



# Board Agenda Item 33

DATE: June 22, 2021

TO: Board of Supervisors

SUBMITTED BY: Daniel Cederborg, County Counsel

SUBJECT: Conflict Waiver for Fresno Council of Governments agreement

RECOMMENDED ACTION(S):

**Approve and authorize the Chairman to sign Conflict Waiver for the County Counsel's Office to represent the County and Fresno Council of Governments (FCOG) in drafting and negotiating a proposed agreement between such parties for the distribution of Regional Early Action Planning (REAP) grant funds.**

Approval of the recommended action would allow an assigned Deputy County Counsel to represent the County in reviewing and negotiating a proposed agreement between the County and FCOG for the FCOG's distribution of approximately \$292,500 of REAP grant funds to the County, while a different assigned Deputy County Counsel performs similar services for FCOG. A third Deputy County Counsel who normally represents FCOG will continue to represent FCOG, but he will be excluded from this matter because he also provides legal services to the County. This item is countywide

ALTERNATIVE ACTION(S):

Your Board may decline to waive the conflict, and FCOG would need to seek legal services elsewhere.

FISCAL IMPACT:

The recommended action will have no effect on Net County Cost.

DISCUSSION:

On February 23, 2021, your Board adopted a resolution authorizing the Director of Public Works and Planning to apply for the REAP grant funding.

The REAP guidelines for that grant funding require that grantees enter into an agreement with FCOG for distribution of funds. The agreement will specify, among other things, the amount of funds granted, timeline for expenditure of funds, and the approved use of funds.

The County was informed that FCOG has \$292,500 available of REAP grants funds to be provided to the County for the purposes of planning activities that can accelerate housing production.

Negotiation of the proposed agreement will require legal representation of both parties. FCOG and the County would be represented by different assigned Deputy County Counsels in the agreement negotiation. A third Deputy County Counsel who normally represents FCOG will continue to represent FCOG, but he will be excluded from this matter because he also provides legal services to the County.

Although County Counsel believes the distribution of these REAP grant funds is in both the County's and FCOG's best interest, and the County Counsel's Office already provides legal representation to the FCOG board, there is at least a potential conflict in drafting the proposed agreement which both entities will execute.

Therefore, in the interests of full disclosure, this request for a written waiver of conflict is made, and its approval by your Board is necessary for County Counsel's Office to represent both FCOG and the County, but through different attorneys, with regard to the proposed agreement for REAP grant funds.

REFERENCE MATERIAL:

BAI # 33, February 23, 2021

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - County conflict waiver

CAO ANALYST:

Raul Guerra