



City Council
Agenda Memo

City Council Meeting Date: 8/13/2015

TO: Robert Hanna City Manager

FROM: Jon James, AICP Director of Planning and Development Services

SUBJECT: Oral Resolution: Amending the Memorandum of Understanding with the Metropolitan Planning Organization (MPO) Policy Board. (James)

GENERAL INFORMATION

The City of Abilene and the Abilene Metropolitan Planning Organization (MPO) Transportation Policy Board entered into a Memorandum of Understanding in August 2011 to define the fiscal, personnel, and property management roles and responsibilities between the Board and the City.

Currently under Article 5 – Personnel Management Number 5b it requires that the MPO Policy Board meet to discuss any disciplinary action regarding employees. It states that “The MPO Executive Director shall have the authority and responsibility for disciplinary action, including termination, arising from performance issue and duties related to work product following consultation with the Board”. Under the Policies and Procedures Manual disciplinary action can include verbal warnings, written warnings, suspensions, and dismissals.

The MPO Policy Board at their August 3rd meeting voted to change the wording on that sentence to “The MPO Executive Director shall have the authority and responsibility for disciplinary action, including termination, arising from performance issue and duties related to work product **in consultation with the Chairman of the Board**”. This change will help clear up the personnel responsibilities and expedite the ability of the Executive Director to manage the MPO staff.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the amendment to the Memorandum of Understanding

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

Description	Type
□ MOU	Backup Material

STATE OF TEXAS

COUNTY OF TAYLOR

AMENDED MEMORANDUM OF UNDERSTANDING DEFINING ROLES AND RESPONSIBILITIES OF THE CITY OF ABILENE AND THE ABILENE METROPOLITAN PLANNING ORGANIZATION

This Amended Memorandum Of Understanding (MOU) is entered into, by and between the, City of Abilene, hereinafter referred to as the "City", a political subdivision of the State of Texas and the designated Metropolitan Planning Organization (MPO), and the Abilene Metropolitan Planning Organization's Transportation Policy Board, hereinafter called the "Board", acting as the legislative body of the MPO in the Abilene urbanized area as authorized by Title 23 U.S.C. Section 134.

WITNESSETH

WHEREAS, Title 23 U.S.C. Section 134 and Title 49 U.S.C. Section 5303, MPO Planning, requires that Metropolitan Planning Organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, Title 23 U.S.C. 104(f) authorizes Metropolitan Planning (PL) Funds and 49 USC Section 5301 et seq. authorizes funds to be made available to Metropolitan Planning Organizations designated by the Governor to support the urban transportation planning process; and,

WHEREAS, the Governor of the State of Texas has designated the City as the MPO to perform fiscal, administrative and technical functions; and

WHEREAS, the Board requests that the City act as the financial disbursing agent for all MPO funds; and

WHEREAS, the City, has determined it is in the public interest to assist the MPO in securing and managing funds for transportation planning purposes in the urbanized area:

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I. PURPOSE

The purpose of this MOU is to define the fiscal, personnel, and property management roles and responsibilities between the Board and the City, acting as the MPO. A called meeting of the Board may be convened, at the discretion of the Chairman, to consider any

matter contemplated by this MOU and to coordinate any recommendation for action with the City.

ARTICLE 2. TERM

The term of this Agreement begins upon the effective date and shall automatically be renewed each year unless terminated as herein provided.

ARTICLE 3. DESCRIPTION OF SERVICES

The City, as the MPO, agrees to provide fiscal, administrative and technical functions and act as the financial disbursing agent of MPO. Additionally, the City, as MPO, will provide personnel management assistance to the Board by acting as the employer of record. The City, as the MPO, will manage all its property and equipment in accordance with 49 CFR Part 18.

ARTICLE 4. FISCAL MANAGEMENT & DISBURSEMENT

The City, as the fiscal agent for the MPO, is responsible for providing fiscal, human resource and staff support services to the MPO. The fiscal management and disbursement responsibilities for the term of this MOU are as follows:

1. The City will provide financial management, accounting and purchasing services to the Board.
2. The City shall maintain one or more separate accounts under the supervision of the Director of Finance for the City. The Director of Finance, in carrying out the requirements of this Agreement, is responsible only in the capacity of a trust officer for the funds involved. The Director of Finance shall use generally accepted accounting procedures to satisfy his duties pursuant to this Agreement. The City shall pay all invoices on a timely basis as the MPO. The City shall receive all reimbursements for said funds through invoices submitted to the Texas Department of Transportation
3. All reimbursement warrants issued to the City by the State of Texas or any federal, city, or local agency for work performed by any agency or consultant under contract to the MPO shall be properly endorsed and deposited in the account.
4. The authorization of disbursements of funds to agencies or consultants under contract to the MPO will be made by the Board in the amounts specified by the MPO, so long as the MPO budget has sufficient funds to accommodate all payment requests. The City is under no obligation to process payment authorizations unless sufficient funds for such purposes are present in the MPO budget.

5. All authorizations for reimbursements from the State of Texas or any federal, city or local agency, shall be processed by the City Finance Department and submitted to the Texas Department of Transportation.
6. The Board assumes responsibility for the legal and proper expenditures of all Federal Highway Act Section 112 monies (PL), and the Federal Transit Administration Section 5303 (MPO Planning) and 5307 (Urbanized Transit Planning) monies by the MPO. All monies are budgeted and expended according to the latest approved Unified Planning Work Program.

ARTICLE 5. PERSONNEL MANAGEMENT

The City, as the fiscal agent for the MPO is responsible for providing fiscal, human resource and staff support services to the MPO and Board. The personnel management responsibilities for the term of this MOU are as follows:

1. The City will provide human resources services to the MPO and will serve as the employer of record for those employees receiving work product direction solely from the MPO Policy Board (MPO Employees).
2. All MPO Employees shall be considered City employees for the purposes of payroll disbursement and all fringe benefits, including retirement, medical and life insurance, vacations, sick leave, holidays, and any other benefits normally extended to the City employees. Costs incurred by the City for these benefits will be reimbursed by the MPO.
3. Both the Board and the City agree that the City of Abilene Policies and Procedures Manual will govern the responsibilities and actions of the parties to this MOU, including all MPO Employees, and the City of Abilene Policies and Procedures Manual is hereby adopted to that extent. The Chair of the Board and the MPO Executive Director shall be provided a copy of the City's Policies and Procedures Manual, hereinafter called MPO Policies and Procedures Manual.
4. The hiring, supervision, performance evaluation and termination of the MPO Executive Director shall be the sole responsibility of the Board, accept where otherwise delegated herein to the City. The responsibility and authority for disciplinary action shall be as follows:
 - a. The City, acting as the MPO, fiscal agent, and employer of record, shall have the sole authority and responsibility for disciplinary action, including termination, arising from a violation of the MPO's Policies and Procedures Manual unrelated to work product. The City shall notify the Chairman of the Board prior to initiating any disciplinary action.

- b. The Board shall have the sole authority and responsibility for disciplinary action, including termination, arising from performance issue and duties related to work product. All disciplinary action taken must comply with the MPO's Policies and Procedures Manual. The Chairman of the Board shall notify the City Manager prior to initiating any disciplinary action.
5. The hiring, supervision, performance evaluation and termination of the MPO Employees other than the Executive Director shall be the sole responsibility of the Board, accept where otherwise delegated herein to the City. The responsibility and authority for disciplinary action shall be as follows:
 - a. The City, acting as the MPO, fiscal agent, and employer of record, shall have the sole authority and responsibility for disciplinary action, including termination, arising from a violation of the MPO's Policies and Procedures Manual unrelated to work product. The City shall notify the Chairman of the Board prior to initiating any disciplinary action.
 - b. The MPO Executive Director shall have the authority and responsibility for disciplinary action, including termination, arising from performance issue and duties related to work product in consultation with the Chairman of the Board. ~~following consultation with the Board.~~ All disciplinary action taken must comply with the MPO's Policies and Procedures Manual. The Chairman of the Board shall notify the City Manager prior to initiating any disciplinary action.
6. The number of positions, job descriptions, salary, and salary range for each position shall be within the discretion of the Board, but shall be, in part, based upon a recommendation from the City, as employer of record. Decisions relating to salary increases, if any, are the sole responsibility of the Board.

ARTICLE 6. PERFORMANCE MANAGEMENT

1. Executing the planning functions of the MPO is the sole responsibility of the MPO Executive Director. The Board is responsible for confirming and evaluating whether the MPO Executive Director is executing the planning functions and implementing the policies of the Board.
2. The MPO Executive Director is responsible for confirming and evaluating whether MPO employees are executing the planning functions and implementing the policies of the Board.

ARTICLE 7. ADMINISTRATIVE SUPPORT

The City, as the fiscal agent for the MPO is responsible for providing fiscal, human resource and staff support services to the MPO. The administrative support responsibilities for the term of this MOU are as follows:

1. The City will provide legal assistance, communications utilities, technology support, and other administrative support services to the MPO.
2. The City will be reimbursed for indirect costs as determined by the City of Abilene Indirect Cost Allocation Plan.

ARTICLE 8. PROPERTY MANAGEMENT

The MPO will maintain a written property management procedure pursuant to 49 CFR Part 18.32. Any proceeds from the disposition of surplus equipment will be deposited in the MPO account.

ARTICLE 9. TERMINATION AND AMENDMENTS

1. Either party may terminate this MOU in whole or in part hereto whenever such termination is found to be in the best interest of either party. Termination shall be effected by the conveyance of a written notification thereof to the other party at least ninety (90) days in advance of the effective date of the termination.
2. Either party can request an amendment to this MOU by giving thirty (30) days written notice. The amendment becomes effective only by the approval and signature of both parties.
3. In the event of termination, all costs incurred through the date of termination will be paid within thirty (30) days of request for reimbursement or payments.
4. All notices pursuant to this MOU shall be deemed given when, either delivered in person or deposited in the United States mail, postage prepaid, certified mail, return receipt requested addressed to the appropriate party at the following addresses:

If to the City:

The City Manager
City of Abilene
P.O. Box 60
Abilene, Texas 79604

If to the Transportation Policy Board:

Abilene Transportation Policy Board
C/O Abilene Metropolitan Planning
Organization Executive Director
400 Oak Street
Suite 102
Abilene, TX 79602

ARTICLE 10. NON-DISCRIMINATION

It is mutually agreed that all parties hereto shall be bound by the provisions of Title 49, Code of Federal Regulations, Part 21, which were promulgated to effectuate the provisions of Title VI of the Civil Rights Act of 1964, Title 23. Code of Federal Regulations, part 710.45(b), and Executive Order 11246 titled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of labor Regulations (41 CFR Part 60).

ARTICLE 11. GOVERNING LAW

The laws of the State of Texas shall govern this MOU and all obligations hereunder of the parties are performable in Abilene, Texas. Venue for any legal proceeding is Taylor County, Texas.

ARTICLE 12. NON-ASSIGNMENT

This MOU shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives successors and assigns. Neither the City nor the Transportation Policy Board shall assign any duty of this Agreement, excepting those already identified herein, without written consent of the other.

ARTICLE 13. SEVERABILITY

Should any provisions of this MOU for any reasons be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

ARTICLE 14. ENTIRETY OF AGREEMENT

This is the entire agreement between the parties and no modification of this MOU shall be of any force or effect, unless it is in writing signed by both parties. NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF THE CITY OR THE BOARD HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS MOU, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE CITY OF ABILENE CITY COUNCIL OR THE BOARD.

ARTICLE 15. EFFECTIVE DATE

~~Effective~~ Signed on ~~August~~ ~~June~~ _____, 201~~5~~~~1~~, ~~but the effective date of this contract is~~
~~November 16, 2010, which is the date of approval by the MPO Transportation Policy~~
~~Board.~~

CITY OF ABILENE
MPO

MPO TRANSPORTATION POLICY
BOARD

~~Robert Hanna~~ ~~Larry D. Gilley~~, City Manager

Norm Archibald, Chairman

ATTEST:

Danette Dunlap, City Secretary

APPROVED:

T. Daniel Santee, City Attorney