

**DRAFT – Rev. 8**



**City of Austin  
Federal Legislative Program  
113<sup>th</sup> Congress**

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## **General Statement of City Legislative Focus**

The City of Austin's Federal Legislative Program focuses on policies and legislation that impact the City of Austin.

The City of Austin opposes any legislative or regulatory actions that:

- Erode the home rule authority of municipalities,
- Constrain the ability of the City of Austin to allocate resources to areas of locally determined concern, or
- Preempt City of Austin authority in matters generally and traditionally the domain of local government.

The City of Austin supports policies and legislation that:

- Provide an equitable distribution of federal funds,
- Address the concerns and needs of large metropolitan center cities in the areas of transportation, public safety, affordable housing, vibrant and healthy neighborhoods, energy and the environment,
- Recognize the important role of strong central cities in our nation's economy and as innovators in broad areas of public policy,
- Provide a solid safety net for economically vulnerable populations and
- Recognize the challenge of climate change and the need to develop economically sustainable ways to address it.

## **Federal Mandates**

The City of Austin recognizes two basic types of federal mandates: those that impose costs directly on the City and those that, while not directly imposing costs on the City, intrude on the autonomy of the City by interfering with local decision making authority and impacting the allocation of scarce local resources. As a general principle, the City of Austin opposes the imposition of either type of federal mandate.

The federal government calls on municipal governments, including the City of Austin, to administer many federal government programs, requiring municipal governments to absorb all or most of the cost. In the interest of fairness and equity to its municipal government partners, the federal government should provide adequate funding for the local conduct of each of its programs.

## **Deficit Reduction**

The City of Austin supports efforts to reduce the federal deficit through a balanced approach. Elimination of the federal deficit solely through discretionary spending cuts is impossible. Deficit reduction efforts should not disproportionately focus on core local government programs nor should they reduce or delay much-needed investments in our nation's core infrastructure. The reduction of the federal deficit should share the burden evenly and should not disproportionately harm national defense and our troops, safety net programs or our nation's cities.

## **Citizens United**

The City of Austin calls for a Constitutional Amendment and/or other legislative actions ensuring that money is not considered speech, and therefore the expenditure of money to influence the electoral or legislative process is not a form of constitutionally protected speech, and shall be regulated.

The U. S. Supreme Court's 5-4 ruling in the *Citizens United v. Federal Election Commission* case rolled back statutory spending limits in the electoral process, allowing unlimited expenditures to influence elections, candidate selection, and policy decisions. The City of Austin believes that money affects the quality and quantity of speech and is not, in itself, speech and allowing artificial entities, such as corporations, limited liability companies, and other entities with great wealth to use it as speech effectively drowns out the protected free speech of the People.

## Onion Creek

The City of Austin appreciates authorization of this critical flood control and environmental restoration project as part of the Water Resources Development Act of 2007 (PL 110-114) and respectfully requests new start construction funding in the coming years consistent with the Army Corps of Engineers stated capability for the project.

### **Project Overview**

A joint project of the Army Corps of Engineers (ACE), the City of Austin, Travis County and LCRA, the Onion Creek Flood Control and Ecosystem Restoration Project will provide flood protection to the Onion Creek watershed and will restore its stream channel and adjacent riparian habitats. Floods in this watershed affected over 100 houses in 1998 and over 400 houses in 2001 and did considerable damage to the watershed's riparian areas. In the Onion Creek watershed near the intersection of South Pleasant Valley Road and East William Cannon Drive, there are over 700 houses subject to inundation in the 100-year floodplain. For the 100-year flood, house interior inundation depth ranges up to 10 feet in the Onion Creek study area.

This non-structural flood control project calls for the buyout and relocation of 483 single-family properties within the City of Austin, restoration of the Onion Creek floodplain to its natural state and construction of recreational amenities. Through FY 2012, the City has proactively purchased 299 properties and relocated the families living there from harm's way with a combination of funds, namely City drainage fees, 2006 City bonds, and a 2006 FEMA grant. In October 2009, the ACE drafted a Limited Reevaluation Report that updated the project costs with 2009 dollars and deleted costs paid for by the FEMA grant and associated City matching funds. The total updated cost for the project implementation within the City will be approximately \$65 million, with the City providing a local sponsor match of 35 percent, or about \$23 million.

***As a result of a local bond referendum in 2006, the City of Austin has local match funding in hand.***

### **WRDA 2013 – Reimbursement Language**

The City of Austin requests language in the next authorization of WRDA that would allow for federal reimbursement of City of Austin expenditures on this project that exceed the City's cost share toward the total cost of the project. The City has proactively purchased 299 properties and relocated the families from harm's way and would like to continue to do so in the coming years. At the end of FY 2012 the City has surpassed its cost share towards the buyouts. Language authorizing reimbursement of City spending above the local sponsor match will allow the City to proceed with this project without forfeiting federal assistance. It is critical that the City proceed with planned buyouts. In addition to living in fear of the next flash flood, the families living in the project area find themselves in limbo, unable to sell or rent their property while they await buyout.

### **Priority Project – FY 2014 Construction Funding**

The City of Austin appreciates authorization of this critical flood control and environmental restoration project as part of the Water Resources Development Act of 2007 (PL 110-114) and respectfully requests \$5 million in new start General Construction funding in FY 2014 under the heading of "*Lower Colorado River Basin, Texas (Onion/Wharton)*" as requested in the President's FY2014 budget request. This funding is critical to ensuring that the project proceeds in a timely manner.

## **Surface Transportation**

The City of Austin urges Congress to craft a successor to Moving Ahead for Progress in the 21st Century (MAP-21) (PL 112-141) that recognizes the key role metropolitan areas play in our nation's economy. Funding allocation, project selection and program structure should reflect the importance of cities and metropolitan areas to our nation's economy and health.

Specifically, the City of Austin supports legislation to reauthorize federal surface transportation programs that:

- Provides for an equitable distribution of highway and transit funds that ensures that Texas receives its fair share of federal highway and transit funds;
- Maintains a guaranteed funding mechanism that ensures that all Highway Trust Fund revenues are spent on highway and transit programs;
- Expands innovative financing of surface transportation programs, with a focus on encouraging domestic private sector investment in surface transportation infrastructure;
- Maintains a strong metropolitan planning process that maximizes the decision making power of local elected officials and communities;
- Continues and builds on the strong federal investment of the past decade in transit and enables complete local flexibility regarding transit (including rail transit) and highway choices;
- Directly addresses urban congestion and mobility, including incentives for metropolitan areas that raise revenue and implement innovative financing mechanisms;
- Increases sub-allocation to metropolitan areas and expands mode neutral choices and funding for metropolitan areas;
- Directly provides funds to cities for innovative urban transportation solutions;
- Expands sub-allocation via creation of a new program focused on metropolitan areas or through sub-allocation to metropolitan areas of other programs, including the CMAQ and, National Highway Performance programs;
- Makes the Transportation Enhancements, Safety and Safe Routes to School programs stand-alone programs once again;
- Fully funds the Transportation Enhancements, Safety and Safe Routes to School programs and allocates at least a portion of the funding directly to metropolitan areas;
- Fully funds the CMAQ program in order to help metropolitan areas meet federal clean air mandates;
- Maintains, or change in transit's favor, the traditional 80/20 division of Highway Trust Fund spending between highway and transit programs, and
- Does not increase the required local share (currently 20 percent) of funding for highway or transit projects.

In general, the City of Austin urges Congress and the Administration to study and give equal consideration to all potential surface transportation financing mechanisms to ensure adequate funding for federal highway and transit programs.

## **Interstate 35**

The Interstate Highway 35 (IH-35) Corridor is easily recognized as the most congested in the Capital area, and it ranks as one of the most congested corridors in state and national surveys. To address the issues and congestion the IH-35 Corridor is having on the region, the City of Austin (funding sponsor); the Texas Department of Transportation (funding sponsor); the Capital Area Metropolitan Planning Organization; the Federal Highway Administration; the Central Texas Regional Mobility Authority; Capital Metropolitan Transportation Authority; Hays, Travis, and Williamson Counties; the City of Round Rock; and the Texas A&M Transportation Institute are working to study the corridor in a proactive manner. Additionally, all affected associations, jurisdictions, employers, and neighborhoods have been encouraged as stakeholders to participate in this collaborative process of identifying the problems and solutions, and reviewing and offering comment on outcomes and findings as the study progresses.

The current program limits are from State Highway 45 on the south to State Highway 45 on the north. The limits represent a distance of 27 miles, and also include affected streets and intersections crossing and approaching IH-35.

Unlike past corridor studies which focused on large scale, long-term improvements, this program will pursue short and mid-term (3-10 years) projects. These projects are intended to improve the functional capacity of existing roadways without requiring significant additional right-of-way, environmental impact or incurring substantial costs. With an emphasis on near- to mid-term projects and strategies, the program team looks to identify potential cost-effective projects that will accomplish the following objectives:

- Increase mobility for people and goods through the Capital Area
- Improve transit and high occupancy vehicle opportunities
- Improve safety, efficiency, and access to and through the corridor for all users
- Identify cost-effective projects
- Protect air quality and reduce the region's carbon footprint
- Reduce or mitigate current corridor impacts
- Improve opportunities for economic development
- Provide better information for travelers
- Improve reliability of the IH 35 corridor

Since IH-35 is an internationally significant highway, funding for these improvements may be provided by any combination of Federal, State, and local agencies through existing and future funding and revenue resources. While the initial program limits for the study have been funded by the City of Austin, the expanded program limits are funded by TxDOT through an allocated portion of Proposition 12 funds called Rider 42. These funds are targeted at reducing congestion on the fifty most congested corridors in Texas.

The City of Austin supports legislation to reauthorize federal surface transportation programs that provides for an equitable distribution of highway funds for Texas, and directly provides funds and flexible financing mechanisms to cities for innovative urban transportation solutions. Regional roadway transportation projects include the IH-35, Loop 1 (MoPac), US 183 and Bergstrom Expressway corridors.



### **Priority Project – Urban Rail Transit**

Urban Rail is modern rail transit blending the operational and technological characteristics of streetcar and light rail type services to provide service into and out of Central Austin and connect the region's emerging high capacity transit system. The proposed Urban Rail system will serve the Downtown, State Capitol Complex, University of Texas, Mueller Redevelopment, East Riverside Corridor, and Austin-Bergstrom International Airport (ABIA), among other Central Austin destinations. It will provide collection/distribution/circulation services in Central Austin and commuter-type services for close-in neighborhoods around Central Austin. Urban Rail is a critical part of the region's Project Connect High-Capacity Transit Vision, providing a critical link between three modes within Central Austin: the current MetroRail commuter rail line, the under-construction (opening 2014) MetroRapid BRT lines, and the future LSTAR regional and commuter rail line between Georgetown and San Antonio. The Urban Rail system is being designed to add capacity in additional corridors as finances allow and desired by citizens.

The Project Connect partners, the City of Austin, Capital Metro, and Lone Star Rail, are in the process of formalizing their collaborative working relationship with the development of the "Project Connect High-Capacity Transit Interlocal Agreement". This agreement creates a framework for joint agency management of Project Connect high-capacity transit projects during systems planning, corridor studies, and New Starts Project Development phases. The initial project to be jointly managed under this agreement is Urban Rail and Capital Metro has been designated as the "Managing Partner", responsible to the day-to-day administration of the project. Execution of the interlocal agreement is anticipated during April/May 2013.

The Project Connect partners are currently working towards a potential New Starts submittal for the first phase of Urban Rail. Urban Rail is currently in the National Environmental Policy Act (NEPA) process, with FTA as Lead Agency, having published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in March of 2011. The partners are initiating the next phase of public involvement for the corridor study for the proposed first phase of Urban Rail, a 5.5-mile route from downtown Austin to the 700 acre Mueller Redevelopment. This study will evaluate alternative alignments, stop locations, and type(s) of operations (i.e. shared or dedicated) and further define this project for the Downtown to Mueller Corridor.



The Transit Working Group, a subcommittee of the Capital Area Metropolitan Planning Organization (CAMPO) Board, adopted the Project Connect High-Capacity Transit Vision in June 2012, ultimately including approximately 40 miles of Urban Rail lines. This High-Capacity Transit Vision is anticipated for adoption in 2015 into the CAMPO 2040 Long-Range Regional Transportation Plan. The 2040 Plan development process begins in summer of 2013.

A recommended locally preferred alternative (LPA) for the first phase of Urban Rail is expected to be presented to City Council and the Capital Metro Board for action by spring 2014. This project will then advance into the environmental documentation phase of NEPA as a precursor to application for entry into FTA New Starts Project Development and prior to MPO adoption. In 2014 the public will likely be asked to

vote on funding a portion of the local share of Urban Rail's first phase project. The City is funding all project development costs locally from the recent award of \$4,000,000 (plus a 20% local match) of Surface Transportation Program Metropolitan Mobility (STP MM) funds by CAMPO. These funds signal broad regional support for the City's efforts to improve mobility, livability, and the economic sustainability of the core of our region. Those funds are being distributed to the City, as sub-recipient, and Capital Metro, as designated recipient, through FTA's 5307 Program.

In October, 2010 the Capital Area Council of Governments of Austin was awarded \$3,700,000 under the HUD/DOT Sustainable Communities Regional Planning Grant program. Urban Rail has been selected as a demonstration project for application of supercomputing resources to economic development impact assessments.

Given the potential for a City of Austin and Capital Metro joint New Starts Program project, the recently published *Proposed New Starts and Small Starts Policy Guidance* for Section 5309 of Title 49, U.S. Code has important implications for the success of Urban Rail. The City generally supports the proposed changes to streamline the project delivery process, simplify the project evaluation measures, and to expand the set of benefits evaluated to calculate cost effectiveness. However, the City also supports comments on the draft guidance submitted by the American Public Transportation Association (APTA), Community Streetcar Coalition (CSC), and the New Starts Working Group. The City and Capital Metro jointly submitted comments endorsing those of the New Starts Working Group, as well as highlighting our local concerns with some of the proposed rating criteria that favor larger, more mature cities and do not sufficiently account for the significant growth under way in cities like Austin.

### **Intercity Passenger Rail**

The City of Austin also supports increased federal investment in intercity and regional passenger rail. An important part of a balanced transportation system, intercity and regional passenger rail reduces highway and airport congestion, reduces energy consumption, helps cities improve air quality and, because most trips are downtown to downtown, promotes central city economic development. In particular, the City of Austin supports efforts to make the South Central High-Speed Rail Corridor a reality and to implement Lone Star Rail District regional passenger rail service between Georgetown and San Antonio.

The Lone Star Rail District is working towards converting the Union Pacific freight corridor that parallels I-35 to passenger service that can bring people right to the region's major destinations - downtown Austin and San Antonio, a long string of university campuses, tourist attractions, and major employers from Williamson County to Port San Antonio and beyond.

The Lone Star Rail service is proposed to offer 75-minute express service from downtown Austin to downtown San Antonio, with stops in San Marcos and New Braunfels, and local service from Georgetown, Round Rock, through Austin and cities south to San Antonio with stops at all stations in between.

The City also supports full funding of passenger rail corridor improvement programs and of Amtrak operating and capital grants and strongly supports all legislative, administrative and private efforts to develop the Texas T-BONE.

## **Tax Exempt Bonds**

The City of Austin strongly opposes any efforts to cap, limit, or eliminate the tax deduction for municipal bonds. The City is supportive of efforts to increase the liquidity of the municipal bond market.

Tax-exempt bonds are the principal tool that state and local governments use to finance the nation's critical infrastructure. State and local governments are responsible for building and maintaining 75 percent of the nation's infrastructure, which is commonly financed through tax-exempt bonds. Tax-exempt bonds are a great example of the federal, state and local partnership. They provide for a fair allocation of the cost of critical infrastructure used by the general public between the federal, state and local levels of government.

The elimination of tax-exempt financing would remove a critical tool available to local governments to finance large scale capital projects. According to estimates, the elimination of tax-exempt municipal bonds would significantly increase state and local borrowing cost by 2 percentage points, resulting in higher state and local taxes and utility rates that would disproportionately impact low- and moderate-income households.

Elimination of the tax exemption for municipal bonds would effectively signal a federal abandonment of infrastructure investment. In an era of diminishing grants and expanding mandates on local governments, tax exempt municipal bonds are the primary financial mechanism for city investments in electric, water, and wastewater infrastructure, which is the foundation of the City's economy and are crucial to the public health, safety and the environment.

Removing the tax exemption for municipal bonds could raise the City's borrowing costs substantially, impairing the City's ability to invest in or construct critical infrastructure.

## **Aviation**

Although the 113<sup>th</sup> Congress will likely not consider a reauthorization of federal aviation programs, the City of Austin supports:

- Maintaining a guaranteed funding mechanism that ensures that all Airports and Airways Trust Fund revenues are spent on aviation programs;
- Maximizing the flexibility of the Airport Improvement Program (AIP);
- Maximizing the flexibility of how airports use Passenger Facility Charge (PFC) revenue, and
- Providing local governments and airport authorities with the resources they need to provide for a safe and efficient aviation system.

The City of Austin invested considerable resources into Bergstrom International Airport. The City supports a federal aviation program that helps the City build on this investment and cements Bergstrom International Airport's role as a key building block of Austin's economy. The City of Austin also urges Congress to recognize the importance of intermodal connections and to make it as easy as possible for local governments to construct transit and intermodal passenger facilities linking airports with the central cities and regional employment centers that they serve.

## **Housing & Community Development**

### **Housing & Community/Economic Development**

The City of Austin is committed to making the City and its neighborhoods a better place to live, work and play. A major focus of these efforts is to create and maintain strong neighborhoods and to provide safe, decent, affordable housing, a suitable living environment and economic opportunities, specifically for low- and moderate-income individuals and communities.

To these ends, the City of Austin strongly supports the continuation of federal dollars to address the growing needs of Austin's low income community. Neighborhood Housing and Community Development Office (NHCD) administers Community Development Block Grant (CDBG), Housing Opportunities for Persons with AIDS (HOPWA), Home Investment Partnership Program (HOME), Section 108 Guarantee Loan and Economic Development Initiative (EDI) funds.

These funds come from the United States Department of Housing and Urban Development (HUD) and primarily benefit the low- and moderate-income population and neighborhoods in the City. Continued anticipated cuts to these federal programs are expected to severely impact numerous low-income families and communities across the nation. The Neighborhood Housing and Community Development Office (NHCD) administers federal funding for housing and community development activities in seven priority areas. The categories included in the NHCD Investment Plan are:

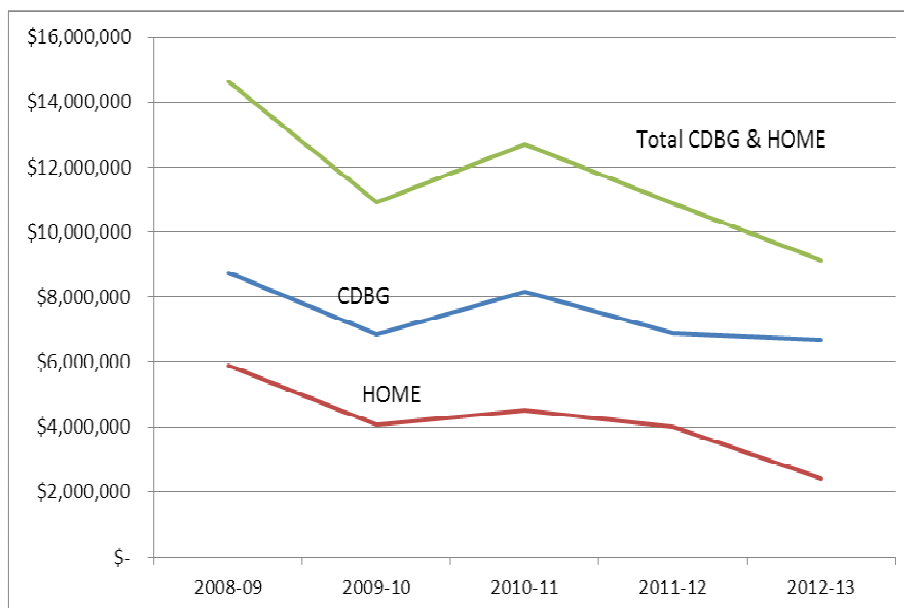
- (1) Homeless/Special Needs*
- (2) Renter Assistance*
- (3) Homebuyer Assistance*
- (4) Homeowner Assistance*
- (5) Affordable Housing Developer Assistance*
- (6) Neighborhood and Commercial Revitalization*
- (7) Small Business Assistance*

The City has a strong history of leveraging this federal funding with private dollars. Austin's vibrant and healthy neighborhoods are a testament to the strength and success of these efforts. The City of Austin supports federal policies that bolster the City's affordable housing, permanent supportive housing, housing rehabilitation programs, community development and overall initiatives that promote the City's economic development efforts.

These programs, CDBG in particular, allow the City to build infrastructure, support small business and support affordable housing and housing rehabilitation efforts in low- and moderate-income neighborhoods. CDBG has a long track record of providing quick, flexible and effective assistance to cities and states.

The City supports CDBG and HOME fund community development and housing activities to benefit low-income residents in Austin. The department has faced federal funding cuts in both the CDBG and HOME programs, in fact the CDBG formula allocation has been cut by over \$1 billion since 1995 and is now at its lowest funding since 1992, and the trend is expected to continue as noted in Exhibit 1.

### Exhibit 1:



CDBG and HOME Federal funding levels have been reduced by almost 40% from amounts received 5 years ago

**Preserve critical funding.** The City strongly supports policy initiatives that would preserve funding for affordable housing initiatives to further its affordable housing core values, which is to promote long-term affordability, deeper affordability, and geographically dispersed affordable housing (affordable housing throughout Austin). As Austin's economy continues to expand at a healthy pace, the emphasized policy priority to address household affordability throughout Austin will require looking at new and different approaches to funding affordable housing.

**Promote nonprofit capacity.** The City of Austin supports legislation to support and promote the ability for nonprofit owners to increase construction and preservation of affordable rental housing, recognizing the City of Austin relies on not for profit affordable housing providers to help address the needs of the low-income community. Furthermore, the City supports legislation that will help build organizational capacity and financial strength in the affordable housing sector and help promote goals of energy conservation and affordability.

**Preserve existing public and private assisted housing,** in its current location or in other locations that will better serve families. Specifically, necessary resources should be committed to:

- Restore full operating funding for public housing;
- Address the substantial backlog of capital repairs in public housing;
- Re-establish reliable renewal funding for project-based Section 8 contracts;
- Provide incentives and assistance to encourage private owners to renew their participation in the Section 8 project-based rental assistance program; and
- Improve energy efficiency in public and private assisted housing.

**Expand assistance to help more families.** The City of Austin supports legislation to increase secure stable, affordable housing in safe neighborhoods with access to good schools, steady jobs, and other essential services they need to improve their lives.

### **Cultural Arts**

The creative industry in Austin, Texas relies heavily on the dollars produced through the Hotel Occupancy Tax (HOT) statute, providing arts and cultural marketing, tourism and the enhancement of visitor experience directly contributing to the cultural tourism industry of Austin's economy. Cultural Funding from HOT contracts over two-hundred arts and cultural organizations such as Austin Symphony, Ballet Austin, Long Center, Austin Lyric Opera, Austin Children's Museum, Austin Symphony and Film Society of Austin, as well as smaller arts organizations and individual artists.

In 2010, the Cultural Arts Division reported that over 332,000 artists participate in contract-related products and services with budgetary expenses totaling over \$52 million, and reached almost 3.7 million tourists. Non-profit arts organizations are major employers and contribute to Austin's cultural and economic vitality. In 2010, contracted non-profit organizations employed 410 full time employees and 833 part-time employees. The appropriation of Hotel tax allocation to arts and culture is directly related job creation in the creative industry and the attraction of the creative class

## **Public Health**

The public health infrastructure is responsible for protecting people's health and safety, providing evidence-based information for better health decisions, and promoting good health through a network of partnerships. The City of Austin Health and Human Services Department provides preventative health services for the public in order to optimize their health and wellbeing. These services include the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), STD testing and information programs including other communicable diseases, disease prevention such as immunizations, public health nursing services including health presentations and screenings, environmental health issues, community programs, and information such as birth and death records, restaurant permitting and sanitation scoring, and pandemic flu information.

The City of Austin encourages Congress to maintain support for the Health Care Reform Act. Several provisions within the act provide funding that assists the city in reaching its public health goals and allows our partners Central Health (Travis County Health Care District) to provide funding to ensure health care coverage for all populations. Additionally, the city encourages continued adequate funding for CDC, HRSA and CDBG/CSBG grants that support the operations of our public health operations and neighborhood centers. Failure to do so or significant decreases in funding will result in reductions to the current level of public health operations.

Chronic diseases -- including heart disease, cancer, stroke, diabetes, and hypertension -- are leading cause of deaths in Austin/Travis County. The City of Austin Health and Human Services Department implements population-based services to prevent and control chronic disease. The primary focus is to address 3 key risk factors: tobacco use, physical activity and nutrition. Programs work with local coalitions, businesses, schools, and community partners to implement community changes to improve healthier lifestyles. Specific focus on areas where significant health inequities exist is a primary goal for the Health and Human Services Department.

In the last 100 years, public health has increased life expectancy by 30 years through vaccinations, control of infectious disease, tobacco use prevention, fluoridated drinking water and many other activities. Today, this infrastructure needs the capacity to respond quickly to public health threats. Whether it is the spread of the West Nile virus into new areas of the United States, an outbreak of E. coli, or a bioterrorism attack involving anthrax at an airport, the public health system must keep pace with increasing demands. Budget cuts, lack of training, outmoded information systems and laboratories have created greater challenges in protecting the public's health against threats and emergencies.

Currently the City of Austin manages these critical functions with \$22.1 million in federal dollars, \$1.6 million in state dollars and \$42.2 million in city dollars. Any reduction in federal dollars for these programs will significantly impact public health and health care efforts in the City of Austin.



## **Public Safety**

### **General Policy Statement**

Ensuring the safety of Austin citizens and visitors is a paramount City priority that depends on a strong federal-state-local partnership. Federal financial assistance, information sharing and other forms of cooperation are crucial to the City of Austin's public safety efforts.

In general, the City calls on Congress and the Administration to fully fund core local law enforcement and Homeland Security programs including but not limited to COPS, Byrne Justice Assistance Grants, the State Homeland Security Grant Program, Metropolitan Medical Response Systems and Firefighter Assistance Grants.

### **Public Safety Communications**

The City of Austin supports the development of the national public safety communication and networks and encourages FirstNet to include local input in the structure and framework development process. The City urges Congress to require FirstNet to maximize the use of existing local government communication infrastructure.

In 2012, Congress enacted legislation setting aside "D-Block" of the wireless communications spectrum for the first public safety broadband network (PSBN). The D Block became available in the past decade as part of the migration of television from analog to digital broadcasts. The D-Block is immediately adjacent to another 10 megahertz of spectrum that has already been set aside for public safety communications. This portion of the wireless communications spectrum travels well through manmade and natural physical barriers. The legislation also provides \$7 billion for PSBN development grants to the states and created a new agency at the Department of Commerce, "FirstNet", to hold the license for, build, manage and operate the PSBN. This nationwide network will significantly transform how the City of Austin's first responders communicate and deliver life-sustaining services to our citizens.

The success of the national PSBN will heavily depend on input from state and local governments during the network planning phase of the project and the network architecture model for the national PSBN adopted at by FirstNet.

### **Assistance to Firefighters Grant Program (AFG)**

The City of Austin supports full funding for AFG. This program was created in 2001 to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and related hazards.

### **Staffing for Adequate Fire and Emergency Response Grants (SAFER)**

The City of Austin supports full funding for SAFER grants which were created to provide funding directly to fire departments and volunteer firefighter interest organizations in order to help them increase the number of trained, "front line" firefighters available in their communities. The goal of SAFER is to enhance the local fire departments' abilities to comply with staffing, response and operational standards established by the National Fire Protection Association (NFPA) and the Occupational Safety and Health Administration (OSHA)

### **United States Fire Administration (USFA)**

The City of Austin supports full funding for USFA which was first organized in 1974 in response to the publication of *America Burning*, which detailed the state of fire safety in the United States. America's fire death rate is one of the highest per capita in the industrialized world. As an entity of the Department of Homeland Security's Federal Emergency Management Agency, the mission of the USFA is to provide national leadership to foster a solid foundation for our fire and emergency services stakeholders in prevention, preparedness, and response.

### **Urban Area Security Initiative (UASI)**

The City of Austin appreciates the delegation's assistance in securing UASI designation for the Austin Metropolitan Area in previous years. This designation provided the City and its first responders with valuable assistance in the form of equipment, training, hardening of critical facilities, and citizen counter-terrorism education. It has also led to the creation of the Austin Regional Intelligence Center (ARIC), providing increased local capability for disrupting criminal and potential terrorist activity, as well as increasing cooperation between federal, state, and local public safety officials. The City requests to be included again as a UASI jurisdiction and requests full funding of the UASI as a separate program.

### **State Homeland Security Program (SHSP)**

The City of Austin requests a minimum threshold for the allocation of SHSP funds. SHSP funds have declined dramatically in the last two years for the State of Texas and the Capital Area Council of Governments 10-county region in which Austin resides. The City provides the core components of the Regional Hazardous Materials, Structural Collapse, and Explosive Ordinance Disposal Strike Teams responsible for the 10-county response area. We need to ensure that these teams remain equipped, trained, and able to respond.

### **Metropolitan Medical Response System (MMRS)**

The City of Austin requests a reinstatement of the standalone MMRS grant program to ensure the City and its healthcare partners have adequate mass fatality and mass casualty planning and response capabilities.

### **Emergency Management Performance Grant (EMPG)**

Emergency Management Performance Grants have been the cornerstone of local emergency management programs for several decades. EMPG provides critically needed matching funds for City Homeland Security and Emergency Management staff. EMPG funding levels should be sustained or increased. EMPG should remain a separate program.

## **Tax Credits and Revenue**

### **Sales Tax Fairness**

The City of Austin urges Congress to pass legislation that promotes sales tax fairness by authorizing states to collect sales taxes from out-of-state remote retailers.

The United States Supreme Court has ruled that under the Interstate Commerce Clause of the Constitution, state and local governments cannot compel out-of-state retailers to collect sales tax when making Internet, mail order, or other remote type's sale without congressional consent. As a result, goods from remote retailers such as online retailers are only subject to a "use tax," which is the consumer's responsibility to report and pay. This situation has placed traditional local brick-and-mortar "Main Street" retailers in Austin at a distinct competitive disadvantage as their online competitors are able to sell the same products tax free. The growth of electronic commerce on the Internet over the past 15 years has exacerbated the impact of this disparity on local Austin retailers

E-commerce transactions are rapidly increasing in volume and are projected to do so for the next several years. A University of Tennessee study estimates that states and local governments will lose \$23.3 billion in 2012 in uncollected sales and use tax on remote purchases. In addition, the impact on "Main Street" retailers is starting to affect the commercial real estate market.

### **New Markets Tax Credit Program**

The New Markets Tax Credit (NMTC) and other programs administered by the Community Development Financial Institutions (CDFI) Fund at the Department of Treasury provide important incentives for private investment in historically disadvantaged and economically impacted localities.

Similarly, the Economic Development Administration (EDA) at the Department of Labor provides financial planning and technical assistance to state and local governments, including infrastructure grants for job-creating projects and developments.

The City of Austin supports additional rounds of NMTC and other CDFI programs and further calls on Congress and the Administration to fully fund EDA.

## **Telecommunications**

### **General Principles**

In general, the City of Austin opposes any legislation or regulatory effort that would erode City authority to manage public rights-of-way and collect reasonable compensation for their use. The City also opposes any federal preemption of City zoning authority with regards to telecommunications facilities and urges the federal government to comply with local zoning and safety regulations when placing telecommunications facilities on its property.

The City recognizes that competition in telecommunications can yield more programming and applications, improved customer service, affordable rates for all, and technology deployment that meet the needs of its citizens going forward. To be effective, an orderly transition to a truly competitive communications marketplace must be responsive to the important interests of local government:

**Local Authority** – The City supports preserving local authority in determining the most effective and efficient use of local communications services; it is uniquely positioned to determine how to better protect its citizens with regard to maintenance of infrastructure, public safety, consumer protections, and management of rights-of-way.

**Rights-of-Way** – The City opposes federal intervention in its ability to manage and control the public rights-of-way and to collect compensation for their use and management in an equitable and nondiscriminatory manner. The public entrusts local governments to ensure that use of scarce public rights-of-way by communications providers does not interfere with public safety, unnecessarily disrupt commerce, impede general transportation uses, or otherwise impose costs on the local government or its taxpayers.

**Fees and Revenues** – The City opposes any federal preemption of its ability to collect revenue from telecommunications providers doing business in the City, particularly when that revenue is collected as reasonable compensation for the private, profit-making use of public rights-of-way owned and maintained by the City. Public rights-of-way represent property of tremendous economic value that is paid for by local taxpayers, and the public has a right to expect that appropriate value is received for the use of its property held and managed by the government as a public trust.

In 2005, Texas passed a state-wide cable television and video franchising legislation which protects local government interests. The City of Austin urges federal legislation to recognize and support statewide systems where they have been introduced.

Current federal regulations restrict the way that cities use the fees paid by cable providers to support city Public, Educational, and Governmental Access (PEG) channels. Congress needs to remove the unnecessary regulatory restriction that requires PEG funds to be used exclusively for capital expenditures, so that the funds could also be used to support the operational expenses of PEG channels.

The 113<sup>th</sup> Congress may consider legislation to extend the moratorium, possibly permanently, and to expand the moratorium to cover taxes that are currently grandfathered as well as traditional telecommunications taxes. Of particular interest to Austin, Senator Kay Bailey Hutchison secured language in the Internet Tax Freedom Act that protects the line access fees collected by Texas cities from telecommunications providers. These fees are not taxes but are compensation for the management and

use of City-owned public rights-of-way. Federal preemption of Texas line access fees would rob the City of Austin of over \$16 million in annual revenue and would set the precedent of allowing the private use of public property at no charge, which is illegal under the Texas Constitution.

The City opposes making the moratorium on Internet taxes permanent. The City further opposes an expansion of the moratorium to traditional telecommunications taxes or fees collected for the use and management of public rights-of-way, especially the line access fees collected by the City of Austin and other Texas local governments.

The City opposes legislation that would restrict or preempt the ability of the City to tax digital goods and services such as downloaded music and video, online photo storage, payroll processing and computer programs. The City further opposes legislation that would affect our ability to collect cable franchise fee revenue on digital services such as pay-per-view or video on demand services.

Internet Content Privacy – The City recommends that Legislators protect the confidential information carried on broadband Internet access networks with a statute that prohibits mandatory contract terms that authorize broadband Internet access providers to monitor, inspect, or disclose such content. The statute should also require voluntary and informed user consent for any such monitoring, inspection, or disclosure and clearly advise users of the impact of such consent on their legal privileges and rights.

## **Water and Wastewater**

Water and wastewater utility providers are mandated to meet stringent federal and state environmental requirements in order to provide safe drinking water and wastewater services to the public. The City must repair, replace and rehabilitate aging and failing pipes and plants and build new infrastructure to comply with the increasingly complex regulations, protect public health, safeguard the environment and upgrade aging infrastructure.

The City of Austin identified an estimated \$4 billion of water and wastewater infrastructure needs as it developed its capital improvement program (CIP) for FY 2014 through FY 2018. Austin utilizes a rigorous asset management system to prioritize infrastructure replacement. As part of this continual assessment, we also consider the addition of new customers and changes to governmental regulations regarding drinking water and wastewater disposal. Although \$4 billion in needs have been identified, due to financial constraints, the City plans to spend only \$986 million for new infrastructure and upgrades during FY 2014 through FY 2018 to address the highest priorities.

The City of Austin supports legislation which provides grants and financing assistance for high priority projects such as combined and separate sanitary sewer overflows and other wet weather projects, security-related projects, repair and replacement of aging infrastructure and water supply acquisition. Increased funding to local water and wastewater utilities for the improvement and maintenance of water and wastewater infrastructure and additional water supplies is of paramount importance. The City of Austin also supports legislation which sustains and increases funding for, and increased the flexibility of, the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF).

### **Water Reclamation**

In general, the City of Austin supports all federal efforts to support local government water reclamation efforts. The City specifically requests authorization and funding of the City of Austin Water Reclamation Project under the Bureau of Reclamation Title XVI Program or another appropriate federal program.