

MARICOPA ASSOCIATION OF GOVERNMENTS INFORMATION SUMMARY... for your review

DATE:

August 27, 2015, revised

SUBJECT:

Second Deferral Request on the Construction Phase of the Bicycle and Pedestrian Improvements on the Indian School Road: Grand Canal to 16th Street by the City of Phoenix

SUMMARY:

The MAG Federal Fund Programming Guidelines and Procedures, approved by the MAG Regional Council on June 24, 2015, outlines project requirements for requesting deferrals of federally funded projects. Each project is allowed a one-time deferral option. To demonstrate that a second deferral may be considered, the agency must show that the need for the second deferral was beyond the control of the agency. A City of Phoenix of bicycle and pedestrian multiuse path project on the Grand Canal near Indian School Road and 16th Street is identified in the FY2014-2018 Transformation Improvement Program (TIP) as PHX14-101. The City of Phoenix first deferral of this project was approved by the Regional Council on August 21, 2013. On June 3, 2015, the City of Phoenix requested the second deferral of the project from FY2015 to FY 2017 due to delays necessary to acquire right of way from the Indian School Hospital.

Project deferrals and deletions are covered in section 600 of the MAG Federal Fund Programming Guidelines and Procedures. To request a second deferral, the agency is required to submit a request to MAG, and must adequately address the following to each review committee:

- Identification and explanation of specific problems or issues beyond the control of the agency other than financial issues that have caused the delay (e.g. the actions of outside actors), failure to achieve a required milestone or need to defer the project.
- Demonstration of financial commitment (e.g. staff time, funds) by the agency to develop the project prior to the rescheduling or deletion decision.
- A revised schedule and plan that addresses the specific issues identified.
- If a project has been previously deferred, demonstration that the previous cause of delay has been addressed and/or explanation of why the revised approach will address the problem causing the delay.

The federal amount of funding on this project is \$873,422 Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding with \$994,788 local funding for a total work phase cost of \$1,868,210.

PUBLIC INPUT:

None.

PROS & CONS:

PROS: If it is agreed that progress on the project was delayed due to actions outside of the agency's control, and the agency has addressed all items that impact the project and cause a delay, a second deferral is recommended and the project will move forward.

CONS: None.

TECHNICAL & POLICY IMPLICATIONS:

TECHNICAL: MAG staff, and agency project managers have determined that the updated project schedule is achievable. Air quality benefits from completing the project as currently proposed have been evaluated.

POLICY: The MAG Federal Fund Programming Guidelines and Procedures were approved by the MAG Regional Council on June 24, 2014. As per Section 600, each project is allowed a one-time deferral option. To demonstrate that a second deferral may be considered, the agency must show that the need for the second deferral was beyond the control of the agency as outlined:

“Beyond the control of the agency.” Refers to actions for which a project sponsor does not have decision making authority – e.g. the actions of third parties such as utility companies, railroads, property owners, the courts, other governmental agencies; and reviewing agencies who may fail to provide timely reviews and approvals. Actions also not under the control of a sponsor also include issues that could not have been reasonably anticipated when the project was initiated such as the discovery archaeological artifacts, hazardous materials, or impacts to endangered or threatened species in areas where none of these issues had been encountered or known to exist previously.

Actions within the control of a sponsoring agency may not be used to justify an appeal. These include the allocation of funding and staff time, project management, scheduling decisions, and the coordination of the project with other projects in the agency's boundaries such as developer or other agency projects.

ACTION NEEDED:

For information, discussion, and possible recommendation for a second deferral by the City of Phoenix from FY2015 to FY 2017, for the Multiuse Path project at Indian School Road and the Grand Canal, identified as TIP listing PHX14-101.

PRIOR COMMITTEE ACTIONS:

At the August 18, 2015 meeting, the Bicycle and Pedestrian Committee recommended a second deferral for the project.

MEMBERS ATTENDING

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| Jim Hash, Mesa, Chair of Bicycle and Pedestrian Committee | Ann Marie Riley for Jason Crampton, Chandler |
| Jose Macias, El Mirage, Vice-Chair of Bicycle and Pedestrian Committee | Kristin Myers, Gilbert |
| Michael Sanders, ADOT | # Purab Adabala, Glendale |
| Raquel Schatz, Apache Junction | Joe Schmitz, Goodyear |
| # Christina Underhill, Avondale | Mike Gillespie for Julius Diogenes, Litchfield Park |
| Phil Reimer, Buckeye | * Ryan Wozniak, Maricopa |
| # Stacy Bridge-Denzak, Carefree | * Denise Lacey, Maricopa County |
| * Ian Cordwell, Cave Creek | Brandon Forrey, Peoria |

Katherine Coles, Phoenix
Sidney Urias, Queen Creek
Susan Conklu, Scottsdale
Stephen Chang, Surprise

Eric Iwersen, Tempe
* Amanda Leuker, Valley Metro
* Robert Carmona, Wickenburg
Grant Anderson, Youngtown

*Members neither present nor represented by proxy
#Attended via audio-conference

Questions and Responses:

At the August 18, 2015 Bicycle and Pedestrian Committee meeting regarding this project:

What was Phoenix's first deferral request for? It was asked whether this deferral was needed and was it something that was out of the agency's control, as right of way is something the agency has dealt with in the past?

Aaron Jensen from the City of Phoenix replied that the first deferral was based on the procurement process and setting up public meetings.

It was asked and answered that the year to be deterred is required to be in the TIP window and that member agencies have a right to a first time deferral without justification.

A member noted that he believed that the cause of the second deferral request was within the control of Phoenix. Two members indicated that the right of way issues causing the need to defer the project were outside the control as they were the result of the decisions of an outside agency, in this case the Bureau of Indian Affairs (BIA) and Indian Health Service, for which condemnation is not feasible.

Mr. Jensen noted that the BIA had in principal accepted the offer of Phoenix to purchase the needed right-of-way, but that the development of documents needed to complete the right-of-way acquisition may take as much as two years as the BIA is uncertain as to the mechanics of transferring the property to the City.

CONTACT PERSON:

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