

MEMORANDUM

TAB 86

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 23-24, 2021

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.5e.(2), Action Item -***YELLOW REPLACEMENT ITEM***

Prepared By: Tim Gubbins,
District 05 – Director

Subject: **SUPPLEMENTAL FUNDS FOR CAPITAL OUTLAY SUPPORT PHASE
(PPNO 4928Y/EA 49285 – SAN LUIS OBISPO COUNTY – STATE ROUTE 1)
RESOLUTION FA-20-54**

ACTION UPDATE: *This book item has been updated to reflect a request cost of \$405,000 and replaces the previous book item requesting \$862,000.*

ISSUE:

Should the California Transportation Commission (Commission) approve the California Department of Transportation's (Department) request for an additional \$405,000 in Capital Outlay Support (COS), for the State Highway Operation and Protection Program (SHOPP) Roadway Preservation project on State Route (SR) 1, in San Luis Obispo County, to complete the Plans, Specifications, and Estimate (PS&E) project phase?

RECOMMENDATION:

The Department recommends that the Commission approve this request for a COS supplemental funds allocation for this SHOPP project.

PROJECT DESCRIPTION:

This project is located on SR 1 near San Simeon, in the County of San Luis Obispo. It was split from the parent project (Roadway Preservation, EA 49281/PPNO 4928Y), and programmed as a child project to do landscape planting, wetland and California Red-legged Frog mitigation.

FUNDING AND PROGRAMMING STATUS:

This project was programmed in the 2016 SHOPP in December 2016 for delivery in fiscal year 2019-20. In May 2019, project delivery was moved to 2020-21, and moved again in April 2020 to 2021-22 due to continued unsuccessful negotiations with California Department of Parks and

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Recreation (PARKS) for right-of-entry to construct the project, and due also increasing the scope and construction capital cost. The scope of the project was changed to add plant propagation work. This work was included in the original scope of the approved project report for the original roadway construction project.

This project has been placed on the Watch List since October 2017. Due to the prolonged negotiations with PARKS for right-of-entry to construct the project, the Department has had to shift delivery from 2019-20 to 2021-22 and subsequently increased the scope and construction capital. The scope was changed to add plant propagation work planned under another project (EA 05-49284). This work was included in the original scope of the approved project report for the original project 05-49280 and could not be awarded due to the delay in this project. In October 2020, the Department requested and was approved for a 22-month time extension to complete the PS&E work for this project by April 2022.

The PS&E phase was allocated in June 2017 for \$1,057,000, and with additional G-12 authority of \$305,700, the total budget was \$1,362,700. Currently, PS&E is at 50 percent completion, and the remaining budget is \$198,900. This budget amount is insufficient to complete the phase, therefore, the Department is requesting supplemental funds of \$405,000 to complete PS&E and have construction allocation by April 2022.

REASON FOR COST INCREASE:

The project, as originally planned, would have provided the mitigation work for the required permit conditions of the original roadway construction project, Piedras Blancas Realignment Project (EA 05-49280), which completed construction in May 2018. This project constructs the off-site mitigation required by permits issued by resource agencies using lands owned by PARKS by converting previously farmed land back to a more natural state. The current mitigation concept plan will provide approximately 90 percent of the required mitigation. The remaining mitigation (approximately 2 acres of wetlands) must be provided at an additional site.

In November 2018, the Department sent an application for a Right-of-Entry to PARKS to construct mitigation on their land at a site near Arroyo de la Cruz (ADLC). However, PARKS did not approve the application, which serves as the permit to enter lands owned by PARKS for construction. The Department had been working with PARKS since the original roadway construction project to develop the concepts and plans for the mitigation at the PARKS site. PARKS primary concern is with the use of imported material (bentonite) to create the coastal prairie wetlands, which they consider as an artificial feature that is not allowed by their policies. This was identified earlier, but PARKS staff continued to consider the project and the Department was under the impression that the solution is acceptable.

In April 2019, PARKS notified the Department that they will not allow the use of bentonite to create an "artificial, engineered habitat." They also will not enter into a Conservation Land Use Agreement to protect the site in perpetuity. The proposed mitigation would restore freshwater

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seep wetlands, create coastal prairie wetlands and coastal prairie on a site that is currently weed-infested fallow farmland. However, PARKS did not approve the creation of coastal prairie wetlands using imported non-native material. PARKS requires that the mitigation work support floodplain restoration to a state similar to that prior to human intervention.

In December 2020, the Department's executive management met to discuss the issue with executives from PARKS and the three permitting resource agencies. This resulted in an agreement for the Department continue working on developing a new concept which is acceptable to PARKS and fulfills their conditions for issuance of a Right-of-Entry. To resolve PARKS concerns, the Department proposed a new concept at ADLC that would restore/create freshwater seep wetlands and willow/alluvial scrub upland habitat instead of coastal prairie wetlands and coastal prairie, respectively. This concept would contribute to floodplain restoration by providing freshwater seep wetlands similar to existing wetlands as well as willow riparian planting without the use of bentonite. The alluvial scrub component would also include a plant mix that will meet the coastal prairie mitigation required by the Coastal Development Permit.

In May 2021, the Department submitted the new concept plan to PARKS. On June 8, 2021, the Department received a conditional agreement and a Right-of-Entry permit to conduct further soils analysis in support of this new plan. The new concept plan was also submitted to the three permitting resource agencies and all three agencies are in agreement with the new concept. The new ADLC concept plan would provide restoration to approximately 18 of the 20 acres of the required mitigation area. Lands acquired during the Piedras Blancas Realignment Project are being evaluated at an additional site to fulfill the remaining 2 acres of wetland mitigation area. This site is within the project limits of the original roadway project and within proximity of the proposed project.

Due to the changes required to resolve PARKS concerns, PS&E plans would need to be prepared with revisions to the grading, stockpile, and planting plans, and involve extensive rework to update to the new ADLC concept. The requested supplemental funds will be used for all necessary work to complete PS&E on the 18 acres PARKS land. To accomplish the remaining mitigation at the additional site, a new project for the remaining 2 acres will be programmed in a later SHOPP cycle, which will require additional environmental documentation and permitting.

CONSEQUENCES:

The mitigation measures were intended to be completed beginning in 2018. Due to temporal impacts becoming permanent impacts because of the length of time that has passed without completion of the mitigation, there is potential for mitigation ratios required by the Central Coast Regional Water Quality Control Board to increase if the required wetland mitigation is not accomplished as soon as possible. An increase in ratios due to temporal losses could result in the need to find additional area to carry out additional mitigation. If the supplemental funds

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request is not approved, the mitigation project would need to be reprogrammed in future SHOPP cycles. The delay in completing the mitigation in a timely manner could result in increased costs and difficulty in identifying alternate sites to construct the mitigation.

FINANCIAL RESOLUTION:

Resolved, that \$405,000 be allocated to provide funds to complete the pre-construction PS&E phase for this SHOPP project.

Attachment

2.5 Highway Financial Matters

| Project # | Allocation Amount | Recipient | County | Dist-Co-Rte | Postmile | Location | Project Description | PPNO Program Phase | Program Code | Project ID | Adv Phase | EA | Original Amount | This Supplemental Request |
|-----------------|-------------------|--|----------|-------------|----------|--|---------------------|---------------------------|---------------|------------|-----------|----------------------------|-----------------|---------------------------------|
| 2.5e.(2) | | | | | | COS Supplemental Funds for Previously Voted Project | | | | | | Resolution FA-20-54 | | |
| 1 | \$405,000 | Department of Transportation San Luis Obispo | 05-SLO-1 | R66.9/R67.2 | | Near San Simeon, from the Arroyo de la Cruz Bridge to 0.3 mile north of the Arroyo de la Cruz Bridge. Outcome/Output: Planting, wetland and California Red-legged Frog mitigation. | | 05-4928Y SHOPP PS&E | 20.10.201.150 | 0517000046 | 4 | 49285 | \$1,057,000 | \$405,000 |