

Lompoc City Council Agenda Item



City Council Meeting Date: May 12, 2016

TO: Patrick Wiemiller, City Manager

FROM: Teresa Gallavan, Economic & Community Development Director/
Assistant City Manager
t_gallavan@ci.lompoc.ca.us

SUBJECT: Motorsports Park Funding

Recommendation:

Staff recommends the City Council review and discuss the options for funding the additional environmental work required to complete Phase I (the environmental work phase) of the Lompoc Valley Motorsports Park (Project) and provide direction.

Background:

On June 5, 2012, the Lompoc Valley Parks, Recreation, and Pool Foundation (LVPRPF) gave a presentation to City Council about the Project to be located at the Lompoc Airport. Staff recommended City Council receive the presentation and provide direction on proceeding with an analysis to identify issues relative to the development of the Project. Council took action and directed staff to prepare a Memorandum of Understanding (MOU) with LVPRPF for the proposed Project.

In November 2012, staff and LVPRPF met with a representative of the State of California Department of Parks and Recreation, Off-highway Motor Vehicle Recreation (OHMVR) Division to discuss the possibility of grant funding for the Project. On February 23, 2013, staff presented to the Council the OHMVR grant opportunity that arose. Staff also recommended Council receive a presentation on the OHMVR Grant Program (Grant) and directed staff to submit a preliminary Grant request, as well as consider the request to create a Kids Motorcycle Fun Park at River Park while the proposed Project was in review. City Council authorized an interim Kids Motorcycle Fun Park at River Park and approved the MOU for development and operation, which allowed a temporary facility to operate for three years in advance of the proposed Project.

On March 4, 2013, preliminary Grant applications were submitted by both LVPRPF for the operation of the Kids Motorcycle Fun Park and by the City for the Project. On July 5, 2013, OHMVR posted the final awards in the amount of \$44,913 to LVPRPF for the operation of the Kids Motorcycle Fun Park, and in the amount of \$998,107 to the City for development of the Project.

Staff asked Council to review the adoption of Resolution No. 5866(13) on August 6, 2013, which approved the application for Grant funds from OHMVR. Staff also asked Council to consider an MOU with LVPRPF for Phase I – Environmental Review for the proposed Project. That agenda item needed further time for review and was continued to the City Council Meeting of November 19, 2013.

On November 19, 2013, staff brought back the request for Council to review and adopt Resolution No. 5866(13) approving the Application for Grant Funds from OHMVR and the consideration of an MOU for Phase I – Environmental Review with the LVPRPF. Council held the public hearing, and by a 5-0 vote, adopted Resolution No. 5866(13), approving the application for Grant funds and authorizing the City Manager to proceed with the Grant. Council also approved the MOU with LVPRPF to move forward with the environmental review with approved revisions, and authorized the City Manager to sign the MOU. On December 30, 2013, the Grant was signed by the City Manager and OHMVR Representative and funds became available for Phase I of the Environmental Review.

On March 4, 2014, the MOU with LVPRPF and the City of Lompoc (City) was signed. The Project application was submitted to the City on October 21, 2014. On November 20, 2014, the City mailed LVPRPF a letter advising them the Project application was incomplete and further information was requested. Subsequent submittals were received on February 6, 2015, and March 11, 2015, yet the application remained incomplete. The Project was deemed complete for processing on July 30, 2015.

Beginning June 16, 2015, regular status updates were provided to the City Council by the Planning Division. On August 18, 2015, Amendment No. 1 to the MOU was signed. During the monthly status update to Council on September 15, 2015, the City Planning Manager reported Meridian Consultants submitted a Scope of Work (SOW) for an Environmental Impact Report (EIR) on September 3, 2015, with a cost estimate of \$232,740 and a timeline of one year from the date authorized to begin the EIR. LVPRPF was advised its portion of the EIR would be \$116,370 or 50% of the balance charged to the Grant funds. On October 20, 2015, the SOW was amended and the timeline of the EIR was compressed to nine months and the EIR cost was reduced to \$231,585.

On November 17, 2015, a request from LVPRPF to approve Amendment No. 2 to the MOU was brought to Council. By a 4-1 vote, Council directed the City Manager to sign Amendment No. 2 providing LVPRPF additional time to deposit funds with the City, and sign the contract to complete the EIR. From December 2015 to May 2016, monthly status updates were provided to Council.

Discussion:

The City has been advised by the Federal Aviation Administration (FAA) additional environmental work needs to be done in Phase I of the Project. Specifically, an environmental assessment for the National Environmental Policy Act (NEPA) must be conducted and an amendment to the Airport Layout Plan (ALP) is required. City consultants, staff and the FAA have developed a timeline to incorporate preparation of the additional NEPA and ALP documents into the timeframe of the Grant; however, the City would need approximately \$140,000 of additional funding to conduct that additional work and that work would need to begin immediately. The funding is currently not available in Phase I of the Grant; however, a request has been made to the OHMVD to move funds from future phases, if possible.

Current Memorandum of Understanding

Among many items, the current MOU indicates LVPRPF is responsible for the costs of preparation and processing of:

- Airport Master Plan – Any changes necessary to the City of Lompoc Airport Master Plan; provided, that City and LVPRPF will work together, in good faith, to seek funding, other than from City and LVPRPF to assist with those costs.
- Environmental Review – As required by NEPA and the California Environmental Quality Act (CEQA); prior to City entering into contracts with any outside consultants LVPRPF shall deposit with City those additional moneys required to cover those costs including studies, consultation with resource agencies who may have permitting authority over the Project, including but not limited to FAA, Caltrans, California Department of Fish and Wildlife, United States Fish and Wildlife Service and environmental review will address the existing 7.1-acre planting mitigation area contained within the Project footprint.
- Development Process – Taking the Project through the City's and all governmental development review and building processes, including staff time and material to review and process the Project, building permit fees and impact fees, provided that such costs are not paid by the Grant.
- Proof of Financing – LVPRPF shall provide assurance it can construct the Project at no cost to the City and shall be limited to moneys deposited into a trust account; evidence of financing for each phase shall be provided before City is required to grant any approval or permits for that phase. (MOU Amendment No. 2 made some modification to this provision.)

Good Faith Effort

To facilitate the additional work, the City has requested in writing from OHMVR clarification on:

- Whether funding can be moved from Phase II of the Grant to Phase I to apply towards portions of the costs of the additional environmental work that are not attributed to the drag strip.
- Whether funds can be moved from Phase II to Phase I to cover planning staff time; the funds LVPRPF has deposited with the City do not cover LVPRPF's costs of Phase I and staff time to date. Grant funding may be able to cover the costs of staff time in addition to the additional environmental work, however, it will reduce the amount of grant funds available for later stages of the Project.
- The dates of the construction window; we understand construction must be completed by December 31, 2016, yet reimbursement requests are accepted until May 2, 2017. If we have a reimbursement request for work done from January 1, 2017 – May 1, 2017, then will it be reimbursed?
- If the City completes Phase I, and there is a finding the Project cannot proceed due to the costs of one or more mitigation measures, a decision not to adopt a statement of overriding considerations or some other circumstance not within the City's control, then would there be an obligation for the City to repay the grant funds expended in Phase I? In this scenario, confirmation is requested whether the City will be required to meet the 26% match of Project costs incurred and whether the City may meet that match with staff time spent on the Project.
- Assuming the State allows work to continue after December 31, 2016, if Phase I is not completed before May 2, 2017, when all reimbursement requests are due to the State, because of circumstances beyond the City's control, whether the City will have to repay any grant funds spent. The City has asked if there is the possibility of an extension to complete Phase I beyond this funding cycle and, if so, how, and when, is that determined.

Other Factors

Timing of Work – While City consultants, staff and the FAA have worked to incorporate the additional environmental work and ALP amendment into the Project timeline, it is a tight timeline and all parties acknowledge there are factors outside our control since we are working with external agencies. While staff and consultants have discussed the time sensitivity of this Project with other involved agencies and received cooperative feedback, the turnaround time of outside agencies is not within our control.

Also, certain studies required must commence immediately, hence the urgency of the Special Meeting. City consultants will be at the Special Meeting on May 12th to further discuss the environmental assessments.

Future Costs – Through the environmental review process, mitigation measures and impact fees will be discussed. Already on the site is a 7.1-acre willow mitigation area for the City that needs to be addressed by LVPRPF if the Project displaces it. The Grant currently allocates \$150,000 toward willow mitigation and this may not be sufficient. The 38-acre Project will likely have to work through mitigation measures and pay impact fees for the Project beyond the limited funds provided in the Grant. While those are only two of many future costs, they are significant factors to plan for.

Grant Limitations – The Grant period ends December 31, 2016. According to the Grant, all work is to be completed by that date. However, OHMVR has indicated reimbursement requests may be submitted up until May 2, 2017.

Risk of Repayment – The City is the recipient of the Grant. The Grant requires a local match of 26% of total Project costs. The City may have to repay any Grant funds received as reimbursements for costs expended on the Project if the Project is not completed or if Phase I is not completed. If Phase I is completed and the Project does not proceed to Phase II due to circumstances beyond the City's control, the City understands it would not have to repay any Grant funds received for reimbursement of costs expended for Phase I activities, however, the 26% local match would still have to be expended and reported as required by the terms of the Grant. If the EIR, once completed, indicates there are any significant impacts that cannot be mitigated and if the City were to approve the proposed project, then adoption of a statement of overriding considerations would be required. As noted above, one of the questions the City has submitted regarding requirements for Phase 1 of the Grant is whether repayment would be required if the City Council decided not to adopt a statement of overriding considerations. It is clear if the City stops processing the draft EIR, at this point, any moneys used from the Grant must be repaid. If any repayment is required, then the MOU obligates LVPRPF to cover that repayment.

Economic Impact – In the past, LVPRPF has shared with Council and the community information regarding the positive economic impact the Project would have on the City by bringing in tourism. LVPRPF will be at the meeting to provide additional information about the benefits of the Project ranging from economic impact to capital improvements to the airport.

Capacity to Finance and Develop Project – The City and LVPRPF have entered into an MOU whereby LVPRPF shall demonstrate its capacity to finance and develop the proposed Project. The City is working with OHMVR to utilize the grant funding as flexibly as possible within the Grant agreement in order to facilitate the Project. Grant

funding moved from future phases of the Project to the current phase enables work today at the cost of funding future components of the Project.

The City is being requested to further amend the MOU with LVPRPF to defer the required deposit/proof of financing to proceed with the additional environmental work. On November 17, 2015, the City amended the MOU to allow LVPRPF to establish a payment plan for its required deposit of matching funds. LVPRPF indicated it has the following funds: \$30,000 deposited with the City; an additional \$10,000 was brought in; anticipated funds from the OHMVR Grant as reimbursement for the Kids Motorcycle Fun Park in the amount of \$40,000 to \$70,000; and, it continues to fundraise for the Project. We have received confirmation from OHMVR the amount LVPRPF has requested for reimbursement for the Kids Motorcycle Fun Park is \$23,698. For the 2012/13 Grant (G12-04-52-G01), LVPRPF was awarded \$44,913 and paid \$20,896 in reimbursements. For the 2013/14 Grant (G13-04-52-G01), LVPRPF was awarded \$47,325 and has requested \$23,698 in reimbursements.

Options to Consider:

The City may amend the MOU and increase LVPRPF's line of credit towards matching funds and staff costs (\$118,793 plus 2.6% of NEPA and the ALP (\$3,640) and staff costs not covered by the grant in Phase I) contingent upon confirmation OHMVR will allow adjustments to the Grant budget by moving funds from Phase II to Phase I for NEPA and the ALP.

If OHMVR does not allow Grant funds to be moved from future phases, then the City may allocate funds to the Project for NEPA, the ALP and staff time (\$136,360 plus staff time).

The City may amend the MOU to extend LVPRPF's line of credit to include costs of NEPA, the ALP and staff time (\$270,680 plus staff time).

The Council could allow LVPRPF until May 16, 2016, to provide the additional funding, beyond what is deemed applicable in the Grant, to proceed with NEPA and the ALP.

Fiscal Impact:

Phase I of the Grant activities relate to preconstruction aspects of the Project. Costs for CEQA and NEPA have been quoted. The ALP cost is a rough estimate and staff expects a quote and scope of work this week. Additional activities and options are identified in the following chart:

	Cost/ Estimates	LVPRPF Responsible for Approximately 2.6% for Costs Related to the Drag Strip	Project Cost Related to the Off- Highway Vehicle Component	OHMVR Grant Funds Awarded	26% of Overall Project Costs Local Match	LVPRPF Responsibility for OHV Component	LVPRPF Total (Drag Strip and OHV Components)
CEQA	\$231,585	\$6,000	\$225,585	\$104,522	\$58,652	\$112,793	\$118,793
NEPA	\$65,000	\$1,690	\$63,310	\$0	\$16,461	\$63,310	\$65,000
ALP	\$75,000	\$1,950	\$73,050	\$0	\$18,993	\$73,050	\$75,000
Staff Time to Date	\$16,087		\$16,087	\$4,200	\$4,183		\$11,887
Total	\$387,672	\$9,640	\$378,032	\$108,722	\$98,289	\$249,153	\$270,680
Payments to City							(\$5,726)
Deposits to City							(\$40,000)
Total Less Deposits & Payments	\$387,672	\$9,640	\$378,032	\$108,722	\$98,289	\$249,153	\$224,954
*If Grant Approves Moving Funds for NEPA & ALP							
NEPA (Approved by Grant)				\$63,310		(\$63,310)	(\$63,310)
ALP (Approved Funding by Grant)				\$73,050		(\$73,050)	(\$73,050)
*Total	\$387,672	\$9,640	\$378,032	\$245,082	\$98,289	\$112,793	\$88,594

As outlined in the chart above, total costs quoted, billed, and estimates received for CEQA, NEPA, the ALP and staff time to date are approximately \$387,672. Of that amount, approximately 2.6%, or \$9,640, is attributed to the proposed drag strip and must be paid 100% by LVPRPF. That leaves approximately \$378,032 in Off-highway Vehicle (OHV) Project costs to be covered by the Grant and LVPRPF. CEQA costs are to be split evenly between the Grant and LVPRPF after deducting the drag strip portion. The Grant budgeted \$104,522 for CEQA costs with a match provided by LVPRPF for a total of \$209,045. Actual costs for CEQA came in at \$231,585. After deducting the drag strip portion of \$6,000, the OHV component of CEQA is \$225,585 split between the Grant and LVPRPF or \$112,792 to the Grant and \$112,793 to LVPRPF respectively. The City will work with OHMVR to move additional funds of \$8,270 from Phase II to Phase I to cover CEQA costs not covered by LVPRPF at a revised amount of \$112,792. The 26% match requirement for Phase I with the additional environmental assessments, ALP and staff costs to date is approximately \$98,289. LVPRPF's commitment to the

OHV portion of the Project, if OHMVR will not cover NEPA and the ALP, is approximately \$249,153. Adding the 2.6% for the drag strip, total Project costs to be covered by LVPRPF are estimated to be \$270,680 plus any future staff costs not covered by the Grant.

To date, LVPRPF has deposited \$40,000 towards its EIR commitment of \$118,793, the balance which is due prior to the City certifying the EIR. In addition to the \$40,000 deposit, LVPRPF has paid \$5,762 in staffing costs. LVPRPF total due to date minus deposit and payment is \$224,954. If the Grant will cover NEPA and ALP costs then the total LVPRPF amount due to date would be \$88,594.

Actual City expenses related to Phase I of the Project include direct costs, and indirect costs such as billable staff time related to the processing of the Project. Direct costs include payments made to Meridian, the consultant performing the EIR, along with Project processing costs incurred through April 30, 2016. Meridian has been paid \$128,267. Meridian bills the City on a monthly basis and the April invoice has not yet been received. However, Meridian indicates the April invoice to be \$50,000. Project processing costs and other City related costs incurred within the scope of Phase I of the Project are \$16,087.

LVPRPF may request the City ask OHMVR to move \$112,793 from Phase II to Phase I to cover its CEQA costs not attributed to the drag strip. This would be an additional amendment to the MOU and decrease funding for future phases. This would mean more than \$378,032 (CEQA + NEPA + ALP – 2.6% for the drag strip + \$16,087 staff time to date) or more than 38% of the \$998,107 Grant would be expended in Phase I to date.

As discussed with the City, LVPRPF would like the City to move funds from Phase II of the Grant to Phase I to cover the costs of NEPA and the ALP. If OHMVR allows that, then LVPRPF will need to pay the portion attributed to the drag strip. The City should also ensure funds for the 26% match are allocated, appropriated and available. If LVPRPF pays its OHV contribution for CEQA that would cover the 26% match to date however Project costs will increase further.

Conclusion:

Council should consider the capacity of LVPRPF to carry out this Project, the level of City support needed to assist in that endeavor, the terms for reimbursement of costs incurred by the City required to be paid by LVPRPF as a condition of the MOU, and the level of City risk of repayment to the OHMVR for Grant funds reimbursed, and then provide direction to staff on how to proceed.

May 12, 2016
Motorsports Park Project
Page 9 of 9

Respectfully submitted,

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Assistant City Manager

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Patrick Wiemiller, City Manager