



Board Agenda Item 27

DATE: September 22, 2020

TO: Board of Supervisors

SUBMITTED BY: Daniel Cederborg, County Counsel

SUBJECT: Waive Potential Conflict of Interest for County Counsel to represent the County and Fresno County Transportation Authority

RECOMMENDED ACTION(S):

Approve, and authorize the Chairman to sign Conflict Waiver for County Counsel to represent the County, including, but not limited to, the Department of Public Works and Planning (PWP), and the Fresno County Transportation Authority (FCTA) in drafting a written agreement for PWP to provide construction management services to the FCTA for the Golden State Corridor Infrastructure Improvements Project

Approval of the recommended action would allow a Deputy County Counsel to review a draft of and assist in the negotiation of a contract for the provision of construction management services between the Department of Public Works and Planning and the Fresno County Transportation Authority, while a different Deputy County Counsel performs similar services for the transportation authority.

ALTERNATIVE ACTION(S):

The Board may decline to enter into the agreement and PWP or FCTA would need to seek legal services elsewhere.

FISCAL IMPACT:

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

DISCUSSION:

On September 1, 2020, your Board authorized the Department of Public Works and Planning (PWP) to prepare an agreement with the Fresno County Transportation Authority (FCTA) to provide construction management services for the Golden State Corridor Infrastructure Improvements Project and to return to your Board for approval of the agreement. Negotiation of that contract will require legal representation of both parties. FCTA and the County would be represented by different Deputy County Counsels. Although County Counsel believes the arrangement for PWP to perform the construction management services on the project is in both the County's and FCTA's best interest, and County Counsel already provides legal representation to the FCTA board, there is at least a potential conflict in drafting the contract which both entities will execute. Therefore, in the interests of full disclosure, this request for a written waiver of conflict is made.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - FCTA conflict waiver

CAO ANALYST:

Raul Guerra