



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jon Cicirelli

SUBJECT: SEE BELOW

DATE: August 20, 2020

Approved

Date

8/20/2020

COUNCIL DISTRICT: 3 & 7

**SUBJECT: 2020 REGIONAL ACTIVE TRANSPORTATION PROGRAM GRANT
FOR FIVE WOUNDS TRAIL: STORY ROAD TO JULIAN STREET**

RECOMMENDATION

Adopt a resolution to:

- a. Identify the City Manager or his designee as the authorized representative to submit a grant to the State of California's Transportation Commission (CTC) to pursue Active Transportation Program (ATP) grant funding for the subject project;
- b. If awarded a grant through this program, authorize the City Manager to negotiate and execute a grant agreement and associated documents with Caltrans; and
- c. Recognize that staff will return in the future with a funding plan that is reasonably expected to be available and sufficient to complete the project via a grant up to \$33,610,683 that is subject to 80 percent reimbursement and up to \$423,000 for non-eligible expenses, with an obligation to fund all additional expenses which may not be fully understood at this early stage of project development.

OUTCOME

This Council action would allow the Parks, Recreation and Neighborhood Services Department (the Department) to secure a portion of the funding needed to develop a 1.9-mile segment (or reach) of the Five Wounds Trail System, from Story Road to Julian Street. Future phases of the trail would extend from Julian Street northward to the Berryessa BART station. Development of the trail segment would be completed following construction of Valley Transportation Authority's (VTA) 28th Street/Little Portugal Bay Area Rapid Transit (BART) Station site. The alignment will include a connection near Story Road to Coyote Creek Trail (designated as Bay Area Ridge Trail) and future regional transit at the planned 28th Street/Little Portugal BART Station and the Urban Village planned for the surrounding area. An awarded grant would support technical studies, master planning, design, and construction of a landscaped trail system

from Story Road to Julian Street. Should the Grantor have capacity for only a smaller grant award, the project scope would be reframed through a negotiated grant agreement to support preparation of construction documents and securing State and Federal environmental clearances needed for future construction.

BACKGROUND

Planning Context

ActivateSJ, the Department's Strategic Plan, guides development of a 100-mile Trail Network. The existing trail network is composed of 40 trail systems, with over 61 miles open to the public and master planning completed for the remaining 39 miles. Trail systems like the Five Wounds Trail will help grow the network and support inter-connectivity within the network to other systems and transit.

Envision San José 2040 General Plan guides development of the 100-mile Trail Network as well. The General Plan recognizes the function that trails play in the City's multi-modal transportation system. Trail Network policies are noted by [Chapter 6. Land Use and Transportation](#). At present, the General Plan's land use map recognizes most of the Five Wounds Trail corridor as Open Space, Parklands and Habitat which aligns with trail development. The segment of trail from Shortridge Avenue to Santa Clara Street is zoned as Transportation and Utilities. The Master Planning process would investigate and propose a General Plan amendment if the current designation might need to be amended.

Five Wounds Trail Concept Alignment

In September 2010, the Five Wounds / Brookwood Terrace Neighborhood Association collaborated with CommUniverCity to develop the [Five Wounds / Brookwood Terrace BART Station Area Community Concept Plan](#) (the Concept Plan). The plan offers a schematic proposal for the trail alignment but requires further study and master planning by the City (see Attachment A).

The portion of the Five Wounds Trail that is the subject of this memorandum is expected to follow the former Union Pacific Railway from Story Road to Julian Street. Further development northward from Julian Street to Mabury Avenue is not feasible at this time due to lack of property and/or access agreements with the property owner (VTA).

Work Completed and Funding Secured to Date

The City acquired the railway corridor from Story Road to Highway 280 from Union Pacific Railway in late 2011. The approximately 80-foot wide corridor includes a trestle structure and the property was purchased in an as-is condition.

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The City is partnering with the County of Santa Clara and Santa Clara Open Space Authority to secure properties from William Street to Whitton Avenue.

The 2020-2021 PRNS Capital Improvement Budget includes \$580,000 for the acquisition of the former railway alignment now owned by the VTA from William Avenue to Whitton Avenue. Staff anticipates bringing a Purchase and Sales Agreement to the City Council by 2021.

Further north along the corridor, the City and VTA are negotiating terms for a Cooperative Agreement to support multi-agency planning of future roadway and trail improvements between Whitton Avenue and Julian Street as part of the station area planning for the 28th Street/Little Portugal BART Station. Trail development along this section would be dependent upon future station development. A precise schedule for station development is not known.

In addition to working to secure properties and access rights to the trail corridor, staff have been working to support project design. On June 23, 2020, the City Manager executed an \$83,000 grant agreement via the California Coastal Conservancy's PCA (Priority Conservation Area) grant program for the Five Wounds Trail. The funds, paired with \$167,000 in City funds already allocated in the Department's Capital Budget, will support preliminary studies and conceptual planning work to define a viable trail alignment from Story Road to Whitton Avenue. Staff anticipates starting work on the project in early 2021.

On April 17, 2020, staff submitted an application to the VTA for Measure B funding to support planning and design of the Five Wounds Trail. The application aligned with likely available funding to support the stages of project development that must be completed prior to construction (including environmental documents, plans, specifications, remedial action planning and permitting). The VTA notified the City that grant funding of \$4,140,000 is now assigned to the project and could be available in about two years as the VTA conducts a periodic request for project proposals and award them on a competitive basis.

The ATP Grant Process

The State of California Department of Transportation's Active Transportation Program (ATP) is a competitive statewide grant program created to encourage active modes of transportation such as biking and walking. The goals of the program are to increase safety and mobility for non-motorized users, achieve greenhouse gas reduction, enhance public health, ensure disadvantaged communities fully benefit from the program, and deliver a broad spectrum of projects for active transportation users. The ATP grant can provide funds for various phases of capital project development including environmental documentation, design, right-of-way acquisition, and construction. Projects awarded monies through this program must be completed within 4 years of grant award.

In 2015, as part of Cycle 2 of the ATP, the City secured a \$5.2M grant to develop the Coyote Creek Trail from Mabury Road to Empire Street. Access to ATP funds was initially delayed, as the City's master plan with associated CEQA and NEPA documentation was deemed insufficient

by Caltrans to meet the grant program's requirement for a Project Study Report which is functionally a 35% level of engineering documentation.

In 2018, as part of Cycle 4 of the ATP, the City applied for a \$34,035,000 grant application (including commitment of \$425,000 in local funds) to develop the subject project. The project scored well but was ranked below the funding threshold. Initially, it was perceived that the project could have been successful with a larger local match commitment. Per California Transportation Commission staff, the grant application conveyed a vision for the project and scored relatively well on that basis. But per follow-up conversations with CTC staff, the project would have been deemed ineligible due to lack of a confirmed trail alignment, environmental documentation, and related engineering drawings necessary to meet the Project Study Report condition.

ANALYSIS

A combination of state and federal funds support the ATP Program. With federal funding, the program requires adherence to federal guidelines as managed by Caltrans via its Local Assistance Office. Most pertinent to this project are the following:

- Federal procurement and environmental clearance requirements apply to the project. This requires the City to follow the more stringent NEPA process in addition to CEQA process.
- Federal right-of-way acquisition requirements apply and may impact the City's current negotiations with the VTA for property acquisition from William Avenue to Whitton Avenue.

The ATP Grant Program requires strict adherence to deadlines and funding projects prematurely with this program carries potential risks. If unable to meet grant funding deadlines for *design* authorization and *construction* authorization by Caltrans, the grantees are required to repay all previously reimbursed expenses and are unable to seek ATP funds for the ATP funded project again. In addition, the applicant loses 10 points as it applies for any other projects through the ATP program.

Five Wounds Trail and ATP

The Five Wounds Trail is an identified alignment that can provide a Class I Bikeway Trail system linking the Spartan Keyes neighborhood to a future BART station. The former railway corridor is adjacent to the future 28th Street/Little Portugal BART Station. The Five Wounds Trail's multimodal outcome aligns with ATP Program goals of increasing safety and mobility for non-motorized users.

The completion date of the BART Station is currently unknown. Construction of the Five Wounds Trail north of Whitton Avenue depends on the completion of BART so this presents some risk to project delivery.

If the grant application is successful, the Department would need Council approval and related appropriation actions for a multi-year funding plan. Over time and as tasks are completed, the City would secure reimbursement for eligible expenses. The \$34,033,683 grant application request would make this the largest capital project in the Department’s portfolio. Expenditure of funds would occur over several years, but at the award of the construction contract, the City will need to have a significant amount of funds available. This large budget accounts for the cost of construction, project management, inspection and contingencies. Funds for “fronting” the grant do not currently exist and would need to be secured through non-traditional means such as commercial paper. This is discussed in more detail in subsequent sections of this memorandum. As part of a future Council action regarding the Funding Plan, staff would indicate projections for further non-eligible costs needed to reach the 35% engineering stage (also known as PSR equivalent). Certainty on this cost is currently not known because Caltrans assessment of the PSR equivalency would occur after an award.

Commitment for this Council Action

The proposed \$34,033,683 grant application requires that the City Council adopt the attached resolution. Commitments are defined in Table 1.

TABLE 1 City of San José Commitments Associated with the Requested Action	
Commitment	Approach
Provide a local match of \$291,262 (minimum).	A source for the local match will be identified as part of a future Funding Plan, upon notice that the project will be awarded an ATP grant by the California Transportation Commission. A VTA commitment to provide \$4,140,000 via Measure B may be an option but subject to a competitive application process and funding availability.
Confirm all funding resources and likelihood of availability per guidelines.	Staff proposes to present a budget action upon notice of a grant award. The Funding Plan may draw fully from the City’s local resources or could be proposed through the use of commercial paper. Use of Commercial Paper would require the City to make interest payments from City funding. The significant impact to Park Trust and Construction and Conveyance Tax funding sources will likely require a change in the Department’s capital spending. That conversation is recommended to occur only upon notification that the grant award is proposed. This approach may impact the success of the application, as confirming funding resources at time of application appears to be a condition for applying. Refer to the

TABLE 1 City of San José Commitments Associated with the Requested Action	
Commitment	Approach
	Conclusion section of this memorandum for further discussion. Staff proposes to state in the application: “Per City Council action on September 1, 2020, City staff have informed the Council that a proposal for use of local resources or commercial paper would be presented at a future date to address all non-reimbursable and fronting expenses tied to the grant award.”
Ensure that the project is authorized by Caltrans for construction by June 2025.	With uncertainty about project scope, there is some uncertainty about meeting this deadline. On this point, staff proposes a clear statement on the City’s intent to seek a one-time 20-month extension from the California Transportation Commission as needed. Per guidelines, this would be a one-time opportunity and default on the schedule may require repayment of all prior invoices.
Meet all project delivery deadlines as outlined in the terms of the grant.	With uncertainty about project scope, there is some uncertainty about meeting deadlines. Consultant services will be leveraged to supplement in-house staff resources to prioritize this project as part of the Department’s and Public Work’s work plan. The financial resources, scale, complexity and schedule commitments may impact prioritization of other park or trail projects.

CONCLUSION

This Council action supports pursuit of significant funding via the ATP to advance a trail system that can link the Coyote Creek Trail to the future 28th Street/Little Portugal BART Station.

The potential funding from the ATP grant, combined with other City resources, including a potential grant from VTA’s Measure B, would support the needed studies, design and project management to support construction of the project. The ambitious schedule for project delivery per the grant guidelines, even with potential grant extensions, is a significant factor in the high project cost presented in the application and a challenge in project delivery.

The project’s large budget will likely impact other Council priorities for park and trail development. The grant program requires that all expenses be incurred by the City prior to reimbursement. The \$34,033,683 budget required would exceed the anticipated five-year revenue for Construction and Conveyance Funds in Council District’s 3 and 7. Upon indication of a grant award, staff will seek City Council approval to proceed with the grant and provide a

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funding plan proposal that may include use of Park Trust Fund, Construction and Conveyance Funds, commercial paper or other options. The use of commercial paper would incur interest and other fees, which would impact future Construction & Conveyance Fund balances.

EVALUATION AND FOLLOW-UP

Upon a proposed grant award, staff will return to seek City Council approval to proceed with the grant and provide a funding plan prior to execution of a grant agreement. Access to grant funds will be upon confirmation and appropriation of a funding plan by the City Council, followed by execution of a negotiated agreement by the City Manager, and meeting the grant condition for 35% engineering drawings (or PSR equivalent).

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

POLICY ALTERNATIVES

Alternative #1: Proceed with PCA-funded studies and conceptual planning work. Pursue Measure B funds competitively to complete planning and design. Pursue ATP grant funds at a time when the City has a project at a higher state of readiness and, at a minimum, meets the program's conditions for a PSR (Project Study Report) or equivalent level of readiness.

Pros: Avoid commitment of \$34,033,683 million to complete the Project with associated debt service expenses, impact to existing park priorities and City Council's allocation of resources to future projects and risks inherent with developing a trail project from concept to shovel-ready by June 2025.

Cons: Potentially delays development of the trail.

Reason for not recommending: Does not support pursuit of significant potential grant funding via this fifth cycle of the recurring ATP Grant Program

PUBLIC OUTREACH

Staff has met and engaged with the Five Wounds / Brookwood Neighborhood Terrace for the past decade at its annual meetings and participated in field trips to the site.

This memorandum will be posted on the City's website for the September 1, 2020 City Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Manager's Budget Office, the departments of Environmental Services, Finance, Planning, Building and Code Enforcement, Public Works, and Transportation. External coordination has occurred with VTA staff pertaining the pending sale of property and interest in entering into a Cooperative Agreement for joint planning near the future 28th Street/Little Portugal BART Station.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Five Wounds Trail is one of 40 trail systems that support the interconnected Trail Network identified by the Department's ActivateSJ strategic plan. The Trail Network is referenced by the Envision 2040 General Plan's Trail Network Policies as part of the Land Use and Transportation section with related policies.

COST SUMMARY/IMPLICATIONS

The ATP grant application requires a City Council resolution to confirm that the funding plan sourced from local, federal, state, or private sources is reasonably expected to be available and sufficient to complete the project. This aspect of the resolution has implications for the City Council's priorities and may impact delivery of future projects.

The City typically "fronts" expenses for grant-funded projects using City resources. Funds are returned to the City through payment of eligible reimbursable expenses. Staff expect reimbursement at the rate of 80%. The 20% not reimbursed, and all other non-eligible expenses, would fall to the funding source approved by the City Council to advance use of the grant. For the total estimated project cost of \$34.0 million, approximately \$27.0 million is estimated to be reimbursed, approximately \$6.6 million will be non-reimbursable, and approximately \$423,000 will be ineligible expenses that the City will incur in addition to the grant. Examples of ineligible expenses include stormwater protection plan, mobilization, traffic control, and the cost to restore railway infrastructure that the community negotiated to preserve when the VTA cleared its property of former operational equipment.

If the City needs to use commercial paper to front this grant, there would be associated fees and interest costs. Interest costs would grow if the City were to face any schedule delays in implementing the project. For perspective, the City's five-year projection for Construction and Conveyance Tax funds transfer from the Central Fund to Council Districts 3 and 7 is \$3,169,000.

The \$7.0 million to fund the City’s share of the project and the estimated fees and interest from using commercial paper to front the project over a multi-year period would leave only minimal funding for District 3 and 7’s other capital needs. While the Department often looks to the Park Trust Fund and the Construction & Conveyance Tax Funds to help front grant-related expenses prior to the reimbursement, at present, the grant amount exceeds the available balances in all these sources. The Construction & Conveyance Tax Funds for both District 3 and 7 do not have available funding to front \$34 million of expenses and resources within City-Wide Construction and Conveyance Tax are limited due to completion of 2017 Flood projects. The Park Trust Fund also has a very limited balance. Significant funding from the Park Trust Fund supports redevelopment of St. James Park and development of a future park in the Spartan-Keyes neighborhood. As a result, the use the City’s Commercial Paper Program will likely be necessary and will impact other park development priorities in CD3 and CD7.

Staff will prepare the application to accurately convey the needed time to develop the project. After careful review of a project schedule and estimate prepared by Public Works, staff may need to state that the project cannot be sufficiently developed for Caltrans to authorize construction by 2024. This approach may jeopardize grant funding but supports clarity on the project’s level of project readiness as determined by the Department of Public Works. Per the guidelines, the CTC may only grant one extension (up to 20 months).

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Project Delivery	Cost
Preliminary Engineering	\$4,600,000
Right of Way (Acquired prior to project development)	\$0
Construction Engineering	\$6,000,000
Mobilization	\$485,657
Traffic Control	\$416,143
Stormwater Protection Plan	\$364,124
Site Remediation (Story-280)	\$3,466,342
Site Remediation (William-Whitton)	\$2,930,325
Landscaped Trail (Story-William)	\$5,898,016
Railway Beacons Restoration	\$237,537
Crosswalk Enhancement (Flashing Beacons)	\$148,460
Traffic Signal Modification	\$475,075
Bridge (Pedestrian / Bike)	\$3,563,059
Trail Interconnection Ramp (to Coyote Creek Trail)	\$385,998
Pocket Park (William / 22 nd)	\$415,690
Project Management	\$1,590,688
Contingency (15%)	\$3,056,569
Total Project Costs	\$34,033,683

*The estimated project costs may exceed the grant award and match amount because at the budget level there are uncertainties and potential permit fees that are not clearly defined.

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2. **COST ELEMENTS OF AGREEMENT/CONTRACT:** To be reported with future Council action if a grant contract is proposed.
3. **SOURCE OF FUNDING:** To be reported with future Council action if a grant award is secured.
4. **FISCAL IMPACT:** Staff estimates that the operations and maintenance impact of the 1.4 mile of trail (acknowledging that ½-mile of the alignment will repurpose and existing 8' wide sidewalk managed by DOT as public right-of-way) will be approximately \$26,040 annually. This amount is based on the cost of trail maintenance at the rate of \$15,000/mile, and \$3,600/mile for park rangers. There will be no operational costs until completion of construction which is expected to occur by 2026. This project was not included in the 2021-2025 5-Year General Fund Forecast, however, it will be included in future forecasts.

CEQA

Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application.



JON CICIRELLI
Director, Parks Recreation and
Neighborhood Services

For questions, please contact Nicolle Burnham, Deputy Director, at (408) 793-5514.

Attachment A: Project Location Map

Attachment A - Project Location Map

