



MEMORANDUM

TO: Mayor and City Council

FROM: Ed Van Eenoo, Deputy Chief Financial Officer
Leela Fireside, Assistant City Attorney *EW*
JRH

DATE: December 11, 2017

SUBJECT: Additional information for item 5 on the 12/14 agenda – Amendment to the City's Hotel Occupancy Tax Ordinance

Item 5 on the 12/14 agenda amends the City's Hotel Occupancy Tax (HOT) Ordinance in a manner consistent with the actions taken by Council in adopting the Fiscal Year 2018 Budget.

Background

Resolution 20170831-060, directed the City Manager to, among other things, "allocate 15% of the Hotel Occupancy Taxes (7 cents) to fund operation/maintenance of City of Austin historic facilities and sites in accordance with Texas Tax Code Section 351.101(a)(5) and in a manner consistent with City bond requirements, then fund other allowable capital and acquisition costs for historical restoration and preservation projects and activities."

In response to that direction, the City Manager presented via a September 10, 2017 memorandum, a planned reallocation of the HOT that resulted in \$8.6 million, or 11.57%, of the Hotel Occupancy Taxes (7 cents) being allocated to a new Historic Preservation Fund with a commensurate reduction in the allocation to the Tourism and Promotion fund, which is used to fund Visit Austin activities. The City Manager went on to "recommend a phased approach to reallocation of the Hotel Occupancy Tax revenues; with a reminder that a significant amount of work is required before determining any changes for FY 2019 or beyond."

This plan was presented to Council on September 11, 2017 as a staff amendment to the FY 2018 Proposed Budget. After a lengthy discourse, Council elected to restore \$1.65 million to the Tourism and Promotion Fund and to commensurately lower the 11.57% that staff had proposed allocating to the Historic Preservation Fund. The FY 2018 Budget approved by City Council allocated \$6.95 million, or 9.40%, of the Hotel Occupancy Taxes (7 cents) to the Historic Preservation Fund.

Staff Recommendation

Item 5 on the 12/14 agenda is necessary to align the section of the City Code pertaining to Hotel Occupancy Taxes with the actions taken by Council in approving the Fiscal Year 2018 Budget. Staff has a firm understanding of City Council's desire to reach the full 15% allocation of the Hotel Occupancy Taxes (7 cents) to the Historic Preservation Fund as soon as possible. For this reason, the Ordinance has been carefully crafted to not only align with the FY 2018 Approved Budget allocation of 9.40% to the Historic Preservation Fund but also to provide the flexibility for that allocation to increase in the future.

If you have any questions or concerns about this Ordinance change, please don't hesitate to contact either of us prior to the 12/14 Council meeting.

xc: Elaine Hart, Interim City Manager
Assistant City Managers
Greg Canally, Interim Chief Financial Officer
Anne Morgan, City Attorney



TO: Mayor and Council Members

FROM: Elaine Hart, Interim City Manager

DATE: September 10, 2017

SUBJECT: Response to Resolution 20170831-060:
Reallocation of Hotel Occupancy Tax for Historic Preservation

On August 31, 2017 the City Council approved Resolution 20170831-060 related to a reallocation of the Hotel Occupancy Tax (HOT) to provide funding for historic preservation. The resolution directed the City Manager on the following:

- to prepare and present to Council any budget documents necessary for Fiscal Year (FY) 2017-2018 budget considerations as well as any ordinance, city code changes, budget documents, and contracts necessary to allocate hotel occupancy taxes and other revenues as outlined in Exhibit A of the resolution by September 28, 2017;
- to allocate 15% of the total hotel occupancy tax of 7 cents to fund operations and maintenance of City of Austin historic facilities and sites in accordance with Texas Tax Code Section 351.101 (a) (5) and in a manner consistent with City bond requirements, then fund other allowable capital and acquisition costs for historical restoration and preservation projects and activities; and
- to collaborate with Travis County to explore and evaluate opportunities to include the Travis County Exposition Center as a venue funded with hotel occupancy tax revenue, or other revenues, and include a report on those opportunities to Council. This information was requested by September 28, 2017.

The resolution also directed the City Manager to present an analysis of this allocation and other options to achieve HOT allocations for historic preservation, considering relevant factors including, but not limited to, budgetary, legal, and project impacts prior to adoption of the Fiscal Year 2017-2018 budget. *This memo responds to the Resolution sections that pertain to the Fiscal Year 2017-2018 Proposed Budget proceedings that begin on Monday, September 11.*

Reallocating the Hotel Occupancy Tax to achieve a 15% allocation for historic preservation is a significant policy change. Staff has worked diligently this week to meet the challenge of identifying options to reduce both the Austin Convention Center and Visit Austin budgets, and to reallocate that funding for historic preservation, as well as produce a list of potential historic preservation operating costs and capital projects in a manner that:

1. meets the legal parameters for Hotel Occupancy Tax as set out in State statutes,
2. meets the requirements of the Hotel Occupancy Tax revenue bond covenants, and
3. considers the impact on operations of the Austin Convention Center and Visit Austin to:
 - a. Preserve the ability to continue adequately marketing Austin which maintains the mission of booking conventions and filling hotel rooms to maximize Hotel Occupancy Tax revenues and support other critical elements of our local economy such as the film industry, and
 - b. Not require the layoff of staff per Council direction in Resolution 20170831-060.

Recommendation

My strong recommendation is that Council's decision on reallocation of HOT revenue from Convention Center and Visit Austin to historic preservation be phased-in over several years. This would mirror the City's approach in similar large policy shifts in the recent past. Allowing for a transition period over multiple years would minimize the impact on all funds, programs, and operations. Examples are shown below of recent funding reallocations with a phased implementation that were approved by the City Council during budget adoption.

- **Funding Sources for the Sustainability Fund**

Council established a Sustainability Fund in FY 2000-2001 as a mechanism for enterprise operations to invest in the community by funding initiatives in support of a more sustainable economic, environmental, and equitable infrastructure. Upon creation of the Fund, the City Manager directed that an annual review be conducted to reassess the community's needs. The annual review also evaluated the Fund's fiscal health to determine whether its continuation was fiscally prudent.

Initial funding was provided by interfund transfers equivalent to 1% of the budgeted revenues of Austin Resource Recovery, the Watershed Protection Drainage Utility, the Transportation Fund, and Austin Water. Additionally, significant funding came from the General Fund from FY 2000-2001 to FY 2007-2008.

By FY 2013-2014, Austin Resource Recovery and Austin Water were the sole remaining funding sources for the Sustainability Fund, which then funded services including workforce development, child and youth development, and Neighborhood Housing activities. Beginning in FY 2013-2014 as part of a continuing citywide effort to better align budgeting structure with departmental missions, the City implemented a four-year transition plan for the Sustainability Fund programs to be funded entirely by the General Fund.

- **Funding the Economic Development Department**

From FY 2000-2001 through FY 2013-2014, Austin Energy funded the Economic Development Department. As part of a continuing citywide effort to better align budgeting structure with departmental missions, the City implemented a four-year plan beginning in FY 2013-2014 to reset funding to a revenue-based allocation to the General Fund, Austin Energy, Austin Water, and Austin Resource Recovery.

- **Allocation model for funding the 311 Call Center**

A revised allocation model for funding the 311 Call Center based on the number of service calls was implemented over a four-year period that began FY 2013-2014. This was also part of a continuing citywide effort to better align budgeting structure with departmental mission.

Proposal for Fiscal Year 2017-2018

For the upcoming Fiscal Year 2017-18, we have developed a plan to achieve \$8.6 million, or 11.57% of the Chapter 351 (7 cents) Hotel Occupancy Tax for historic preservation. This \$8.6 million is being generated in following manner.

The Tourism and Promotion Fund portion of HOT revenue will decrease from 1.45 cents to 0.64 cents. However, the associated reduction in revenue will be partially offset by a payment from the Austin Convention Center of \$6.6 million, a payment for services that Visit Austin currently provides for marketing, selling, and servicing Convention Center groups. Visit Austin will see a net reduction of \$2 million. To achieve this \$2 million reduction, Visit Austin will reduce budgets for each of its program areas as well as advertising, administration, professional development, pay raises and benefits, and contractual services. This will allow Visit Austin to continue their work of marketing the Convention Center, working with area hotels, and conducting other activities, such as supporting Austin's film industry – all with a focus on maximizing Hotel Occupancy Tax revenues.

Austin Convention Center will retain the full 4.50 cents of HOT revenue, but will utilize \$6.6 million to pay for Visit Austin services. The Convention Center will reduce the proposed transfer to its capital improvement program by \$6.6 million to cover this payment.

This proposal would still allow for the future expansion of the Convention Center that has been recommended by the Austin Convention Center Master Plan and the Visitor Impact Task Force.

As a reminder, the City currently collects 9 cents per dollar of hotel occupancy tax – 7 cents associated with Chapter 351 and 2 cents associated with Chapter 334 (Venue) for the 2002 Convention Center expansion and Waller Creek Tunnel project. The chart below compares the current allocation of Hotel Occupancy Tax with the staff recommended reallocation in response to Resolution 20170831-060.

Category	Type of HOT	Current Allocation		Staff Recommendation Allocation per Res. 20170831-060		Comments
		Cents	%	Cents	%	
Convention Center	Ch. 351	4.50	64.29% of 7 cents	4.50	64.29% of 7 cents	Pledged to debt repayment; also used for operations and capital projects.
Tourism and Promotion	Ch. 351	1.45	20.71% of 7 cents	0.64	9.14% of 7 cents	Funds Visit Austin (ACVB) and historic preservation grants prior to FY 2018.
Cultural Arts	Ch. 351	1.05	15.00% of 7cents	1.05	15.00% of 7 cents	Maximum allowed by law for cultural arts grants is 15%.
Historic Preservation	Ch. 351	n/a	n/a	0.81	11.57% of 7 cents	Maximum allowed by law for historic preservation is 15%.
Subtotal		7.00		7.00		
Convention Center and Waller Creek Tunnel Venue	Ch. 334	2.00	100.00% of 2 cents	2.00	100.00% of 2 cents	Pledged to debt repayment; used for capital projects on expansion part of facility.
Total		9.00		9.00		

FY 2018 – Use of \$8.1 million for Historic Preservation

As background, the Texas Tax Code provides guidance on the use of HOT revenue related to historic preservation:

- The list of lawful uses is set out in Texas Tax Code Section 351.101(a):
 - (5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - (A) at or in the immediate vicinity of convention center facilities or visitor information centers; or
 - (B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates.
- 351.103(c) provides that up to 15% may be spent on qualified historic restoration projects.

I recognize that in the past City Council has expressed interest in use of HOT for historic preservation. However, it was not a topic anyone discussed during the Budget Policy work sessions this past spring and it was not until the August 31 resolution that the City Council provided a clear indication of its policy intent related to this issue. As such, one week has not been sufficient time to adequately evaluate the full implications of this policy change and essentially create a new historic preservation program.

The Parks and Recreation Department (PARD) needs additional time to evaluate and identify operating costs related to historic preservation that meet the State Law parameters. PARD staff will need to track these costs over the coming year to provide a better estimate of operating costs that may be eligible for HOT funding and thus allow for General

Fund monies to be freed up for alternative purposes. If other historic sites are identified, PARD will need to ensure these sites also meet the *"frequented by tourists and convention delegates"* test in State Law, and/or assess what changes to current use of those sites would be required to be eligible for these HOT funds, and impacts of those changes on current users.

Our initial analysis has not identified significant operating costs for historic preservation that would free up General Fund monies for funding other items in the upcoming fiscal year. In fact, there is less than \$300,000 in existing General Fund operating costs identified for HOT funding under the Resolution 20170831-060 reallocation that would meet the State Law criteria. In addition, we identified about \$220,000 in new General Fund expenditures that would be eligible for these new historic preservation funds. Combined, this amounts to \$500,000 in eligible General Fund operating costs to be funded through HOT revenue for historic preservation which would free up other General Fund funding.

The remaining \$8.1 million of these new historic preservation funds would be available for capital projects. While the City has many capital needs for historic preservation, there is no master plan, needs assessment, nor program criteria for prioritizing and implementing such a new program. Thus, much of this \$8.1 million may not be fully utilized in FY 2018.

Looking Ahead

This recommendation makes significant progress – in the FY 2018 budget – on Council's policy direction, getting to 11.57% allocation of HOT to historic preservation, and at the same time allows the City to take a measured and informed approach towards the 15% policy goal. Over the next year Austin Convention Center, the Parks and Recreation Department and other departments will have the needed time to evaluate and plan for the impact on their programs, operations and budgets.

Most critically, our legal and financial staff can work over the coming months with the City's Bond Counsel and Financial Advisor to assess any future use of the existing 4.50 cents of HOT revenue. As you know, the 4.50 cents are pledged via bond covenants to support the Austin Convention Center's debt.

For all of these reasons, I strongly recommend a phased approach to reallocation of the Hotel Occupancy Tax revenues; with a reminder that a significant amount of work is required before determining any changes for FY 2019 or beyond. And as I have mentioned to the Council on previous occasions, this work will fall to the same legal and financial staff working on the many other significant efforts underway in the City right now.

At tomorrow's Budget Adoption work session, we will have a short presentation on the options related to the HOT reallocation, as well as associated budget amendments. We will also have staff available to answer any questions you may have.

Finally, this memo only addresses those elements of Resolution 20170831-060 related to the upcoming FY 2018 budget. We will address the Council direction to engage with Travis County on the Travis County Exposition Center in a forthcoming communication.

Respectfully,



Elaine Hart
Interim City Manager

CC: City Manager's Executive Team
Mark Tester, Director, Austin Convention Center
Leela Fireside, Assistant City Attorney