

Community Development Committee

Meeting date: July 21, 2014

For the Metropolitan Council meeting of August 13, 2014

Subject: Revision to Livable Communities Act Grant Amendment Guidelines

District(s), Member(s): All

Policy/Legal Reference: Minnesota Statutes Section 473.25

Staff Prepared/Presented: Paul Burns, Manager, Livable Communities 651.602.1106

Division/Department: Community Development/Livable Communities

Proposed Action

That the Community Development Committee approve changing the Livable Communities Act grant amendment process and all active Livable Communities Demonstration Account (LCDA) grant agreements, including LCDA Transit Oriented Development (TOD) and regular-program LCDA grants, to allow:

- grantees the discretion to reallocate up to 20% of the grant amount among the grant-funded activities, provided: (1) the grant funds may be used only for project activities for which the Council awarded the grant funds; (2) that the reallocation does not significantly change the project deliverables; and (3) the grantee receives written permission from Council staff prior to reallocating any grant funds.
- staff to administratively approve budget reallocation requests that exceed 20% of the grant amount, provided that the reallocation does not significantly change the project deliverables.

Background

Why are only LCDA and LCDA-TOD affected?

LCDA and LCDA-TOD grant agreements use line-item grant budgets to specify the amounts awarded for each grant-funded activity. This helps to ensure that the project actually delivers the outcomes that garnered high scores in the competitive process. Tax Base Revitalization Account and Local Housing Incentives Account grants are more global in nature and do not use line-item budgets:

Currently, LCDA and LCDA-TOD grantees may reallocate up to 20% of any given budget line item without having a budget reallocation amendment approved by the Council. This allows a small degree of flexibility to help grantees adjust to pricing changes or other issues that arise as the project moves forward. Unfortunately, this limit has sometimes proven to be too restrictive, resulting in project delays and extra time on Council agendas when very reasonable changes and even project improvements exceed this threshold.

What is the impact on the procedures for amending Livable Communities grants?

Section IV of the existing Livable Communities grant procedures approved in [Business Item 2011-302](#) would be revised to state that “a request for a change in the Grant Funded Activities, **including budget variances of more than twenty percent (20%) of the total grant amount** for any individual grant-funded activity identified in Attachment A to the grant agreement”

would require a prior written request supported by required documentation, which is defined in the procedure and would remain unchanged.

Section VII would be revised to clarify the authorization for the Community Development Director or the Director of Housing and Livable Communities to approve “a change in the Grant-Funded Activities and/or the Project, **including a request to reallocate the grant budget**, when they determine that the proposed change(s) do not “significantly change” the Project or, for LCDA, the demonstrative value(s) of the Grant Funded Activities or Project.” If the requested changes to the project are significant, the request would require the approval of the Community Development Committee (CDC), as it does now.

What constitutes a “significant” change in the project?

Section VII also defines a “significant“ change for each of the Livable Communities grant accounts. For LCDA and LCDA-TOD Development grants, a change is considered significant if it:

- proposes to replace the project as originally proposed with a completely different project, or
- proposes to substantially change the mix and type of land uses originally proposed in a way inconsistent with program objectives or that substantially change the nature of the project originally proposed, or
- will reduce the overall project density and/or land use intensity below the density guidelines for developments in the project location, or 20% below the density and/or land use intensity originally proposed (whichever is higher), or
- proposes to reduce the total percentage of affordable housing units from the project as originally proposed

For LCDA and LCDA-TOD Pre-Development grants, a change is considered significant if the change proposes to replace the project as originally proposed with a completely different project, or proposes to substantially change the intended grant funded activities for which the funds were awarded.

This section also authorizes the Community Development Director and the Director of Housing and Livable Communities to approve requested LCDA and LCDA-TOD significant project changes if the proposed changes:

- meet the requirements laid out in Minnesota Statutes section 473.25
- meet the LCDA account eligibility criteria
- include the elements of demonstration and innovation that contributed to its recommendation for funding
- that if it were rescored with the proposed changes, it would have at least met the minimum evaluation point scoring threshold.

What is the impact on Livable Communities grant agreement language?

All active LCDA and LCDA-TOD grants contain a provision that requires the approval of the full Metropolitan Council to reallocate more than 20% of a given line item. Approval of this business item would supersede that language to allow active LCDA and LCDA-TOD grantees to leverage the new reallocation limits. The template for future grant agreements would be revised to reflect approval of this business item. Active grant agreements may be amended as appropriate.

Rationale

Staff recommends approval of this change because:

- rising interest rates, unpredictable site conditions, better design options and other circumstances sometimes arise that cause LCDA grantees and their developer partners to propose appropriate changes to the line item budgets for LCDA grant-funded activities
- for changes that are clearly reasonable, the proposed changes could help avoid project delays
- staff review will continue to protect the Council's interest by ensuring that requested project changes are within parameters previously approved by the CDC and grant funds are used only for the purposes for which they were awarded

Funding

There is no impact on funding.

Known Support / Opposition

There is no known opposition.