



Board Agenda Item 44

DATE: April 25, 2017

TO: Board of Supervisors

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

SUBJECT: Fresno County Council of Governments Overall Work Program Master Agreement

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute the Master Overall Work Program Agreement with the Fresno County Council of Governments (\$0)

The Fresno County Council of Governments (FCOG) is the designated Metropolitan Planning Organization for Fresno County. The County receives reimbursement from FCOG for various activities associated with regional planning efforts. Such reimbursement is provided pursuant to a Master Agreement and an Overall Work Program (OWP). An OWP is adopted by the FCOG Board on an annual basis. The current OWP Master Agreement was approved in 1985 and, during FCOG's latest federal certification review, the Federal Highway Administration (FHWA) recommended that FCOG update its OWP master agreements to reflect current statutes. Consequently, it is recommended that an updated OWP Master Agreement be approved that will replace the 1985 OWP Master Agreement.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the 1985 OWP Master Agreement will remain in effect and FCOG will not be able to comply with the FHWA recommendation that the Agreement be updated.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The County will receive full reimbursement for any activities it may perform pursuant to the OWP Master Agreement and subsequent OWP's.

DISCUSSION:

FCOG is an association of local governments and is the regional planning agency for Fresno County and its cities. FCOG was informally established in 1967 by the County and its incorporated cities and was formalized in 1969 through a Joint Powers Agreement (JPA). FCOG performs regional planning emphasizing transportation and provides technical services to its members.

In 1985, FCOG and the County entered into an OWP Master Agreement that established general terms and conditions pursuant to which the County would provide consulting services to FCOG in accordance with the 1967 JPA. FCOG adopts an OWP each fiscal year which identifies regional planning activities to be performed by FCOG and by its member agencies during the upcoming fiscal year. Prior to establishment of an OWP Master Agreement in 1985, FCOG and the County would also adopt a new memorandum of understanding each year to establish terms associated with services provided to FCOG by the County. FCOG is subject to federal

certification reviews and, as a result of their last review, it was recommended that FCOG update the OWP Master Agreement to reflect current statutes which are referenced in the agreement.

Annual OWP identifies Work Elements (WE's) which are contract tasks or activities necessary to carry out various long-range regional transportation planning programs. The OWP Master Agreement does not specifically describe these tasks but rather, it establishes general terms and conditions associated with the County's performance and associated reimbursement.

The most recent annual OWP, for fiscal year 2016-17, was endorsed by the Board of Supervisors on May 10, 2016. It is anticipated that the next annual OWP, which will be for fiscal year 2017-18, will be brought before your Board for consideration on May 16, 2017. The activities to be performed by the County pursuant to the 2016-17 OWP and the associated reimbursement to be provided to the County were identified as follows:

WE 112 - Regional Traffic Monitoring	\$147,500
WE 152 - High Speed Rail Coordination:	\$ 20,000
WE 310 - Intergovernmental Coordination	\$ 31,000

WE 112 (Regional Traffic Monitoring) provides funding for County staff to perform traffic counts for various roads in the County. This traffic count data is provided to FCOG for use in their countywide traffic modeling and as a basis for information forwarded to federal and state agencies.

WE 152 (High Speed Rail Planning) provides funding for any coordination necessary between the County and the High Speed Rail Authority (HSRA) which is not otherwise funded through a reimbursement agreement with the HSRA or with one of the HSRA's design-build contractors.

WE 310 (Intergovernmental Coordination) provides funding for participation by County staff in a variety of regional transportation planning activities and programs to execute the FCOG OWP objectives.

Although the new Master Agreement includes several sections that are not included in the 1985 OWP Master Agreement, approval of the new Master Agreement will not substantially affect the manner in which services are provided by the County, nor will it change the manner in which reimbursement is provided for various activities.

The indemnification provisions in the new OWP Master Agreement are different from those in the 1985 Master Agreement. The 1985 Master Agreement included a unilateral hold harmless clause in favor of the County while the new OWP Master Agreement provides for mutual indemnification wherein each agency indemnifies the other.

The new OWP Master Agreement expressly requires progress reports while the 1985 Master Agreement did not require such reports; however, the County already provides quarterly progress reports to COG and this additional requirement will not change the manner in which the agreement will be administered. Finally, the new OWP Master Agreement includes the following sections which were not in the 1985 Master Agreement:

- Lobbying
- Drug Free Workplace
- Termination for convenience
- Termination for cause
- Modification
- Binding nature of agreement
- Conflict of interest
- Venue
- Legal Authority

These sections are all routine and will not have a significant impact on administration of the Agreement.

OTHER REVIEWING AGENCIES:

FCOG staff prepared the Agreement and it was approved by the FCOG Board on February 23, 2017.

REFERENCE MATERIAL:

BAI #16, May 10, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with FCOG

CAO ANALYST:

John Hays