




MEMORANDUM

TO: Mayor and City Council

FROM: Sylnovia Holt-Rabb, Acting Director
Economic Development Department (EDD) 

DATE: April 3, 2020

SUBJECT: \$12M Creative Space Bond;
Staff Recommendation for Acquisition Process

Proposition B of the 2018 Bond package requested voter approval to fund the acquisition of libraries, museums, and cultural facilities. This package included \$12 million in funding earmarked for creative space acquisition and improvements. Upon successful passage of this proposition, [City Council Resolution No. 20180809-061](#) directed the City Manager to recommend “a proposed process, description, and criteria for Creative Space Acquisition and Improvements...developed in consultation with the Arts and Music Commissions and in compliance with the use of bond funds”. Since these bond funds are part of the bond proposition that authorized funding for community and cultural facilities, libraries, museums, and cultural arts facilities of the City, the City must use the funds in a manner consistent with the rest of the funding and not for economic development.

With Council guidance in mind, the Arts and Music Commissions convened a Joint Working Group July 2018 through November 2019 to solicit community input and vet options with Economic Development Department (EDD) staff and the Community Arts Stabilization Trust—subject-matter experts retained to provide guidance—to efficiently and effectively program the bond funds for creative space. Both Music and Arts Commissions unanimously passed the recommendations of the Joint Working Group on January 6 and 9, 2020, respectively.

As the Joint Working Group conducted its work, EDD staff convened representatives from the Equity Office, Law, Real Estate, and Purchasing Departments over several meetings to determine the best method for acquiring creative space with these bond dollars, considering the proposition language approved by the voters, as well as the following general concepts related to these bonds:

- Projects owned and operated by the City, or by a nonprofit operator under contract with the City consistent with stated bond proposition purpose, are more likely to be approved by the State of Texas Attorney General, rather than projects operated by for-profit entities to the benefit of those entities.
- Projects that are not owned by the City present a greater potential for legal challenges and would need stringent review by bond counsel.
- These particular bonds for creative space were not approved for economic development purposes. Therefore, the process, description, and criteria should focus on creating long-term City assets that can be used for creative spaces over many decades by the community.

The following outlines roles and responsibilities, as well as solicitation process for land and facilities acquisition. This multi-party process is staff's recommended method for delivering programmed, City-owned creative space to the community using an acquisition process similar to that of the new Planning and Development Center at Highland Mall.

Roles and Responsibilities:

- **Public-Private Partnership Advisor:** Informed by the work of the Arts and Music Commission through their Joint Recommendation to Mayor and Council, the Public-Private Partnership Advisor assists City staff with project delivery planning, requesting information and input from potential partners, site proposal evaluation criteria, analysis of site and project opportunities, assessment and evaluation of submitted proposals, and assistance with negotiation agreements and final transaction documents.
- **Real Estate Broker:** The Real Estate Broker works on the City's behalf to identify market opportunities and engage with interested landowners. The Broker issues the solicitation and is the intermediary for all contact between the City and landowners.
- **Facility Operator:** The Facility Operator is the entity operating the acquired facility or facilities. The Operator enters into a Qualified Management Services contract with the City to operate selected creative space, based on the terms and conditions outlined in a City-led Request for Proposals.

Expected Solicitation Process for Facilities Acquisition and Operations:

1. The City enters into an Interlocal Agreement with the Texas Facilities Commission to utilize their competitively selected Public-Private Partnership Advisor and Real Estate Broker. The Advisor assists staff throughout the site and operator selection process.
2. Solicitation for properties is issued independently by Real Estate Broker, who works with interested landowners in submitting proposals.
3. Through City Purchasing, the City issues a Request for Information to potential facility operators to gauge their level of interest in different types of facilities and potential Facility Operator business terms.
4. Through City Purchasing, the City issues a Qualified Management Services Request for Proposals informed by responses to Request for Information.
5. A pre-bid conference is held with parties interested in applying as facilities operators at top-contending properties that have responded to the Request for Information or to the Real Estate Broker's property solicitation.
6. Potential facility operators apply to City Purchasing's Request for Proposals and indicate their interest in one or more top-contending properties.
7. The City evaluates submitted proposals for Facility Operators in consultation with the Public-Private Partnership Advisor and in consideration of the Joint Recommendation of the Arts and Music Commissions.
8. City directs Real Estate Broker to negotiate terms for the purchase of one or more top-contending properties based on ranking of both the property and consideration of the strength and level of interest from the Facility Operator proposals.
9. City purchases property(ies) and awards Facilities Operator contract(s).

Next Steps

EDD Staff will share this memorandum with the joint Arts and Music Commission Working Group and subsequently with the full Arts and Music Commissions. It will also be included in departmental newsletters and updated on the Speak Up Austin website, where community stakeholders have been regularly receiving updates on this work.

EDD Staff will then bring forward for City Council consideration an interlocal agreement for the procurement for the Public-Private Partnership Advisor and Real Estate Broker upon conclusion of negotiations with the Texas Facilities Commission. Should the procurement of one or both services not prove feasible or prudent through the existing Texas Facilities Commission cooperative agreement, EDD will work through the Purchasing Office for an alternative method of procurement. EDD currently anticipates having the interlocal agreement ready for Council action by the end of June. If Council requests, the Law Department will provide legal advice in an executive session regarding the item(s) on Council's agenda.

Please direct any questions to me at 512.974.2156, or to Mark Gilbert, Redevelopment Project Manager, at 512.974.1888.

xc: Spencer Cronk, City Manager
 Nuria Rivera-Vandermyde, Deputy City Manager
 J. Rodney Gonzales, Assistant City Manager
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