



NOTICE OF EXEMPTION

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600

Project Title and No.: County Bikeways Plan 2016 Update; 245R12C111 and ED 15-237

Project Location(Specific address): Countywide	Project Applicant/Phone No./Email: Michelle Matson, County Public Works Department/805-788-2830/ mmatson@co.slo.ca.us
Project Location(County): San Luis Obispo	Applicant Address (specific): County Government Center, Room 206 San Luis Obispo, CA 93408

Description of Nature, Purpose and Beneficiaries of Project

San Luis Obispo County prepared the Bikeways Plan to identify and prioritize bikeway facilities throughout the unincorporated area of the County including, bikeways, parking, connections with public transportation, educational programs, and funding.

Name of Public Agency Approving Project: County of San Luis Obispo

Exempt Status: (Check One)

- Ministerial {Sec. 21080(b)(1); 15268}
- Declared Emergency {Sec. 21080(b)(3); 15269(a)}
- Emergency Project {Sec. 21080(b)(4); 15269(b)(c)}
- Categorical Exemption. {Sec. ___; Class: ___}
- Statutory Exemption {Sec. ___}
- Not a "Project"

Reasons why project is exempt: The County Bikeways Plan Update 2016 is not a "project" per the definition in the CEQA Guidelines Section 15378 b(4). Please refer to the attached Notice of Exemption rationale from the County Bikeways Plan 2010 Update.

Keith Miller

(805)781-5714

Lead Agency Contact Person

Telephone

If filed by applicant:

1. Attach certified document of exemption finding
2. Has a notice of exemption been filed by the public agency approving the project?
Yes No

Signature Ellen Carroll Date 4.4.2016

Name (Print) Ellen Carroll Title Environmental Coordinator



San Luis Obispo County
Department of Planning and Building
environmental division

NOTICE OF EXEMPTION

Pursuant to the California Environmental Quality Act
(CA Public Resources Code §21000 et seq.)

County of San Luis Obispo

TO:	Office of the County Clerk County Government Center San Luis Obispo, CA
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Title of the Action:

County Bikeways Plan 2010 Update

Location of the Action – Specific:

Countywide

Location of the Action – County:

San Luis Obispo

Description of Nature, Purpose, and Beneficiaries of the Action:

The proposed action is a regular update to the County Bikeways Plan. The County Bikeways plan is intended to: identify needed bikeway routes and accessory facilities such as bike parking; provide for coordination with other modes of transportation, promotional and educational programs; and identify potential funding sources for these facilities and programs.

A key purpose of the Bikeways Plan is to qualify future bikeways projects for funding from the Bicycle Transportation Account in the State Transportation Fund. Section 891.4 of the California Streets and Highways Code states:

“(a) A city or county that has prepared a bicycle transportation plan pursuant to Section 891.2 may submit the plan to the county transportation commission or transportation planning agency for approval. The city or county may submit an approved plan to the department in connection with an application for funds for bikeways and related facilities which will implement the plan. If the bicycle transportation plan is prepared, and the facilities are

proposed to be constructed, by a local agency other than a city or county, the city or county may submit the plan for approval and apply for funds on behalf of that local agency. (b) The department may grant funds applied for pursuant to subdivision (a) on a matching basis which provides for the applicant's furnishing of funding for 10 percent of the total cost of constructing the proposed bikeways and related facilities. The funds may be used, where feasible, to apply for and match federal grants or loans."

Adoption of an update to the County Bikeways Plan is not subject to the requirements of the California Environmental Quality Act (CEQA) for each of the following reasons:

Not a "Approval" of a Proposed Action

CEQA applies to "discretionary projects proposed to be carried out or approved by public agencies . . ." Public Resources Code, Section 21080, subd. (a). The CEQA Guidelines require a threshold, two-part analysis to determine the applicability of CEQA. "Approval" occurs when the agency commits to a definite course of action. Section 15352(a) of the State CEQA Guidelines defines "approval" as:

"The decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by a person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval."

In adopting updates to the Bikeways Plan, the County establishes priorities and opportunities for future projects by qualifying for a funding mechanism, but has not committed itself to a definite course of action. Determinations of the entire scope and details of any future bikeway project are not made until funding has been secured and a complete environmental review as required by CEQA has been prepared. Therefore, an update to the Bikeways Plan does not constitute "approval" of a project as defined by CEQA.

Government Funding Mechanism

Section 15378(b)(4) of the State CEQA Guidelines concludes that the creation of government funding mechanisms or other fiscal activities which do not involve any commitment to any specific "project" which may result in potentially significant physical impact on the environment are not "projects". *Citizens to Enforce CEQA v. City of Rohnert Park* (2004) 131 Cal.App.4th 1594, 1601. Among the cases supporting this conclusion is *Stein v. City of Santa Monica* (1980) 110 Cal.App.3d 458, 460-462. In that case, the approval of boundary adjustments by local agency formation commission where the adjustment would not accommodate or otherwise presage a change in the type or extent of land use involved does not constitute a "project". The following cases also support this concept: *Simi Valley Recreation and Park District v. Local Agency Formation Commission* (1975) 51 Cal.App.3d 648, 662-666; and *City of Agoura Hills v.*

Local Agency Formation Commission (1988) 98 Cal.App.3d 480, 493-496. In the case of Kaufman & Broad-South Bay, Inc. v. Moran Hill Unified School Dist. (1992) 9 Cal.App.4th 464, it was determined that a resolution calling for creation of a Mello-Roos District, which also requires a vote of the electorate, was not a "project". In the same way, planning for and securing financing for anticipated but uncertain future actions necessary for the furtherance of the Bikeways Plan does not create a significant effect on the environment.

Timing of CEQA Review

Section 15004(b) of the State CEQA Guidelines states:

Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.

(1) With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.

(2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:

(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.

(B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.

Updating the Bikeways Plan will not have an adverse environmental effect, and will not limit the choice of alternatives or mitigation measures for any future bikeways project. No land acquisition will occur as a result of updating the Bikeways Plan. The Bikeways Plan does not contain sufficient detail to provide for a meaningful review of the environmental effects of any particular bikeways project; CEQA review at this stage would not provide sufficient information to ensure that environmental resources are being protected to the greatest feasible degree. Given the lack of detail, and the fact that no irreversible decisions are being made, CEQA review of the update of the Bikeways Plan would be premature.

Never-the-less, this notice of exemption will not exempt future actions to design and implement any future project that arises from the Bikeways Plan. Future activities that fall within the CEQA definition of "project" and are not otherwise exempt in their own right will require compliance with CEQA.

Name of Public Agency Approving the Action:

County of San Luis Obispo

Name of Person or Agency Carrying Out the Action:

San Luis Obispo County Department of Public Works

Exempt Status/ Reasons why the action is exempt:

- 1) The activity does not constitute "approval" of a project as the term is used in CEQA.
- 2) The activity is primarily the creation of a government funding mechanism pursuant to Section 15378(b)(4) of the State CEQA Guidelines.
- 3) CEQA review of an update of the Bikeways Plan would be premature, occurring too early in the process to provide meaningful results because of a lack of detail about any particular bikeway mentioned in the Plan.

Contact Person

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Department of Public Works

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(805) 781-5458

Nov 10, 2009
Date



Ellen Carroll, Environmental Coordinator
County of San Luis Obispo