



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: A 24-188, **Version:** 1

Approve a Model Use Agreement among the County of Monterey, the Association of Monterey Bay Area Governments, EMC Planning Group, Inc., and Fehr & Peers for the use of the Association of Monterey Bay Area Governments' travel demand model in the Moss Landing Community Plan Update transportation analysis.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve a Model Use Agreement ("Agreement") among the County of Monterey ("County"), the Association of Monterey Bay Area Governments ("AMBAG"), EMC Planning Group, Inc., and Fehr & Peers for the use of the AMBAG travel demand model in the Moss Landing Community Plan Update transportation analysis;
- b. Accept non-standard mutual indemnification provisions in the Agreement; and
- c. Authorize the Chair of the Board of Supervisors to execute the Agreement.

SUMMARY:

To support metropolitan transportation planning, the Association of Monterey Bay Area Governments ("AMBAG") maintains a regional travel demand model. The travel demand model comprises a large number of data files to represent the many facets of the transportation environment. This agreement would allow use of this model for the Moss Landing Community Plan Update Environmental Impact Report ("EIR") transportation analysis.

Updating the Moss Landing Community Plan ("MLCP") is designated as a high priority task on the County Housing and Community Development's ("HCD") Long Range Work Plan (Task 21-07). To facilitate this task, on February 27, 2024, the Board of Supervisors approved Professional Services Agreement A-16743 with EMC Planning Group, Inc. for consulting services to complete an EIR associated with the MLCP update. EMC intends to use Fehr & Peers as their subconsultant for the transportation related analysis. The Board Order for this action is included as **Attachment B**. Agreement A-16743 requires that the EMC Planning Group, Inc., and by extension their subconsultant Fehr & Peers, utilize the AMBAG travel demand model for this transportation analysis.

For any public agency or project sponsor to use this model, AMBAG requires that they enter into a Model Use Agreement ("Agreement") between the public agency, their consultant, and AMBAG. This agreement is **Attachment A**. The agreement is a standard form agreement from AMBAG. Its terms include requiring that the model only be used for the project; that the model not be modified, added, or updated unless written agreement is provided by AMBAG; and that the County and named consultants accept responsibility for determining the suitability of use of the model for any particular project. The agreement provides for mutual indemnification among the parties. As the mutual indemnification provisions are non-standard, acceptance of these provisions is specifically identified in the recommended Board actions.

Staff requests that the Board of Supervisors approve the Model Use Agreement in order to enable completion of the MLCP Update EIR, a necessary step for the comprehensive update of the Moss Landing Community Plan.

DISCUSSION:

Since 2008, County staff, affected agencies, the Moss Landing community, and interested members of the public have been working on a comprehensive update of the Moss Landing Community Plan (“MLCP”), Chapter 5 of the North County Land Use Plan. The County has contracted with EMC Planning Group to prepare an EIR for the Moss Landing Community Plan update together with project-level review of the following specified proposed development projects in Moss Landing:

1. Monterey Bay Aquarium Research Institute General Development Plan (PLN080006);
2. Gregg’s Drilling Master Plan (PLN090039);
3. Moss Landing Marine Laboratories Master Plan (PLN080071); and
4. Moss Landing Road Street and Drainage Improvements Project (PWFP #10-156565).

On February 27, 2024, the Board of Supervisors approved a new PSA A-16743 with EMC Planning Group, Inc. for consulting services to complete an EIR associated with the MLCP update, including preparation of the Draft EIR, Final EIR, and Mitigation Monitoring and Reporting Plan. The scope of work for the PSA A-16742 is included as **Attachment C**.

Task 2.8 of the PSA requires an updated transportation analysis to include VMT in the EIR, including use of the AMBAG travel demand model to perform this technical analysis. To acquire this model, AMBAG requires public agencies “project sponsors” and their consultants to enter into a Model Use Agreement. Its terms include requiring that the model only be used for the project; that the model not be modified, added, or updated unless written agreement is provided by AMBAG; that the County and the named consultants accept responsibility for determining the suitability of use of the model for any particular project.

Because the agreement is a necessary step to continue with the EIR preparation, staff is requesting that the Board of Supervisors approve the Model Use Agreement.

OTHER DEPARTMENT/AGENCY INVOLVEMENT:

The form of agreement was provided by the Association of Monterey Bay Area Governments. County Counsel and Risk Management have reviewed the agreement as to form. Other external agencies will be engaged as part of the EIR preparation process.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action consists of entering into a Model Use Agreement to facilitate the environmental review process for a community plan update and the specified development projects listed in the Summary. CEQA Guidelines section 15378(b)(5) states that government administrative activities which would not result in a direct or indirect physical change to the environment are not considered a project under CEQA. Entering into a Model Use Agreement is an administrative activity of government that does not result in any direct or indirect change in the environment, which would make it not a project and therefore not subject to CEQA. As stated above, it will help facilitate environmental review under CEQA of the MLCP update project.

FINANCING:

Costs for staff time are included in the FY 2023-24 Adopted Budget for HCD Appropriation Unit HCD002 Unit 8543.

The executed Professional Services Agreement with EMC Planning Group, Inc. (A-11914) totals \$306,965 for environmental review required including preparation of the Draft EIR through the Final EIR. An optional task of \$28,750 for Level of Service transportation analysis would place the total contract at \$335,715. The Board of Supervisors’ action to approve Agreement A-11914 on February 27, 2024, also included approval to amend the

contract three times, not exceeding \$33,571 for each amendment. No amendments are anticipated at this time.

Of the \$335,715 included in the PSA A-11914 for the EIR contract, \$115,600 is included in the FY 2023-24 Adopted Budget for HCD. The County issued EMC Planning Group notice to proceed on March 15, 2024. To date, \$2,328 has been invoiced, meaning the remaining budget within this FY is \$113,272. Should the amount of work completed in this fiscal year exceed the amount budgeted, the department will utilize salary savings to fund the balance. The balance of remaining work will be included in the FY 2024-25 Recommended Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approving the Model Use Agreement supports the Board of Supervisor's Strategic Initiatives for Economic Development, Health and Human Services, and Infrastructure by facilitating thorough environmental analysis of the Moss Landing Community Plan update and included proposed development projects.

- x Economic Development
Administration
- x Health & Human Services
- x Infrastructure
Public Safety

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Reviewed by: Melanie Beretti, AICP, Acting Chief of Planning

Approved by: Craig W. Spencer, HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Model Use Agreement

Attachment B - Board Order 24-084

Attachment C - Agreement A-16743 Exhibit A, Scope of Work and Payment Provisions