



City of Palo Alto

City Council Rail Committee Staff Report

(ID # 7288)

Report Type: Action Items

Meeting Date: 9/21/2016

Summary Title: California High-speed Rail Project Reimbursement Agreement

Title: Recommendation to the City Council Regarding Execution of a Reimbursement Agreement for Costs Associated With the Review of Technical Studies, Legal Documents, and Design Plans for the California High-Speed Rail Project

From: City Manager

Lead Department: Planning and Community Environment

Recommendation:

Staff recommends that the Rail Committee recommend to the City Council that it direct staff to negotiate a Reimbursement Agreement with the California High Speed Rail Authority (CAHSRA) which, if adopted, would require the CAHSRA to reimburse the City for staff and consultant costs associated with the review of technical studies, legal documents, and design plans for the California High-speed Rail Project.

Background:

The CAHSRA is responsible for the planning, design, construction, and operation of California's high-speed rail system. The CAHSRA recently conducted scoping meetings for the Notice of Intent/Notice of Preparation which initiated federal and state environmental review for the San Francisco to San Jose segment of the California High-speed Rail Project.

The San Francisco to San Jose segment is 51 miles in length and will be a blended service utilizing and sharing the Caltrain corridor. High-speed rail vehicles will operate on Caltrain tracks and will be designed for speeds up to 110 miles per hour. Environmental review will include studying station locations in San Francisco, Millbrae, and San Jose, along with passing tracks necessary for high-speed rail operations.

On its October 4, 2016 meeting, the City Council will be considering the award of a contract for Rail Program Management Services. This professional services contract will include the following tasks, each of which will have to be authorized by a separate task order: supporting the Rail Committee, convening a local Rail Technical Group, representing the City during the

California High-speed Rail Project environmental analysis phase, managing the rail corridor circulation study and context sensitive alternatives analysis of grade separations in Palo Alto, and preparing environmental analyses, Project Study Reports, 15% preliminary designs, and financing plans for the preferred alternative for each railroad grade crossing within the City. A portion of the services provided through this contract may be reimbursable if the City enters into a Reimbursement Agreement with CAHSRA.

Discussion:

CAHSRA has offered to negotiate and execute a reimbursement agreement, which would allow the City to be reimbursed for some staff and consultant costs associated with the review of technical studies, legal documents, and design plans necessary to construct the San Francisco to San Jose segment of the high-speed rail system. CAHSRA is negotiating similar agreements with all peninsula cities along this 51-mile corridor.

Under the proposed agreement, the City could be reimbursed for actual, direct, and necessary expenses for technical and legal reviews associated with the planning and design of the project. Although the specific scope of work has not been determined, it is anticipated that expected activities would include:

- Technical/engineering review of reports, studies, and plans
- Utility coordination/resolving utility conflicts
- Technical and legal review of cooperative agreements, utility agreements, right-of-way transfer agreements, maintenance and operations agreements, etc.
- Preparation for City Council staff reports and supporting materials
- Property rights research
- Technical and legal review of abandonment, vacation, or transfer of right-of-way

Work performed by City staff which would not be reimbursable under this agreement would include:

- Review and preparation of comments on project environmental documents
- Attending meetings not authorized by the CAHSRA
- Acquisition of real property

Execution of an agreement would not be an indication of City support for the project and would not impact the City's ability to oppose the project from a policy or legal standpoint.

On July 26, 2016 Staff hosted a meeting with representatives from the cities of Atherton, Belmont, Menlo Park, Mountain View, Redwood City, San Carlos, San Francisco, South San Francisco and the County of San Mateo. Staff has also consulted with representatives from the cities of Brisbane and Sunnyvale and the County of Santa Clara by phone.

Based on a discussion with representatives of CAHSR and staff from the other jurisdictions, some of the key issues that will have to be resolved in a final agreement appear to be:

- Level of indemnification

- Term of the agreement and whether it extends to the right-of-way phase of the project
- Accuracy of the recitals describing the high-speed rail project and the desire to avoid including recitals that a jurisdiction disagrees with
- Cost-benefit ratio of executing agreement, documenting billable tasks, generating invoices, and processing reimbursements and level of reimbursement
- Uncertainty around support for high-speed rail project and desire to avoid an action that could imply tacit approval
- Location-specific issues related to project design (i.e. maintenance facility location)

Policy Implications:

An agreement would enable the City to be reimbursed for staff and consultant time necessary to review and provide comments associated with the planning and design of the San Francisco to San Jose segment of the California High-speed Rail Project.

The City of Palo Alto's current, official position on the California High-speed Rail Project is that the City believes that the project should be terminated for the following reasons:

- The current project fundamentally contradicts the measure presented to the voters under Proposition 1A in 2008. The voters approved the measure based on grossly underestimated construction costs, overstated ridership numbers and underestimated fares. The voters also required that the project could operate without a subsidy and that funding sources would be identified and environmental review would be complete prior to construction of an Initial Operating Segment.
- Given that the revised Business Plan and Funding Plan do not meet the projected ridership, fare, job creation, and other significant requirements, the City believes that the voters were not given the accurate information during the 2008 election necessary to make an informed decision on a high-speed rail project for the State of California.

In addition, on June 24, 2013, the Palo Alto City Council also adopted guiding principles in event that the California High-speed Rail Project moves forward. Execution of the Reimbursement Agreement may be viewed by some to be counter to the City's official position and guiding principles. If recommended by the Rail Committee and approved by Council, staff would negotiate an agreement consistent with Council direction and the City's official position and guiding principles. In addition, staff would attempt to negotiate more city protective boilerplate language. If CAHSRA does not accept the City's proposed language, staff would advise the Council that an agreement could not be reached.

If the Rail Committee wishes to review and recommend amendment of the City's official position and guiding principles, Staff can place the item on a future agenda for discussion. Direction would be required to do so.

Resource Impact:

A Reimbursement Agreement would allow the City to recover staff and consultant costs

associated with the review of technical studies, legal documents, and designs plans for the California High-speed Rail Project. Actual hourly rates and a not-to-exceed budget will be determined as part of the negotiation of a final scope of work and cost estimate.

Timeline:

It is anticipated that the duration of this Reimbursement Agreement will be from the Notice to Proceed through June 30, 2018. It will likely take one month to negotiate an agreement for City Council review, after Staff receives direction from Council to proceed.

Environmental Review:

The Reimbursement Agreement is not considered a project and is, therefore, exempt from review under the California Environmental Quality Act.