



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

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| (1) DEPARTMENT Public Works | (2) MEETING DATE 10/29/24 | (3) CONTACT/PHONE John Diodati, Director of Public Works (805) 781-5252 | |
| (4) SUBJECT Request to receive an update on the status and give staff direction on options to proceed with the Bob Jones Pathway Gap Closure Project in order to meet the grant funding timeline for the Bob Jones Pathway from the Octagon Barn to Ontario Road Project, Avila. | | | |
| (5) RECOMMENDED ACTION It is recommended that the Board, receive an update from staff on the status of the Bob Jones Pathway Gap Closure Project and direct staff to either: <ol style="list-style-type: none"> 1. Request approval from the California Transportation Commission at their January 2025 meeting to phase the Project in order to align with the proposed Caltrans right-of-way alignment proposal. 2. Return the balance of the \$18.25 million Active Transportation Program grant, and direct staff to continue to pursue necessary right-of-way acquisition and then re-apply for future grant funding to complete the project. | | | |
| (6) FUNDING SOURCE(S) California Active Transportation Program Grant | (7) CURRENT YEAR FINANCIAL IMPACT \$1,258,300 in General Fund may need to be returned to grantor | (8) ANNUAL FINANCIAL IMPACT No financial impact. | (9) BUDGETED? yes |
| (10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input checked="" type="checkbox"/> Board Business (Time Est. 60 min) | | | |
| (11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A | | | |
| (12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A | | (13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A | |
| (14) LOCATION MAP Attached | (15) BUSINESS IMPACT STATEMENT? No | (16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date 8/20/24 #35; 7/16/24 #16; 5/21/24 #40; 11/7/23 #21; 8/22/23 #27; 7/13/21 #38; 7/10/18 #25; 2/24/15 #30; | |
| (17) ADMINISTRATIVE OFFICE REVIEW: | | | |
| (18) SUPERVISOR DISTRICT(S) | | | |

Reference: 24.143



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Public Works & Parks

John Diodati, Director of Public Works & Tanya Richardson, Director of Parks

DATE: 10/29/2024

SUBJECT: Request to receive an update on the status and give staff direction on options to proceed with the Bob Jones Pathway Gap Closure Project in order to meet the grant funding timeline for the Bob Jones Pathway from the Octagon Barn to Ontario Road Project, Avila.

RECOMMENDATION

It is recommended that the Board, receive an update from staff on the status of the Bob Jones Pathway Gap Closure Project and direct staff to either:

- 1) Request approval from the California Transportation Commission at their January 2025 meeting to phase the Project in order to align with the proposed Caltrans right-of-way alignment proposal or
- 2) Return the balance of the \$18.25 million Active Transportation Program grant, and direct staff to continue to pursue necessary right-of-way acquisition and then re-apply for future grant funding to complete the Project.

DISCUSSION

The County has been working to complete the Bob Jones Pathway Gap Closure Project (Project) between the Octagon Barn in San Luis Obispo and Ontario Road parking lot in Avila for many years. Preparation of the Environmental Impact Report (EIR) began in 2010, with the Board approving the EIR and proposed pathway route along the northbound side of Highway 101 on February 24, 2015. Project design for the 4.5-mile pathway gap closure began with the Board's approval of a design contract on July 10, 2018.

The County operates and maintains approximately 2.5 miles of existing Bob Jones Pathway extending from the County's Ontario Road staging area westward to Avila Beach. The proposed 4.5-mile gap closure will connect the Land Conservancy Octagon Barn in San Luis Obispo, where the County has constructed a public parking lot and staging area, to the County's Ontario Road staging area, completing the linkage from city to sea, which will provide commuting, economic, and health benefits to the residents and visitors of San Luis Obispo County.

This active transportation improvement will provide a separated Class I (off-street) multi-use pedestrian and bicycle pathway for recreational and alternative transportation use that will connect San Luis Obispo and Avila Beach. The Project will complete a key link in the alternative transportation corridor connection between San Luis Obispo and the Five Cities area with a safe, vehicle free, route for commuting by bicycle as the advancement of battery assisted bicycles now make this a feasible option for a larger segment of the population.

Current Status

To date, Project development has been delayed due to right of way issues, specifically at the Bunnell property. On July 16 of this year, staff brought forward 11 right of way and easement access agreements along the proposed alignment. These were approved by your Board and represent a majority of the property owners along the alignment. An easement through the Bunnell property is necessary to complete the Project, and the Project team had continued to work with the property owner in the hope of reaching an agreement. However, the property owner has indicated that they will not grant an easement for the Project. Without an easement agreement with this property owner, the Project, as currently planned, will not be able to meet the Active Transportation Program (ATP) grant funding timelines to submit documentation of being ready for construction by February 2025 and is at risk of losing the balance of the unspent \$18.25 million in grant funds.

In order to move the Project forward in a timely manner, on August 20 of this year, Public Works held a hearing for your Board to consider a Resolution of Necessity to acquire 1.2 acres of the 146-acre Bunnell parcel. Approval of a Resolution of Necessity requires a 4/5th vote, and with only 3 affirmative votes, approval of the resolution failed. After the vote, your Board approved a motion to direct staff to see if another path forward is feasible and return with any suggestions staff would have to complete the Project. This staff report is in response to the direction given on August 20, 2024.

In 2023 staff evaluated similar options after your Board directed staff to present options to amend the scope of the Project to "avoid construction on the Bunnell property", while still utilizing the ATP grant for gap closure. Staff returned to your Board in November of 2023 and received direction to apply for a scope change with the State of California Transportation Commission (CTC) by developing a safe crossing to Ontario Road and utilizing Ontario Road as a temporarily gap closure. This would have allowed for grant funds to be expended in time, a considerable amount of new Class 1 pathway to be constructed, and the ability to pursue all right of way acquisitions before the February 2025 deadline stipulated by the grant.

Unfortunately, since the scope change eliminated approximately 2 miles of a Class I pathway and proposed to replace it with Class II lanes, it did not meet the safety benefits of the original grant proposal. The County was informed by CTC staff that this would not be supported as a scope change and this alternative was not pursued any further.


However, during investigation of this alternative, Caltrans believed they had an opportunity to obtain statewide funding to construct the gap within their right of way on the northbound portion of US 101. Caltrans was unable to secure funding, so this alternative was not pursued any further, but it presented an opportunity that had not been considered before.

Current Alternatives to Consider

There are two alternatives to consider: 1) returning the grant and delaying the Project or 2) proceeding with one final Project proposal to the CTC in order to phase the Project in collaboration with Caltrans and San Luis Obispo Council of Governments (SLOCOG). Given that delay of the Project is self-explanatory and most likely not the preferred choice, this report will only discuss the feasibility of the phased proposal.

After the CTC determination that Ontario Road was infeasible and Caltrans was unable to secure statewide funding, discussion with staff from Parks, SLOCOG, Caltrans, and Public Works continued in an attempt to find an alternative solution. Caltrans proposed to use their discretionary State Highway Operation and Protection Program (SHOPP) funds for construction in their right of way on US 101, which would allow the County to use the ATP grant, with SLOCOG funding, to construct a north and south 'bookends'. This would create two phases of a Project but still ensure gap closure and meet the intent of the original grant application. Caltrans' proposal is explained in a letter which is provided as Attachment 3. This proposal would avoid the Bunnell property and provide for a complete Project.

Next Steps

In order to move forward with this proposal, staff will still need to obtain approval of a scope change  or a phased Project from the CTC. Several conditions must be met in order to have the highest probability of success for CTC approval:

- 1) Submittal of 95% Plans, Specifications & Estimates (PS&E) and a Right of Way Certification for Caltrans review of the County's "Ready for Construction" status by January 27, 2025; and
- 2) Demonstration of a 'complete' Project with no gaps by way of the north and south bookends with the ATP funds and central portion through the Caltrans proposal; and
- 3) Identifying the funding necessary to implement the 'complete' Project.

Ready for Construction: The Wallace Group is the design engineering firm for the Project and has committed delivering 95% PS&E by the required due date. This is an important schedule milestone to meet as it ensures the County does not need to ask for a grant time extension. Feedback from CTC staff is that no additional time extensions will be supported. In order to prevent the County from spending grant funds on design, SLOCOG has obligated up to \$500,000 to fund the Wallace Group design contract to 95% PS&E. The County must also submit a Right of Way Certification which documents that all right of way necessary for the planned work has been acquired and all utility conflicts have been coordinated with the utility owners. Finishing the design and completing the final right of way acquisitions will enable the County to be ready to construct by the grant deadline.

Complete Project: Feedback from the CTC since the Ontario Road proposal is that any change to the Project needs to demonstrate that a full Class 1 linkage is provided after construction. This will be accomplished by completing the Project into phases. The first phase would be the north and south 'bookends' funded primarily by the ATP grant, with phase 2 closing the bookend gap within the Caltrans right of way and with their local SHOPP funding as outlined in their letter. SLOCOG funds approved for the Project would be used to supplement portions of each phase. Due to the timing of the SHOPP funds, phase 2 would start after phase 1.

Fully Funded: An additional requirement is to demonstrate to the CTC that the two phases are also feasible because they have sufficient funding. At their August meeting, SLOCOG increased funding by \$7,000,00 in order to fully fund the Project. Preliminary cost estimates by The Wallace Group have suggested that the cost of the Project has increased. Due to the last few years of delay and Project pauses, there is a concern that cost escalation could exceed Project funding. Staff will have a lower probability of obtaining CTC approval for the phased Project if the additional funding is not obtained or the Project scope is amended to bring it down to funding level.

Ongoing Risks

Design and Right of Way: If the Wallace Group is unable to meet the required design deadline, or property acquisitions are not completed by the required deadline, the Project will not be able to receive approval from Caltrans and meet grant funding deadlines. Right of way purchase agreements must be reached several weeks prior to January 27 to ensure that the acquisitions will be fully completed and escrow closed prior to the submittal deadline. Failure to make this date will result in the forfeiting the grant funds and the Project being delayed indefinitely. Expenditures to-date may have to be returned as well. There is one property that still needs to negotiate a right of way easement. This property is adjacent to the existing Bob Jones Trail parking lot on Ontario Road. Staff was in active negotiations and had provided the owner an appraisal. The owner countered with their own independent appraisal. Unfortunately, staff was notified on October 14 that this property owner has sold their property. Successfully negotiating with a new property owner by January 27 could be a significant risk.

Funding Plan: This remains a risk, but the Project can continue with a phased approach until the CTC meeting. If necessary, staff will continue to identify funding sources or value engineer the Project striving for full funding or the establishment of a feasible funding plan.

Environmental Permitting: Environmental permits were submitted to the resource agencies but placed on 'hold' while the Project was in limbo over the last year. In order to initiate agency review, design needs to move forward closer to 95% and processing fees of \$100,000 provided to the relevant agencies. Since Project alignment is still evolving and there is potential for some value engineering, staff is going to continue to hold the permits until after the CTC January meeting.

Bunnell Alignment

The alignment on the Bunnell property remains the preferred alternative because it is located in a manner that will be most compatible with the greatest public good and the least private injury.

The alignment is located further away from the freeway, providing a protected, non-motorized travel choice between the City of San Luis Obispo and south county communities at a lower cost, and provides a fire break for fires started on the US 101 shoulder. However, given the inability to obtain another time extension from the CTC, it is infeasible to continue pursuing the Bunnell alignment at this time, and the Caltrans alignment adjacent to US 101 should be considered even though it does not provide as much public benefit as the preferred alternative.

Next Steps

If your Board chooses to pursue this Project phasing proposal, staff recommends that direction is given to request approval from the California Transportation Commission at their January 2025 meeting to phase the Project in order to align with the proposed Caltrans right of way alignment proposal. This would consist of the following tasks:

- Work with SLOCOG on reaching 95% PSE on the bookends
- Continue right of way acquisition on the remaining parcels
- Submit 'ready to construct' documents to Caltrans within the ATP grant deadlines
- Request a phased Project at the CTC's January meeting
- Continue to develop a funding plan for a fully funded Project

OTHER AGENCY INVOLVEMENT/IMPACT

Caltrans approved a Categorical **Exclusion** under the National Environmental Policy Act (NEPA) on January 23, 2018. Caltrans will issue an encroachment permit to the County prior to the construction of this Project. The encroachment permit will allow temporary access for the County's future construction contractor onto State property to construct portions of the Project that are within or abut directly against State right of way.

Caltrans is administering the \$18,248,000 of ATP Cycle 5 Grant Funding for the right of way, design engineering, and construction phase of this Project. Portions of the pathway along the southern extent of the Project will be constructed on State land that will be relinquished from the State to the County upon completion of the construction phase.

San Luis Obispo Council of Governments is providing regional funding for Project design development and is an agency partner towards delivery of this Project.

FINANCIAL CONSIDERATIONS

The Board accepted the CTC's ATP grant funding in the amount of \$18,248,000 on July 13, 2021. Of this \$18.25 million, \$2.3 million has been allocated and authorized to reimburse engineering costs associated with planning, design, and right-of-way. Another \$15.9 million has been programmed, but not yet authorized for the construction phase of the Project.

Of the authorized \$2.3 million, Public Works has spent \$1,381,282 and received \$803,257 in reimbursements through grant billing. At previous Board meetings, staff has advised the Board that should the Project not move forward, the County may be required to return a substantial amount of the grant funds expended and would forfeit the balance of grant funds.

In addition to support from the CTC, the County has spent \$6.8 million in County funds, community donations, and State and Federal grants since 2002. The Project has made considerable progress with this significant investment, a feat made possible by local, state, and national resources. Previous grant funding that would be in jeopardy of needing to be reimbursed to grantors if the County does not deliver construction of the Project is approximately \$2.0 million.

SLOCOG is taking the lead on 'at-risk' funding of the design contract. Updated cost estimates are still being refined, however, as discussed earlier, there is a concern around cost escalation due to continued Project delivery delays. Earlier this year, the Wallace Group estimated total Project construction costs for the full alignment was \$22,000,000. Very preliminary estimates for the central portion in Caltrans right of way are \$10,000,000. There will be more certainty around total estimated cost as the Project team works to refine these numbers. If staff believes the Project is fully funded prior to the CTC meeting, they will proceed to move forward under current direction. If there is a funding gap identified that needs to be reconciled, they will return to your Board prior to the CTC meeting for a discussion on the funding issues.

In addition to the impact on the General Fund, returning ATP grant funds or failing to deliver this Project will adversely affect the County's ability to successfully secure future ATP grants. ATP grants are competitive awards rather than guaranteed allocations and the County's capability to deliver ATP projects is a consideration in future application determinations. The County will have to disclose that funding was returned for the Project on future grant applications and will receive fewer overall points in the scoring system, making the County less competitive comparatively. Potential County projects that rely on the CTC as a funding source will be at a disadvantage for years to come.

RESULTS

This is most likely the last opportunity to use the awarded grant funds for this Project. The desired result is to leverage state grant funds to improve the pedestrian and bicycle connection between Avila Beach and San Luis Obispo, supporting the County's vision of providing a healthy and livable community while improving regional non-modal transportation linkages.

ATTACHMENTS

- 1 Vicinity Map
- 2 PowerPoint Presentation
- 3 Caltrans Project Proposal Letter

File: 320096

Reference: 24.143

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