



Board Agenda Item 82

DATE: June 18, 2024

TO: Board of Supervisors

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

SUBJECT: Amend Delegated Authority to Execute Agreement with Fresno Metropolitan Flood Control District

RECOMMENDED ACTION(S):

Amend prior delegation of authority to authorize Director of Public Works and Planning, or his or her designee, to execute an Agreement with the Fresno Metropolitan Flood Control District for reimbursement of costs for Design and Construction of Storm Drainage Facilities, including Amendments/Contract Change Orders up to a total amount not to exceed \$100,000, (bid amount is \$73,248) subject to the review and approval of County Counsel as to legal form and the Auditor-Controller/Treasurer-Tax Collector as to accounting form.

Approval of the recommended actions would amend your Board's previous delegation of signature authority for the Director of Public Works and Planning, or his or her designee (Director), to execute a revenue Agreement with the Fresno Metropolitan Flood Control District (FMFCD) to reimburse the County for design and construction costs of storm drainage facilities associated with the Fowler and Olive Avenue Intersection Improvement Project (Project), Federal Aid Number CML-5942(293) up to \$100,000. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the Project could be significantly delayed.

FISCAL IMPACT:

There is no increase in Net County cost associated with the recommended action. FMFCD will pay all costs associated with the design and construction of drainage facilities. Costs such as Agreement preparation and administrative functions will be 100% funded by the Congestion Mitigation and Air Quality (CMAQ) Program. Sufficient appropriations and estimated revenues are included in the Department's Road Org 4510 FY 2023-24 Adopted Budget.

DISCUSSION:

On March 19, 2024, your Board approved an Agreement with FMFCD to reimburse the County for the design and construction of drainage facilities in conjunction with the Project, and authorized the Director to execute the agreement and any amendments up to \$71,254, which was 20% over the preliminary engineer's estimate for the associated improvements. On the same day, your Board awarded the agreement for the Project improvements to Avison Construction, Inc., which had listed the item costs for the FMFCD related components at \$67,850, which escalates to \$73,248 once Design costs are factored in, and exceeds the

delegation of signature authority authorized by your Board. A copy of the finalized Agreement, including the costs of the improvements as awarded and the Design costs, is included as Exhibit A.

The recommended action would increase your Board's delegation of signature authority to the Director to sign the Agreement and any cost amendments up to \$100,000, to account for the higher than estimated project cost and ensure that potential contract change orders may be covered and accepted without bringing this agreement back to your Board again, which will ensure that there are no delays caused in construction of the Project.

The recommended Agreement with FMFCD is for the design and construction of a drainage pipe in conjunction with the Fowler and Olive Intersection Improvements Project. The Fowler and Olive Intersection Improvements Project consists of installing an eight-phase traffic signal, protected left-turn lanes, and associated road improvements to the intersection and approaching roadways. Existing water and sewer facilities will also be relocated and adjusted to grade. Two new drain inlets with storm drain piping will be constructed, with the County's contractor coordinating between utility companies, City of Fresno, and FMFCD regarding construction specifications. Once the drainage pipe is constructed, the Department will work to transfer ownership of the drainage pipe to FMFCD for operation and maintenance.

The recommended Agreement with FMFCD contains provisions and processes to follow in the event the total construction bid exceeds twenty percent (20%) of the preliminary estimate for the reimbursable drainage facilities, and to address any portion of drainage facility construction which does not conform to the approved project plans. In the event the bid exceeds 20% of the preliminary estimate, the recommended Agreement provides that FMFCD may either pay the excess costs, elect not to construct the drainage pipe, or the County can elect to pay for the costs in excess of the 20% excess amount. The recommended Agreement also provides that if FMFCD inspects the drainage pipe and finds a non-conformity with the project plans, the County must correct the non-conformity, at no cost to FMFCD. If the non-conformity cannot be corrected within a reasonable time, the reimbursement due to the County may be adjusted to account for the non-conformity.

The recommended Agreement contains a mutual indemnification provision, which is common in Agreements between public agencies. Upon successful completion of the project and acceptance of the improved drainage facilities, ownership and maintenance responsibilities of the drainage pipe will be transferred to FMFCD.

FMFCD is responsible for operation and maintenance of channels, storm drains, and other such facilities under the District's Storm Drainage and Flood Control Master Plan. Prior to construction at the Fowler and Olive Intersection, the County will obtain from FMFCD approval of plans, design specifications, and costs for all drainage facility improvements.

REFERENCE MATERIAL:

BAI #48, March 19, 2024

BAI #52, March 19, 2024

ATTACHMENTS INCLUDED AND/OR ON FILE:

Location Map

Exhibit A

CAO ANALYST:

Salvador Espino