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On agenda:	9/26/2023	Final action:	9/26/2023
Title:	<p>Department of Transportation recommending the Board:</p> <ol style="list-style-type: none">1) Pursuant to Board Policy A-3, "Ordinances - New or Amended," conceptually approve a new Ordinance to dissolve the Missouri Flat Community Facilities District (CFD) Number 2002-01 and repeal Ordinances 4785 and 4787;2) Direct staff to create a new County-owned Special Revenue Account for depositing funds to complete the Missouri Flat Master Circulation and Funding Plan (MC&FP) improvements; and3) Authorize the Department of Transportation to temporarily utilize up to \$5,000,000 in Shingle Springs Band of Miwok Indians Intergovernmental Agreement (Tribe) Funds to fund the improvements if MC&FP funds are not available for the Diamond Springs Parkway Phase 1B Project, Capital Improvement Program project number 72334/36105011; and4) Direct staff commit MC&FP funds as they are collected to pay back the Tribe fund, noting that any payments for reimbursement agreements will be delayed until the Tribe Funds are paid back in full and uncommitted funds are available in the MC&FP account in excess of the \$200,000 reserve, and reimburse the Tribe fund for interest lost as a result of the use of funds from the MC&FP. <p>FUNDING: Per Transportation's 2023 Capital Improvement Plan (CIP), which the Board approved on June 6, 2023 (Legistar 23-0851, Item 56): Master Circulation and Funding Plan (MC&FP) (40%), Traffic Impact Mitigation (TIM) Fees Zone 1-7 (25%), State-Local Partnership Program (SLPP) (15%), Traffic Impact Fee (TIF) Zone B (3%), State Highway Operation and Protection Program (SHOPP) (3%), Regional Surface Transportation Program (RSTP) Advance Exchange and EDCTC (6%), Tribe Funds (Historical) (<1%), Road Fund (<1%), and To Be Determined (7%). (State and Local Funds)</p>		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. A - DSP 1B Funding 2023, 2. B - DSP Phasing Diagram, 3. C - Vicinity Map, 4. D - DSP Project Phasing, 5. E - DSP Costs, 6. F - MCFP and Tribe Proforma - Both Options (002), 7. G - MCFP and Tribe Proforma - Tribe Repayment, 8. H - Presentation		

Date	Ver.	Action By	Action	Result
9/26/2023	1	Board of Supervisors	Failed	Fail
9/26/2023	1	Board of Supervisors	Approved	Pass

Department of Transportation recommending the Board:

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- 3) Authorize the Department of Transportation to temporarily utilize up to \$5,000,000 in Shingle Springs Band of Miwok Indians Intergovernmental Agreement (Tribe) Funds to fund the improvements if MC&FP funds are not available for the Diamond Springs Parkway Phase 1B Project, Capital Improvement Program project number 72334/36105011; and
- 4) Direct staff commit MC&FP funds as they are collected to pay back the Tribe fund, noting that any

payments for reimbursement agreements will be delayed until the Tribe Funds are paid back in full and uncommitted funds are available in the MC&FP account in excess of the \$200,000 reserve, and reimburse the Tribe fund for interest lost as a result of the use of funds from the MC&FP.

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DISCUSSION / BACKGROUND

Diamond Springs Parkway Project History

The Missouri Flat Area has historically experienced high levels of traffic congestion due to its central location and existing commercial development. This corridor suffers from a higher-than-average number of traffic delays and accidents. The Diamond Springs Parkway Project (Project) was approved as part of the Master Circulation and Financing Plan (MC&FP) in December 1998, with anticipated completion by 2014. The MC&FP was first established on December 15, 1998, with the Board's approval of three separate Development Agreements with certain developers (the Developers were then identified as Wal-Mart Stores Inc. et al.; Prospect Investment Company, El Dorado Land, Ltd., and Sundance Missouri Flat, LLC; and Village/El Dorado Partners, L.P., et al.) and created a special tax district from which 85% of new (incremental) sales and property taxes, resulting from development in the Missouri Flat area, that would otherwise accrue to the General Fund, would be used to pay for the County's proportional share of improvement costs in the area. MC&FP Phase I proposed to address existing traffic circulation deficiencies and allow for approximately 732,278 square feet of additional commercial development. The ultimate goal of the MC&FP was to encourage economic development, and it has effectively enabled the development of approximately 500,000 square feet of retail business, which generates nearly \$1,200,000 annually toward the improvements to the existing traffic deficiencies.

This Project has been included in the General Plan Transportation and Circulation Element since 2004. The Project is being completed in two Phases, 1A and 1B. Phase 1A realigned and widened State Route 49 from Pleasant Valley Road to Bradley Drive to four lanes, with shoulders, curb, gutter, and sidewalk improvements. Phase 1A also included signal modifications at the intersection of Pleasant Valley Road and State Route 49, and a left turn lane at the Lime Kiln Road/Black Rice Road intersection. Phase 1A construction was completed in early 2022.

Phase 1B will construct Diamond Springs Parkway, a new 4-lane arterial road from Missouri Flat Road, near Old Depot Road, to State Route 49, south of Bradley Drive. This phase includes intersection signalization at Missouri Flat Road, Throwita Way, and State Route 49. Phase 1B provides necessary turn lane capacity and connects to the State Route 49 improvements, ultimately creating a continuous 4-lane roadway corridor with multi-modal features from Pleasant Valley Road/Fowler Lane to U.S. Highway 50.

The Department of Transportation (Transportation) has conducted numerous public outreach meetings for the Project over the past 24 years, including the Diamond Springs and El Dorado Community Advisory Committee, who has continued to support the Project. On December 18, 2012 (Legistar 12-1540, Item 57), the Board prioritized the construction of the Project and directed Transportation to immediately proceed with completing the design and acquiring the necessary right-of-way.

The Project's primary purpose is to improve traffic safety and operations on Pleasant Valley Road/ State Route 49 in the vicinity of Diamond Springs. The Project will reduce existing traffic impacts through the Diamond Springs Historic District with a parallel capacity roadway from State Route 49 to Missouri Flat Road. The 2010 Environmental Impact Report's Traffic Impact Analysis determined the intersections along Pleasant Valley Road at China Garden Road and Missouri Flat Road, along with the Pleasant Valley Road capacity, were all at a level of service from D to F and had a higher than average number of accidents. Without the Project, the intersections along Diamond Road at Pleasant Valley Road and Lime Kiln Road would eventually reach a level of service F. These improvements will relieve traffic congestion and provide an acceptable level of service through the Diamond Springs Historic District consistent with the County's General Plan.

Project Improvements include:

- Vehicle, bicycle, and pedestrian safety and circulation improvements, including sidewalks and Class II bike lanes. It will provide multi-modal connectivity from Downtown Diamond Springs to Missouri Flat Road.
- Improved emergency vehicle access and evacuation routes.
- Improved Level of Service on Missouri Flat and Pleasant Valley Roads.
- A new 40-space parking area for the El Dorado Trail and Old Depot Bike Park at the intersection of Diamond Springs Parkway and Missouri Flat Road, including improvements to Old Depot Road.
- Three new bus turnouts, including two on Diamond Springs Parkway and one on State Route 49.
- Improved aesthetics, view shed, utility service reliability, and fire safety as part of the underground utility relocations.

Because the Project has been included in Transportation's CIP for many years, multiple other projects have assumed the construction of the Project and have incorporated associated improvements into their studies and plans, including:

- Sheriff Safety Center - Traffic study assumed Parkway construction.
- Waste Connections Material Recycling Facility - Traffic study assumed Parkway construction.
- El Dorado Trail Pedestrian Overcrossing - Impacts existing parking and assumes new parking lot and access improvements.
- Old Depot Bike Park - Project does not include parking and assumes a new parking lot and improvements to Old Depot Road.
- El Dorado Community Health Center - Traffic analysis assumed Parkway construction.
- PG&E Underground Utility Relocation Projects - Programmed, engineered, and allocated Rule 20 funding.

Master Circulation and Funding Plan

The Missouri Flat Master Circulation and Funding Plan (MC&FP) was developed in 1998 to provide a policy and action framework for El Dorado County to fund major improvements to the Highway 50/Missouri Flat Road Interchange and adjacent arterial and collector roads. The MC&FP includes a list of transportation projects within the Missouri Flat Road corridor necessary to maintain an acceptable level of service in consideration of proposed commercial projects and anticipated growth. In order to initiate and maintain the framework, the MC&FP identifies a number of future actions to be taken by the Board, including discretionary approvals, establishing funding mechanisms, maintaining

funding commitments, and initiating the road improvements included in the program. A key component of the MC&FP financing mechanism is a County Funding Agreement to set aside 85% of incremental sales and property taxes generated by new development in the Missouri Flat area. Over the years, this tax set aside has provided the primary revenue source through the MC&FP and has contributed to the completion of several projects.

Missouri Flat Community Facilities District & Ordinances

The MC&FP also proposed the creation of a Mello-Roos Community Facilities District as a mechanism for issuing bonds and establishing a special tax that would be levied on properties in the Missouri Flat area. The Board adopted Resolution 074-2002 in 2002, establishing the Missouri Flat Community Facilities District No. 2002-01 (CFD), authorizing the levy of a special tax within the district, and preliminarily establishing an appropriations limit. In 2008, the County implemented the CFD through two related ordinances. Ordinance 4785 provides for annual contributions towards Missouri Flat roadway improvements for development improvements and requires the County to annually contribute to the CFD funds sufficient to pay debt services on any bonds issued. Ordinance 4787 levies the special tax on property located within the Missouri Flat area.

Under Ordinance 4785, the County is required to annually contribute to the CFD funds sufficient to pay debt service on any bonds and other expenses of the CFD which would otherwise be funded by the special tax during the fiscal year in an amount that does not exceed the Tax Increment Revenues, defined to be an amount equal to 85% of the total tax increment generated within the Missouri Flat Area. Further, the County was required to create a Special Reserve Account to be used for debt service purposes and deposit tax increment until the Special Reserve Account attains a minimum balance of \$1,500,000.

Under Ordinance 4787, the CFD was authorized to incur bonded indebtedness in an amount not to exceed \$35,000,000 and impose a special tax to repay those bonds; however, the CFD never issued any bonds under this authority. Instead, the County financed past transportation projects identified in the MC&FP using a combination of TIM/TIF funds, state grant funds, the 85% tax increment set aside, and other discretionary funds, such as General Fund and Tribe Funds.

The CFD does not perform any function other than to act as a pass-through of the total tax increment generated by the MC&FP to the County. The MC&FP was established through Board adoption prior to the ordinances for creation of the CFD in 1998. The recommended dissolution of the CFD would not affect the other components of the MC&FP, including the 85% tax increment set aside. In addition, as noted above, there is currently \$1,500,000 in the Special Reserve Account to be used for debt service for the CFD. Dissolving the CFD frees up the current special reserve account and eliminates the possibility of bond funding in the future. The CFD has not issued any bonds, and staff is not anticipating requesting bonds to be issued at this time. The only project remaining on the MC&FP Phase 1 list that could utilize bond funding in the future is the El Dorado Road Interchange Improvement. However, that project is low on the list of priorities, and no known development is coming to the area. Per Government Code section 53338.5, the Board may, by ordinance, dissolve any CFD provided that the district is not obligated to pay any outstanding debt and has no authorization to levy any special tax. Therefore, Transportation recommends the Board give conceptual approval to repeal Ordinances 4785 and 4787.

Furthermore, Transportation recommends that the Board give conceptual approval to create a County-owned Special Revenue Account in which to deposit the \$1,500,000 from the CFD Special Reserve Account and direct the 85% tax increment revenue to be transferred into the Special

Revenue Account to be used for purposes consistent with the MC&FP.

Diamond Springs Parkway Phase 1B Funding Shortfall

Funding for Phase 1B is included in Transportation's 2023 CIP, which the Board approved on June 6, 2023 (Item 56, Legistar 23-0851). Phase 1B is currently funded by a combination of 40% MC&FP, 25% TIM Fees Zone 1-7, 15% SLPP, 3% TIF Zone B Fees, 3% SHOPP, 6% RSTP Advance Exchange and EDCTC, <1% Tribe (Historical), <1% Road Fund, and 7% To Be Determined (for the construction phase). There are \$1,000,000 in SHOPP and \$5,320,000 in SLPP funds for Phase 1B, which are grants provided by the California Department of Transportation (Caltrans) which will be in jeopardy and will have to be returned to Caltrans if Phase 1B does not meet construction deadlines. The current 2023 CIP book revenue table indicates a funding shortfall of \$2,650,000 for the construction phase, shown as To Be Determined. Phase 1A of the Project is complete, and the planning and environmental phases for Phase 1B are complete. All right-of-way has been acquired for Phase 1B, with final properties being acquired in July and Irrevocable Offers of Dedication being accepted this month.

On February 9, 2021 (Legistar 21-0178, Item 32), Transportation provided a presentation to the Board regarding the funding shortfall. As discussed in that item, the Resolution of Formation of the CFD authorizes the CFD to accept advances of funds from the County to be used to finance the MC&FP-authorized public facilities, provided that the County enters into a repayment agreement with the CFD that governs how the CFD will repay the source of funding advanced. At the conclusion of that item, the Board adopted the following motion:

- 1) Receive a presentation regarding the Diamond Springs Parkway Phase 1B Project;
- 2) Approve a revised funding plan to advance \$3 million in funds currently designated to build a road for a new courthouse and \$2.219 million in funds currently designated for capital building replacement and deferred maintenance to replace the Tribe Funds, enter into a repayment agreement with the Community Financing District, and develop a plan to have the Traffic Impact Fee Program reimburse the remaining portion in order to pay back the funds advanced over a period of 5 - 10 years with repayment first being made to the capital building replacement and deferred maintenance reserves, and direct Transportation staff to continue pursuing additional state funding for the Project for potential cost increases; and
- 3) Direct staff to return to the Board with a repayment schedule.

Consistent with that direction, Transportation has continued to explore all other possible funding opportunities to address the shortfall and, unfortunately, has not been able to locate alternative sources of funding. Current cost estimates, including actual right-of-way phase costs and increased construction bid prices from recent projects, have increased the projected shortfall an additional \$3,850,000 to an approximate total of \$6,500,000 for the construction phase. Transportation has researched and developed a plan to utilize the following sources:

- 1) The \$1,500,000 from the MC&FP Special Reserve Account, and
- 2) Existing Tribe Funds for up to \$5,000,000 to complete Phase 1B on schedule and use future MC&FP funds to repay the loan over a five (5) year period that is consistent with general rules governing inter-fund transfers in the Government Code.

Phase 1B is scheduled to allocate grant funding during FY 2023-24, and the construction contract must be awarded within six (6) months after allocation, which is scheduled for June 2024, or risk losing these grant funds. Currently, and over this time period, there will be approximately \$7,000,000 available in Tribe Fund reserves that are not scheduled to be used in any other current or future

projects. The Tribe Funds have been used as matching funds for grant-funded projects in the past, and it is possible that opportunities could arise in the future, and that the County's ability to fund or provide match funding for those projects would be impacted by the temporary unavailability of Tribe Funds. Currently, the MC&FP generates approximately \$1,200,000 annually that would be used for loan repayment. Transportation expects the loan would be repaid by FY 2028-29.

Transportation brought an item to the Board for consideration on August 29, 2023 (Legistar 23-1456, Item 30) recommending approval of a reimbursement agreement that would use MC&FP funds. The Board directed that the agreement be modified to adhere to an accelerated reimbursement schedule. This agreement will affect the MC&FP Fund balance and present potential impacts to the projected loan repayment schedule. Attached to this item are two cash proforma scenarios:

- 1) Repayment of the agreement brought to the Board on August 29, 2023, prior to any other payment obligations.
- 2) Repayment of the Tribe Fund loan prior to the repayment of the agreement.

The updated reimbursement agreement is also being presented for Board consideration today (Legistar Item #23-1683).

Both of these options include repayment of the Tribe Fund loan from the MC&FP fund with interest. The MC&FP minimum balance will stay at \$200,000 until all repayment obligations are completed.

ALTERNATIVES

- 1) The Board may choose not to dissolve the CFD or repeal related Ordinances 4785 and 4787, if the Board concludes there is a benefit to keeping the CFD in place.
- 2) The Board may choose to reject the loan from Tribe funds for Phase 1B or identify an alternative source for the loan. Other possible funds to loan to Phase 1B include the General Fund, capital building replacement, or deferred maintenance funds. Rejecting the loan would leave a shortfall on Phase 1B until adequate funding could be accrued from MC&FP and Traffic Impact Fee funds. The construction of Phase 1B would be postponed, and \$5,320,000 in SLPP and \$1,000,000 in SHOPP grant funds would not meet the required delivery deadlines and be returned to the State.
- 3) The Board could choose to authorize the temporary use of Tribe funds for the project, but not reimburse the Tribe fund account for lost interest revenue. This would result in an overall reduction in available Tribe funding for potential future projects.
- 4) If the Board directs staff to pay back the Tribe loan including interest, but still wishes to pay the reimbursements to the Developer on an accelerated schedule, the Board could direct staff to pay the additional interest with MC&FP funds (currently estimated at approximately \$160,000). No changes will be required to the reimbursement agreement attached to Legistar item 23-1683.

PRIOR BOARD ACTION

- 1) September 14, 2004 (Item 81): Project adopted as part of the Fiscal Year 2003/04 Interim CIP as project 72334, under former CIP Project name "Missouri Flat Road / Pleasant Valley Road Connector."
- 2) February 11, 2008 (Item 14, Legistar 08-0038): Project adopted as part of the 2008 CIP, under the current CIP Project name.
- 3) April 29, 2008 (Item 58, Legistar 08-0628): Approved Alternative #4 as the preferred alignment of the Project.
- 4) May 24, 2011 (Item 39, Legistar 11-044): Certified Final Environmental Impact Report adopted for the Project.

- 5) December 18, 2012 (Item 57, Legistar 12-154): Approved to support economic development and create special revenue fund and direct Transportation to immediately proceed with completion of design and right-of-way.
- 6) June 10, 2014 (Item 23, Legistar 14-072): Approved commencement of acquisition process for the Project.
- 7) May 3, 2016 (Item 23, Legistar 16-037): Certified Supplement to the 2011 Environmental Impact Report adopted for the Project.
- 8) March 5, 2019 (Item 12, Legistar 19-0049): Awarded Contract 2720 to Granite Construction Company for construction of Phase 1A of the Project.
- 9) July 23, 2019 (Item 22, Legistar 19-1009): Approved Task Order 461-S1711-01 with Bender Rosenthal, Inc. to complete right-of-way services, including valuations/appraisals, acquisitions, and relocation services for Phase 1B of the Project.
- 10) February 9, 2021 (Item 32, Legistar 21-0178): Diamond Springs Parkway Phase 1B Presentation.
- 11) April 19, 2022 (Legistar 22-0440, Item 27) - Approved Cooperative Agreement 03-0782 with Caltrans, defining the roles, responsibilities, and funding contributions of each agency related to the Plans, and Specifications, and Estimate, Right of Way, and Construction phases of the Project.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel, Environmental Management Department, Planning and Building Department, Parks and Trails, Caltrans, California Transportation Commission, El Dorado County Transportation Commission, El Dorado Transit, Pacific Gas & Electric, AT&T, El Dorado Irrigation District, and the California Public Utilities Commission have each been involved with portions of the Project.

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

Funding for Phase 1B is included in Transportation's 2023 CIP, which the Board approved on June 6, 2023 (Legistar 23-0851, Item 56). When the updated costs are factored into the current 2023 CIP budget for the Project, it shows MC&FP funding needs to be decreased by 7% for a total of approximately 36% and To Be Determined funding to increase by 4% for a total of approximately 17%. For FY 2023-24, there is approximately \$7,000,000 available in Tribe Fund reserves. The amount of interest that would accrue in the Tribe account without the use of these funds is approximately \$280,000, which is recommended to be paid by the MC&FP. Use of Tribe Funds would not impact any other current or planned projects; however, it would make a portion of these funds unavailable for projects that have not yet been identified for the five-year loan period.

If the Board directs that reimbursement payments are made to the developer before the Tribe loan, the repayments would begin in FY 2024-25, over a seven-year period with fluctuating payments, based upon the available MC&FP funds.

If the Tribe loan is paid back before the reimbursement payments, the repayments would begin in FY 2024-25, over a five-year period, with approximate payments of \$1M per year. Due to the delay in repayment, the Tribe account lose even more interest accrual, resulting in an additional payment of approximately \$160,000 (for a total of \$440,000 to be paid by the MC&FP account).

Each of these options keep the MC&FP's minimum balance at \$200,000. These options are also based upon a \$5,000,000 Tribe Fund loan. The amount of the interest will be based upon actual expenditures and the County's actual monthly interest apportionment.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

Rafael Martinez, Director

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