

C Community Development Committee

Meeting date: June 18, 2007

ADVISORY INFORMATION

Date:	May 30, 2007
Subject:	Livable Communities Program Grant Agreement Amendment Parameters
District(s), Member(s):	All
Policy/Legal Reference:	MN Statutes Sec. 473.25 Livable Communities Act
Staff Prepared/Presented:	Guy Peterson, Director, Community Development Jan Gustafson, Manager, Livable Communities Program
Division/Department:	Community Development/Livable Communities

Proposed Action/Motion

That the Community Development Committee endorse modification of the current Livable Communities grant administration procedures to include parameters within which the Community Development Director could authorize an administrative amendment to revise the end project for which funding was granted. (No Council action was taken when the Community Development Committee endorsed the current grant administration procedures in May 2004 and no Council action is suggested regarding these modifications to the administrative procedures.)

Background

LCA grants have been an effective tool for implementing Council policies and LCA objectives while helping communities achieve their local priorities. It is common for communities to combine LCA funds with funding from other sources in order to achieve local plans and objectives. Assembling funding packages for public projects is always a challenge and communities work hard to hold funding together while navigating through the financial and market uncertainties inherent in completing work over a period of many months or, often, years. To support these community efforts, the Council has approached the administration of LCA grants as Council-grantee partnerships, with emphasis placed on working cooperatively to complete the work.

Following Council action to award grants, Council staff prepare grant agreements that identify eligible uses of grant funds and include a summary of the end project as acted upon by the Council. Grant agreements describe the process for submitting requests for funds and require grantees to report periodically to the Council on the use of the funds. There have been no issues with the administration of most LCA grants. However, for a small minority, issues have arisen. For example, in 2004, several grantees approached the Council with requests to extend the term of their grant or to make changes in the proposed uses of the funds. In response, staff amended the grant administration process to more clearly communicate the Council's response to these types of requests. The amended process continues to emphasize flexibility and cooperation as staff work with grantees to amend grants as needed in order to accommodate local needs.

Recent requests from several grantees to change the scope or nature of the overall final project for which funding was awarded have caused staff to review the grant administration procedures once again and propose amendments to the process to address this latest issue. Most of the requests for changes to final development projects appear to be related to shifts in the real estate market—specifically, the significant drop in condominium sales. Many cities whose funded projects originally included condominiums are hearing from developers that the inclusion of condominiums is no longer viable—that a shift to rental apartments or, in some cases, non-residential uses for the property will be necessary in order for development to proceed.

Rather than require each community to seek individual Community Development Committee (CDC) and/or Council approval of an amended final project, staff have developed parameters within which they recommend the CDC endorse amending grant agreements administratively without the need for formal committee approval. Proposed changes have been made to the language in the existing procedures and are noted as strikeouts/underlining. The proposed revised procedures follow below:

PROPOSED REVISED PROCEDURES

Process for Amending Livable Communities Grants

Grantees will be informed that all requests to amend or extend an LCA grant agreement must be made in writing. Information provided must include:

- the proposed amendment(s)
- an explanation as to why the proposed change is necessary

For grants awarded in 2004 and subsequent years:

- Language in grant agreements regarding grant terms and extensions will be consistent among all LCA programs. (~~NOTE: the specific length of grant terms may vary among grant programs and between specific grants within each program based on such considerations as the complexity of the project, the timing of grant funded expenditures within the project, and the project timeline.~~)
- Conditions under which grant amendments/extensions would be considered will be clearly stated in the agreement and the process for initiating an amendment request will be described.
- Agreements will state clearly the Council's expectations for reporting progress and requesting reimbursement. Payment request forms will be provided to grantees and will be posted on the Council's web site.

Grants will be administered as follows:

- The Director of Housing and Livable Communities or the Community Development Director will have discretion to amend grant agreements at any time within the term of the original grant agreement. Decisions regarding amendment requests will be made using the following criteria:
 - ✓ If the requested amendment is consistent with the scope and intent of the original grant award made by the Council's governing body and the request is made prior to the expiration of the grant agreement, the Director of Housing and Livable Communities or the Community Development Director may amend the grant administratively. The amendment will be processed in the same manner as the original grant agreement.
 - ✓ If the proposed grant amendment requests a use of funds that differs substantially from the purpose for which funding was awarded ~~scope and intent of the original grant award made~~ by the Council's governing body (e.g. a request to use funds awarded for site acquisition to, instead, pay for the installation of playground equipment), the Director of Housing and Livable Communities or the Community Development Director will deny the request. The grantee will be informed in writing that funds can be expended only for purposes consistent with the original grant award and that, if funds cannot be used as originally intended, the grantee should communicate that fact in writing and relinquish any unexpended funds to the Council to be used for other grants. The grantee can submit a new application for consideration during a future grant round.
 - ✓ If the requested amendment is for an extension of the term of the grant, the Director of Housing and Livable Communities or the Community Development Director may authorize a one-time extension of

the grant for a period not to exceed one year. The amendment will be processed in the same manner as the original grant agreement. When the extended term expires, Council staff will contact the grantee to close the grant agreement. The grantee will be advised that any remaining unexpended funds will be returned to the appropriate Livable Communities Fund account to be used for other grants. To secure additional funds the grantee would need to submit a new application for consideration during a future grant round. Any other course of action would require the grantee to appeal the staff decision directly to the Council's Community Development Committee.

- ✓ If the purpose for which the funds were awarded remains the same, but the requested amendment proposes significant changes to the final development project as described in the grant as awarded by the Council's governing body (e.g. changing the final project from residential development to retail uses), the Director of Housing and Livable Communities or the Community Development Director may authorize an amendment to the project description included in the grant agreement provided that the final project, as revised, will produce the intended results described in the Livable Communities Act (in italics) and, in the case of the Tax Base Revitalization Account or the Livable Communities Account, meets additional conditions as follows:

Tax Base Revitalization Account—

- *provide the highest return in public benefits for the public costs incurred, encourage development that will lead to the preservation or growth of living-wage jobs or the production of affordable housing, and enhance the tax base of the recipient municipality, and,*
- *if the revised final development project would score similarly to the original final redevelopment project in the jobs/housing and tax base increase categories;*

Livable Communities Demonstration Account—

- *interrelate development or redevelopment and transit; interrelate affordable housing and employment growth areas; intensify land use that leads to more compact development or redevelopment; involve development or redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income area to achieve a mix of housing opportunities; or encourage public infrastructure investments which connect urban neighborhoods and suburban communities, attract private sector redevelopment investment in commercial and residential properties adjacent to the public improvement, and provide project area residents with expanded opportunities for private sector employment, and*
- *if an examination of the record of review for the grant award indicates that the final development/redevelopment project, as amended, would still include the demonstration and innovation elements that contributed to the selection of the project for funding.*

Local Housing Incentives Account—

- *create incentives for developing communities to include a full range of housing opportunities; create incentives to preserve and rehabilitate affordable housing in the fully developed area.*

- ✓ The Community Development Committee will be informed of any request for a grant amendment which the Director of Housing and Livable Communities or the Community Development Director denies.

Implementation of the Livable Communities Act Program will continue to focus on partnering with communities to achieve local plans and objectives consistent with the Council's *2030 Regional Development Framework*. LCA staff will continue to hold grantees accountable for funded projects, monitoring progress and contacting communities to help resolve issues for funded projects on which progress is delayed.