maintenance of effort contribution from the General Fund, and will be included in the Department of Public Works and Planning - Roads Org 4510 FY 2023-24 Recommended Budget.

For the first recommended action, revenues received from the RMRA will be deposited in Road Fund 0010, and will be utilized for design, right-of-way purchase, construction, and construction inspection of the identified road and bridge projects.

For the second recommended action, funds for anticipated day labor overlay road segment projects by county forces will be included in the Public Works and Planning Roads Org 4510 FY 2023-24 Recommended Budget.

DISCUSSION:

Road and Bridge Funding Overview

The County's road system is an integral network that connects to the State highway system and supports the movement of goods produced in the valley, which sustains the local economy and facilitates personal mobility. Some communities are remote with no other connection to the State highway system other than the County roads. Managing the use of road funds by effective preventative maintenance strategies ensures that funds are utilized in a manner which will provide the greatest benefit to the public, as well as minimize reductions in levels of service and reduce liability. Roads allowed to deteriorate beyond recovery will either require much more costly reconstruction, or risk reversion to dirt or gravel. A managed system to prevent such deterioration requires a reliable and stable funding stream. The revenues provided by SB 1 increase the funding available for maintenance of the County's network of roads and bridges, and it is anticipated that some of that revenue will continue to be used in future years to offset matching funds required to construct multi-year state and federally funded projects. Still, it is anticipated that the revenues available for pavement maintenance will not be sufficient to offset the expected gradual decline in the overall condition of the County's paved roads.

The County maintains approximately 3,478 miles of road, which is the largest County road system in the State. The County road network includes 570 bridges in various conditions.

Funding for the road and bridge program is comprised of several Federal, State and local sources. The majority of County road funds are derived from State sources and include fuel Excise Taxes and the Local Transportation Fund (LTF). Excise taxes do not vary directly based on the price of fuel, but there are programmed increases in the excise taxes.

The State imposes per-gallon excise taxes on gasoline and diesel fuel, sales taxes on diesel fuel, and registration taxes on motor vehicles, dedicating these revenues to transportation purposes. Portions of the revenues are distributed to cities and counties through the Highway Users Tax Account (HUTA) and RMRA, which was created by SB 1. For FY 23-24, Fresno County's combined HUTA and RMRA revenues are estimated to be \$53,507,986. By statute, the tax percentage increases annually in order to account for the reduction in gas purchases due to increased use of hybrid and electric vehicles.

The County's share of Excise Gas Tax is calculated using a formula which considers the number of registered vehicles and the number of maintained miles of roadway. The formula assigns greater significance to the number of registered vehicles (in all cities and unincorporated areas of a county) by assigning weighting factors of 75% and 25%, to the number of registered vehicles and to the number of maintained miles, respectively. The weight towards registered vehicles, whether or not the owner lives in an unincorporated portion of a county mean that, for example the county with the lowest amount of maintained miles, Orange County, at 328 - less than one-tenth of Fresno County, is issued more than twice as much total gas tax revenue.

The Excise Gas Tax is distributed on a monthly basis, based on projected gasoline sales. Because the Excise Gas Tax is paid in advance, the actual amount distributed may be greater than or less than the actual collection. If the actual sale of gasoline is greater than the original estimate, the State will distribute any owed additional Excise Gas Tax collected in the following year. If the Excise Gas Tax comes in below the original estimate, the following year, the State will reduce the amount of overpaid Excise Gas Tax from that year's estimate.

SB 1 emphasizes the importance of accountability and transparency in the delivery of California's transportation programs. Therefore, in order to be eligible for RMRA funding, the statute requires cities and counties to provide basic RMRA project reporting to the CTC.

The LTF is derived from a portion of the State general sales tax and dedicated to transportation purposes by the Transportation Development Act. The primary purpose of the LTF program is to fund transit services throughout the State, but a portion of the LTF may also be utilized for non-transit needs such as road system maintenance.

Dedicated revenue from local sources includes the Measure C Extension. In November 2006, voters approved the extension of the ½-cent Measure C Sales Tax. The extension includes pass-through revenues distributed to various local agencies via a formula for maintenance and flexible spending. The Measure also includes funding for non-motorized trail facilities, bike lanes, and Americans with Disabilities (ADA) compliance projects within the urban and rural areas of the County. Measure C is currently scheduled to expire in 2027. The voters did not choose to extend the program in a 2022 election.

The Infrastructure Investment and Jobs Act (IIJA) was signed into law on November 15, 2021. The IIJA authorized \$477 billion for fiscal years 2022 through 2026 for surface transportation infrastructure planning and investment, and replaced the extended 2006 Fixing America's Surface Transportation Act (FAST Act). The IIJA maintains a focus on safety, keeps intact the established structure of previous highway-related programs, and continues efforts to streamline project delivery.

Senate Bill (SB) 1 / RMRA Project List

The RMRA funds are proposed to be spent on several projects, which will be funded exclusively by RMRA, and to provide matching funds for federally-funded projects. In order to ensure that the projects can utilize all of the available funding, the estimated cost to construct all of the projects on the list exceeds the available RMRA funding. Certain overlay locations will be included in the contract(s) as additive alternate bids, which can either be awarded with or omitted from the construction contract(s) depending upon the bids received and available funding.

The project list does not limit the flexibility of an eligible city or county to fund projects in accordance with local needs and priorities so long as the projects are consistent with RMRA priorities as outlined in SHC, Section 2030(b) [SHC, Section 2034(a)(1)]. Consequently, the list does not necessarily reflect all of the projects that will ultimately utilize RMRA funding.

On May 17, 2022, a list of projects to be performed using RMRA funding in FY 2022-23 was adopted by your Board. Projects included on that list that have not yet been completed are considered "carryover projects" and are attached as Exhibit B and referenced in the proposed resolution. If funding is not adequate to cover all projects in FY 2023-24, or if completion is still pending at the end of the fiscal year, they will be carried over as projects to be constructed using RMRA funding in FY 2024-25 and future allocations, as necessary.

As shown on Exhibits A and B, not all of the listed projects will be constructed during FY 2023-24. In some cases, the funding is used only to cover the local match for federally funded projects, or only certain phases of the projects. Some projects may not ultimately be constructed and they may be deferred or deleted from the list at a later date.

While it is critical that a Project List be adopted by your Board and submitted to the CTC by July 1, 2023 to secure RMRA funding for FY 2023-24, your Board may direct the Department to return at any time and as often as necessary to modify the list by adding, deleting, or revising projects. California State Association of Counties revenue projections published in January 2023 anticipate that the County will receive \$26,565,732 in FY 2023-24.

Force Account Day Labor Project List

Public Contract Code (PCC), section 22031(g) was amended in September 2014 with the passage of Assembly Bill 2752 (Chapter 345, Statutes of 2014). The section limits the amount of new construction and reconstruction that can be done by county forces to 30% of the total value of all work performed by force account other than maintenance as reported in the Controller's Streets and Roads Annual report as of March 1 of each year prior to the subsequent fiscal year.

For the County, the force account limit is \$7,757,188 for FY 2023-24. To perform the identified work with County forces, the Board of Supervisors or County Road Commissioner must declare its intention to use the provisions of Section 20395(c), which authorizes the Road Commissioner to perform day labor work on specific projects. Such declaration can be made on a project-by-project basis, via a list of anticipated projects for the fiscal year, or via a list that may be included in the county's annual budget.

Department staff has identified several road segments that are planned for rehabilitation (day labor overlays greater than one inch) by force account in FY 2023-24, which are listed on Exhibits A and B. These anticipated maintenance and reconstruction projects have been selected to be performed by force account because it would be more cost effective than contracting the projects out due to the nature of the required work, which consists primarily of short segments and/or narrow, low volume roads.

With your Board's approval of the second recommended action, a list of anticipated projects for the FY 2023-24 Anticipated Day Labor Overlay Road Segment projects, intended to be performed by force account in accordance with PCC, section 22031(g), will be declared. Department staff will monitor qualifying expenditures throughout the fiscal year to ensure that the limit is not exceeded and make any necessary project adjustments due to cost or changing priorities. Any projects that can be performed but are not listed on Exhibit C will be declared on a project-by-project basis. Any projects not completed during FY 2023-24 will be deferred to a subsequent year.

OTHER REVIEWING AGENCIES:

The resolution will be submitted to the CTC by July 1, 2023.

REFERENCE MATERIAL:

BAI #39, August 23, 2022
BAI #11, May 17, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A - RMRA SB-1 New Project List FY 2023-24
Exhibit B - RMRA SB-1 Carried Over Project List and Force Account - Day Labor Projects FY 2023-24
Exhibit C - HUTA/RMRA Revenue Estimate FY 2023-24
On file with Clerk - SB-1 Resolution with Exhibits A and B

CAO ANALYST:

Salvador Espino