



Board Agenda Item 49

DATE: May 23, 2023

TO: Board of Supervisors

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

SUBJECT: Second Amended and Restated Memorandum of Understanding between the County of Fresno and the City of Selma

RECOMMENDED ACTION(S):

1. **Approve and authorize Chairman to execute the Second Amended and Restated Memorandum of Understanding between the County of Fresno and the City of Selma.**
2. **Determine that the approval and authorization of Chairman to execute the Second Amended and Restated Memorandum of Understanding between the County of Fresno and City of Selma is exempt from the requirements of the California Environmental Quality Act, Public Resources Code 2100, et seq., and direct staff to file a Notice of Exemption with the Office of the Fresno County Clerk.**

The City of Selma's (City) Memorandum of Understanding (MOU) (Agreement No. 07-070) expired on February 27, 2023. The proposed MOU will implement the property and sales tax revenue distribution methodology as directed by your Board. The provisions of this MOU will apply to annexations to the City during its term as well as development in the current Sphere of Influence (SOI) boundary of the City as approved by the Fresno County Local Agency Formation Commission (LAFCo). This item pertains to areas located in District 4.

ALTERNATIVE ACTION(S):

Your Board may determine not to approve the proposed Second Amended and Restated MOU between the City and the County. However, by not approving the recommended action, future annexations by the City would need to be considered by the Board on a case by case basis. In addition, sales tax sharing provisions will cease unless extended by a subsequent agreement.

FISCAL IMPACT:

There is no Net County Cost associated with the Recommended Actions. The recommended Second Amended and Restated MOU slightly modifies the existing MOU property tax distribution provisions by 1% in favor of Fresno County. The sales tax sharing provisions remain that same as the recently expired MOU.

Property Tax Revenue

Under the recently expired MOU, property tax revenue in areas annexed into the City were shared between the City and County as follows: 62% County and 38% City. Consistent with your Board's direction of

achieving uniform distribution amongst the cities, the Amended and Restated MOU now contains property tax revenue sharing as follows: 63% County and 37% City.

Sales and Use Tax Revenue

There are no changes recommended to the methodology for the distribution of sales tax and use revenues under the recommended agreement. The County will continue to receive 5% of the 1% local sales tax revenue generated in the City.

DISCUSSION:

In 1990, the City and the County entered into a MOU (Agreement No. 90-152) to address growth issues in the region and revenue sharing. The MOU was subsequently extended in 2007 (Agreement No. 07-070) for 15 years. On May 16, 2017, the City and County executed a First Amendment to the 2007 MOU to accommodate a 107.85 acre addition and a 242 acre reduction of the CITY's SOI. On February 22, 2022, the City and County executed a Second Amendment to the 2007 MOU to accommodate extension of the 2007 MOU for one year from the expiration date of February 27, 2022, to provide additional time for both parties to complete ongoing negotiations regarding a longer-term extension.

The proposed Second Amended and Restated MOU carries forth generally the same provisions as contained in the recently expired MOU related to property and sales tax revenue sharing, directing growth to the City consistent with the County's General Plan, promotion of economic development in form of streamline annexation standards for industrial and regional commercial uses, mutual collection of development impacts fees, and compliance with City development standards when the County approves development with the City's SOI. The following is a summary of the major provisions contained in the recommended agreement:

Alternative Standards of Annexation

For the purpose of promoting economic development and job creation, the recommended agreement continues to include the provision that streamlines the annexation of areas for industrial and regional commercial uses. This provision is consistent with the County's General Plan goals and policies to support partnership efforts with cities to create jobs and reduce unemployment. The County recognizes that for an area to be competitive in the attraction of business development, cities must have developed industrial parks and commercial centers available.

The application of this provision for the annexation of land for industrial and commercial development included in this agreement continues to require the City to provide a conceptual development plan, including a list of economic objectives to be achieved, the service and financing strategy and a schedule identifying the timeframe for completion of major project components. The City is also required to pre-zone the property and meet annually with the County staff to review the progress until the development is completed.

Compliance with City Standards

Consistent with the County's General Plan policies, the recommended agreement will continue to direct growth to the City and require that the County refer proposals for new urban development to the City for annexation purposes. The agreement also recognizes that because of state-mandated directives, including, but not limited to, the state Regional Housing Needs Allocation, the County may need to consider approval of urban development in areas that are not currently planned for such uses.

The recommended agreement also contains provisions that require all discretionary applications processed by the County at any location within the City's SOI adhere to City property development standards, if more stringent than the County, and pay applicable City development fees.

City Collection of Countywide Capital Facility Fees

The recommended agreement continues the provision for the City collection of countywide capital facilities fees by the City for development projects implemented in the City of Selma if fees are adopted by the Board of Supervisors.

County Collection of City Development fees within City SOI

The recommended agreement also continues the provision for the adoption and collection of City development fees by the County, for development projects implemented in the City's SOI, if requested and adopted by the City.

In addition to the above, a minor modification was made to the renegotiation provisions of the MOU to provide additional time (90 days versus original MOU requirement of 30 days) for renegotiation to be completed and that any agreed upon amendment shall be completed within a reasonable period of time (rather than MOU requirement of 30 days) following the date of the tentative agreement.

California Environmental Quality Act

The proposed amendment to the MOU is exempt under Section 15061, subdivision (b)(3) of the California Environmental Quality Act (CEQA) Guidelines, because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, under CEQA Guidelines section 15378, subdivisions (b)(2), (b)(4), and (b)(5), the activity does not meet the definition of a "project."

OTHER REVIEWING AGENCIES:

The Selma City Council discussed and approved the Second Amended and Restated MOU at a public hearing on April 17, 2023.

REFERENCE MATERIAL:

BAI # 53, February 22, 2022
BAI #54, May 16, 2017
BAI #9, February 27, 2007
BAI #22, April 17, 1990

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Second Amended and Restated City/County MOU

CAO ANALYST:

Salvador Espino