



S A C O G

SACOG Board of Directors

Item #08-8-21
Action

August 13, 2008

Approve Community Design Program Administration Policies and De-Programming Projects

Issue: Should SACOG de-program any of the six awarded Community Design Program projects that have substantially changed from their applications? If yes, then what should SACOG do with the de-programmed funding?

Recommendation: The Land Use & Housing Committee recommends that the Board de-program two projects and approve four others to continue based upon performance contingencies as stated in the attachment. The Committee also recommends that the SACOG staff evaluate the next-highest rated un-funded applications from the most recent funding round and make a recommendation to the Board, through the Land Use & Housing Committee, on how to re-allocate the de-programmed funding.

Committee Action/Discussion: At the August 11 Land Use & Housing Committee meeting, this item was forwarded by unanimous vote for Board approval. There is a need to resolve certain project delivery performance issues from the first two rounds of the Community Design Program. The Program is intended to provide financial assistance to local governments in Sacramento, Sutter, Yolo and Yuba Counties for the physical development of Blueprint-friendly projects (Placer and El Dorado Counties have their own programs). Of those awarded in the first two funding rounds (2004 and 2006), only two out of 15 construction projects have been completed. Only about half of the two dozen non-construction projects have been completed or are near finished.

SACOG staff is seeking action by the Committee and Board regarding four awarded projects that have significantly changed compared to the grant application in one or more of these ways: (1) the scope of work is dramatically different; (2) the geographic subject area is different; or (3) the timeline has been substantially extended. The recipient of a fifth grant formally forfeited its grant award, raising the question of what to do with the funds. The recipient of a sixth grant completed the work, and is requesting to use the un-spent portions of its budget for additional work.

These projects cannot move ahead because they are different than what the Board awarded funding for, nor can their funds be used for anything else unless the Board de-programs them. The Land Use & Housing Committee recommends de-programming two projects immediately (totaling \$2.865 million), placing performance contingencies on three other projects and deprogramming them if those standards are not met (\$1.033 million combined), and allowing the sixth project with un-spent funds (\$75,000) to continue subject to a condition. The attached report provides details and the Committee's recommendation regarding each case. The Committee also recommended that the SACOG staff should evaluate the next highest rated applications from the most recent (third) funding round and make a recommendation back to them on how to award any de-programmed funds.

The third round of the Community Design Program, awarded in March 2008, included built-in measures in the application process to ensure that awarded projects are delivered in the manner and timeline as stated in the application, or the awarded jurisdiction risks being precluded from future Community Design funding.

Approved by:

Mike McKeever
Executive Director

MM:KH:GC:ts
Attachments

Key Staff: Kenneth Hough, Director of Community Planning & Operations, (916) 340-6229
Greg Chew, Senior Planner, (916) 340-6227

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**Community Design Program
Previously Awarded Projects That Are Candidates for De-Programming**

Issues have been raised regarding projects awarded in the first two rounds (2003-05, and 2005-07) of the SACOG Community Design Program. The Board awarded these projects funding based on a selection committee's recommendations, which were made on the evaluations of the associated applications for each project. Since those awards were made, five projects have had what the SACOG staff determined to be significant changes from the application and therefore different than what the Board approved. These changes involve major modifications to the scopes of work, the geographic subject area, lengthy timeline extensions, or lack of substantive progress. A sixth project raises the question of what to do if a grant project is completed but not all of the budget was spent.

Although SACOG staff is administering all grant projects, staff does not believe it has the authority to allow these modifications to the particular projects without consent of the SACOG Board. Below are six projects that the SACOG Board must take formal action to either allow them to continue with the requested modifications, or to be de-programming them (without de-programming, the funding cannot be used for anything else). Background information and Land Use and Housing Committee's recommendations follow.

Project #1: City of Marysville: Downtown Marysville Renaissance Square

Award: \$2 million grant in July 2004 to fund the development of a parking structure necessary for the redevelopment of the historic Marysville Hotel.

Background: After four years of not being able to get a commitment from the private developer of the hotel to move ahead, the city formally forfeited its remaining grant funding for the project.

Policy Question: What should SACOG do with the remaining \$1.665 million that the city forfeited?

Land Use and Housing Committee Recommendation: The Committee recommends that the Board formally de-program the project and direct SACOG staff to make a recommendation to the Board on using the funds for the next highest ranked applications from the most recent funding round.

Project #2: Sacramento County – Walerga Road Corridor Improvements/Antelope Place Development

Award: \$1.2 million grant awarded in March 2006 to fund construction of street improvements along Walerga Road in conjunction with a privately funded new, mixed-use multi-family and commercial development.

Background: The private development company withdrew its development application and is currently trying to sell the property. County staff has stated that there appears to be no seriously interested buyer who intends to develop a similar mixed-use residential project at this site.

Policy Question: Should a project be de-programmed if it loses the critical element that served as the main reason for it receiving funding?

Land Use and Housing Committee Recommendation: The Committee recommends that the Board formally de-program the project and direct SACOG staff to make a recommendation to the Board on using the funds for the next highest ranked applications from the most recent funding round.

Project #3: Regional Transit – Stockton Blvd. Bus Rapid Transit

Award: \$100,000 grant in March 2006 to help lead to the development of bus rapid transit along Stockton Blvd. and to better position the project for funding through the Federal Transit Administration.

Background: Due to budget shortfalls, the bus service in the Stockton Blvd. area has been reduced. Regional Transit is proposing to use the grant to help fund the study of three other transit corridors. RT would increase its local match from \$11,470 from the Stockton Blvd. corridor to \$200,000 in technical services for the other three corridors.

Policy Question: Should an awarded project be allowed to change its study area but perform similar tasks?

Land Use and Housing Committee Recommendation: The Committee concurred with the staff's recommendation that the Board require that the grant recipient perform the following by no later than December 31, 2008: (1) roll the project into the requested three-corridor project; (2) match the \$100,000 Community Design grant with \$200,000 in technical services and \$11,470 from local sources; (3) sign an MOU with SACOG for the grant and modified conditions; (4) submit the first invoice to SACOG for work utilizing some of the grant funds. If all of the conditions are not met within that timeframe, then the SACOG Board pre-authorizes staff to de-program the project any time after December 31, 2008, and to make any remaining funds available for the next round of Community Design Program.

Project #4: Paratransit – Arika's Village

Award: \$303,000 grant in March 2006 for street improvements and enhancements in association with a new mixed-use 44-unit affordable housing infill project located near a light rail and bus transit station along Florin Road. The associated housing project would be developed by another non-profit organization.

Background: The project did not have secure funding at the time of the Community Design application, and the funding still has not been resolved. The associated housing project has changed designs and has increased the number of units to over 60. The partner organization developing the associated housing project has had staff turnover issues. The grant recipient, Paratransit, Inc. does not have a trained federal transportation funding manager qualified to manage the grant, a requirement for the Community Design Program. The recipient has provided the attached letter to explain the complications of the project and the associated housing project and request an extension until Fiscal Year 2009 (which ends September 30, 2009).

Policy Question: At what point does a project that needs to secure funding for the associated housing project need to have that funding secured before the grant is rescinded, and at what point should a project be required to competitively re-submit its Community Design application for funding?

Land Use and Housing Committee Recommendation: The Committee concurred with the staff recommendation that the Board require that the grant recipient perform the following by no later than March 31, 2009: (1) secure the commitment of services by a trained federal transportation aid funding manager (to be approved by Caltrans District 3 Local Assistance Department); (2) secure all entitlements, building permits and funding for the associated housing project; (3) start construction of the associated housing project; (4) obtain funding obligation for the grant project (have in hand the E-76 form from Caltrans); and (5) develop and sign an MOU with SACOG including the scope and timeline for the grant project. If all of the conditions are not met within that timeframe, then the SACOG Board pre-authorizes staff to de-program the project any time after March 31, 2009, and to make the funds available for the next round of Community Design Program.

Project #5: City of Sacramento – R Street Market Pedestrian Walkway and Plaza

Award: \$630,000 grant in March 2006 to provide pedestrian improvements on the R Street Corridor between 16th and 18th Streets. The grant will fund design and engineering plans.

Background: The project was awarded “SACOG-managed” local funding, meaning the recipient would go through SACOG to receive its funding, and not Caltrans (which it would have had if it received federal transportation funds). To receive SACOG-managed funding, the city had to sign an MOU that provided a scope of work and timeline for completion of the project. The MOU is set to expire on February 28, 2009, which is six months after the end of city’s proposed timeline. Both parties’ legal staffs agreed on the MOU terms, the Sacramento City Council approved it, and the City Manager and SACOG Executive Director signed the MOU. Once the MOU was signed, SACOG officially obligated the funds to the project, which is the equivalent of receiving an allocation from California Transportation Commission if state transportation funding were awarded. Because the funds reached the point of obligation, the SACOG staff does not believe it has the authority to extend this MOU without the approval the Board.

After the MOU was signed, city staff became concerned about the construction funding of the first phase of improvements along a different segment of R Street from 10th to 13th Streets. The

city staff was uncomfortable with the prospect of two design efforts underway, neither of which had funding for construction. Funding was secured for improvements between 11th and 12th Streets by the Capitol Area Development Authority, and another Community Design Program grant from 10th to 13th Street. With the funding now secured for the other projects, city staff has requested that the MOU with SACOG be extended by 12 months for this project between 16th and 18th Streets. The city did release an RFP for consulting design and engineering services, and has identified a selected consultant, subject to the approval of the city council. A letter from the city staff providing more detail on the history is attached to this document.

Policy Question: Should a project that received an obligation and for which an MOU was signed be allowed to receive an extension?

Land Use and Housing Committee Recommendation: The Committee concurred with the staff recommendation that the Board approve the modification of the MOU to allow reimbursable work through February 28, 2010, and 60 days after that for the city to submit a final invoice. If the MOU expires after this extension, the Board pre-authorizes staff to de-program any unused funds any time after May 1, 2010, and re-program those funds in the next round of the Community Design Program.

Project #6: City of Rancho Cordova Promenade Project

Award: \$300,000 grant awarded in March 2006 to plan a bicycle/pedestrian bridge that would connect both sides of the city across U.S. 50.

Background: The project was delivered as stated in the application, with conceptual planning and design completed. It came in approximately \$75,000 under budget and the MOU with SACOG expired. The city is now seeking funding for engineering, environmental review and right-of-way, and then ultimately construction. Depending on federal legislation, the city may have a chance to receive full construction funding, but would need to come up with funds for the engineering, environmental and right-of-way components. The city is asking whether it can utilize the remaining \$75,000 for these tasks if it can secure construction funding.

Policy Question: May a grant recipient use un-spent grant funding for the next steps beyond the grant project?

Land Use and Housing Committee Recommendation: The Committee concurs with the staff's recommendation that the Board authorize the Executive Director to negotiate and sign a new MOU with the city. The MOU would include that if the city can secure the vast majority of the construction funding for the project by December 31, 2010, then the city may use the remainder of the grant funds for the design and engineering components. The Board pre-authorizes staff to de-program the un-used funding any time after January 1, 2011 and to re-program those funds into the following round of Community Design Program.

JUL 07 2008



CITY OF MARYSVILLE

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CITY SERVICES DEPARTMENT

David B. Lamon, P.E., Director
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July 16, 2008

Mike McKeever, Executive Director
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, California 95814

Re: Return of Transportation Grant Funds for the City of Marysville Hotel Parking Structure Project

Dear Mr. McKeever:

In 2004, the City of Marysville was awarded a grant for two million dollars to construct a parking structure adjacent to the abandoned Marysville Hotel in downtown Marysville. This project was intended to help facilitate the redevelopment of the currently abandoned hotel by providing parking in a location convenient to the hotel site. As a part of the allocation process, funds were approved by SACOG and CalTrans for Preliminary Engineering (\$315,000) and Construction (\$1,665,000). As part of the preliminary engineering, the City of Marysville contracted with International Parking Design, Incorporated to design and prepare the construction documents for the parking structure.

City staff has been in on-going negotiations with the developer that currently owns the hotel to help facilitate its redevelopment. Unfortunately, the developer has not been willing to commit to participate in the cost of the parking structure. To date, he has not submitted any formal plans for this project and development of the project will reportedly not take place for at least 2 years. Without developer involvement, the parking structure would be limited to two levels and only replace existing at-grade parking.

In consideration of the uncertainty of the Hotel project schedule, and the lack of additional funding for the parking structure, the City Council directed staff to shelve the project and release the construction funding. It is our understanding that by releasing the allocation at this time, SACOG will have the opportunity to fund another transportation project in the region.

If you have any questions or concerns, please feel free to contact me at 530-749-3902.

Sincerely,

David B. Lamon, P.E.
City Service Director
City of Marysville



July 28, 2008

Gregory R. Chew
SACOG Community Design Program Manager
1415 L Street, Suite 300
Sacramento, CA 95814

RE: Community Design Funds Allocated to Paratransit, Inc.

Dear Mr. Chew:

On October 9, 2007, we sent to you a progress report outlining the events that had occurred to date. Per your request we are providing you an update for your records.

There have been several challenges during the last nine (9) months that have caused the project to be delayed. Below is a list for your review.

- CHOC, the company we have partnered with to build this project was unable to secure funding through SHRA in the second round of funding requests referred to in our October 2007 letter.
- In March 2008, CHOC submitted to Paratransit a proposal to purchase the property from Paratransit, Inc., in order to facilitate access to additional funding and included a long – term commitment to a lease. The financing feasibility hinged on the sale-leaseback of the land set-aside for the child development center. Its intent was to enable CHOC to create a vehicle which would access tax-exempt bonds and other financing for the construction and development of the CDC. In so doing, it was believed it would also preserve the long term interest of Paratransit for both the commercial space and the CDC. CHOC had spoken to representatives from Citibank about interest in 501 (c) 3 tax exempt bonds for this purpose.
- In April 2008, Paratransit's Board of Director's met with the leadership of CHOC during a Board Retreat to become familiar with the proposal. The board directed Paratransit staff to consult with its legal counsel to

examine the terms of the proposal submitted, any potential problems it might create and to report this information back to them.

- Legal Counsel determined there would potentially be increased liabilities incurred to Paratransit, Inc. that giving up the rights to the property limited its future value to the organization and substantially changed the financial feasibility by giving up the rights to the property.
- After receiving Legal Counsel's report the Board directed staff to continue discussions with CHOC in an effort to develop alternative arrangements to the one proposed and/or decide whether the project should be continued in its current form.

Paratransit, Inc. is requesting that the funding for this project be delayed until the 2009 fiscal year. This delay would allow us the time needed to resolve financing and ownership details. If you have any future questions please feel free to contact our CEO/Executive Director Linda Deavens.

Sincerely,



Mary Steinert
Deputy Executive Director

cc: Linda Deavens, CEO, Executive Director



DEPARTMENT OF
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MEMORANDUM

Date: July 29, 2008

To: Gregory Chew
Sacramento Area Council of Governments

From: Ryan Moore 
City of Sacramento

Subject: R STREET MARKET PLAZA PROJECT (16th St to 18th St) – Request for
Time Extension

The City of Sacramento is requesting a time extension on the Memorandum of Understanding (MOU) with SACOG for the R Street Market Plaza Project (16th Street to 18th Street). In March 2006, SACOG approved Community Design Funding for this project, which proposes to improve pedestrian safety and accessibility and provide streetscape improvements while maintaining the street's historic sense of shared space between pedestrians, bicyclists, and vehicles. This project is the second phase of improvements proposed for the R Street corridor. The MOU between the City and SACOG was executed in November 2006 and is set to expire on February 28, 2009. The City of Sacramento is requesting a 12 month extension of the MOU to February 28, 2010, with an extra 60 day period for billing.

With execution of the agreement, the City proceeded with the project and prepared a Request for Proposals (RFP) to hire a design consultant. At that time, the City became concerned about funding for the first phase of improvements on R Street, which covered 10th Street to 13th Street. The design of the 10th Street to 13th Street segment was underway, but available funding would be insufficient for construction. In an effort to be fiscally responsible, the City decided to reevaluate both R Street projects before beginning design on the segment between 16th Street and 18th Street. The City was uncomfortable with the prospect of having two design efforts underway, neither of which had funding for construction. In March 2007, the RFP process for the R Street Market Plaza was put on hold while the funding issues were addressed. The City considered different options to resolve the funding, including reducing the scope of the first phase and utilizing funding

from the second phase. After discussions with CADA, a meeting was held in September 2007 between the City, SACOG, and CADA to go over both R Street projects.

A resolution was reached whereby CADA would provide sufficient funding to construct one block of improvement between 11th Street and 12th Street. The City then moved forward with the RFP process for the R Street Market Plaza Project. Meanwhile, efforts by the City and CADA to identify funding sources for the other two blocks of Phase I continued. In March 2008, the 10th Street to 13th Street project received Community Design Grant Funding to construct the entire Phase I project.

An RFP for the R Street Market Plaza Project was released in November 2007 and a consultant was selected in late January 2008. The consultant's fee was higher than budgeted, which prompted the City and CADA to explore other funding options to cover the gap. The City entered into negotiations with the consultant and agreed to a contract in June 2008. The consultant agreement was scheduled to go to City Council for approval on July 29, 2008. However, due to the uncertainty of the funding, it has been put on hold.

The consultant will begin preliminary engineering, public outreach, and environmental studies once the agreement is executed. Completion of the preliminary design, approval of the environmental document, and expenditure of all grant funds are to be done by February 2010. (Note that an additional 60 days are required to fulfill the administrative billing requirements) The final design, to be paid for with other funds, will be completed in December of 2010.

The City feels that delaying the R Street Market Plaza (Phase II) Project until the Phase I project was fully funded was a prudent decision. Additionally, including more time in the schedule for the environmental approval is more realistic and will allow the project to stay on track. With the consultant agreement in process and funding issues resolved, the City is confident that the project can meet the revised schedule.

Please contact me at 808-8279 if you have any questions.

c: Jerry Way, City of Sacramento
Tim Mar, City of Sacramento
Cecilyn Foote, City of Sacramento
Todd Leon, CADA