



## MEMORANDUM

**TO:** Mayor and City Council

**FROM:** Robert Spillar, P.E., Director,  
Austin Transportation Department *Robert Spillar*

**DATE:** September 16, 2020

**SUBJECT:** Use of Revenue Generated from Temporary Use of  
Right-of-Way Permit (TURP) Fees

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Council has requested information on the current use of revenues generated from Temporary Use of Right-of-Way Permit (TURP) Fees. Council is considering [Item 62](#) on the September 17 Council Agenda, directing the City Manager to explore and identify ways to support and to increase the survivability of those most vulnerable in Austin's hardest hit sectors: childcare, music and arts venues, restaurants and bars. A proposed amendment to this resolution directs the City Manager to develop an ordinance to place into a designated fund the following payments: temporary use of right-of-way fees, alley vacation sales payments, street vacation sales from Downtown development projects located outside the Rainey Street Historic District and Subdistrict for a period of two years.

Of the fees identified, only the TURP fees flow into the Austin Transportation Department's (ATD) Operating Fund:

- Street/Alley Application Fees go into General Fund (1000-5000-9200 Revenue Source 4031)
- Encroachment Application Fees/Easement Release Fees into General Fund (1000-5000-9200 Revenue Source 4032)
- Appraised Value Encroachment/Right-of-way (ROW) Vacation Fees into General Fund (1000-5000-9200 Revenue Source 4033)
- Temporary Use of Right-of-Way Permit (TURP) fees go into the ATD Transportation Fund (5125-2400-9100 Source 4062)

### Temporary Use of Right-of-Way Permit (TURP) Fees

ATD collects TURP fees when public streets and other rights-of-way (ROW) are used for private use – typically to facilitate construction projects. These fees are collected city-wide, however the majority of the fee revenue is generated in the Downtown District. These funds are directly reinvested in the transportation system citywide by funding the operations and activities of ATD for the benefit of Austin. Although the revenues generated from TURP fees are entirely dedicated to ATD's operation and maintenance budget, the fees collected can generally be described as follows:

- **Fee-for-service:** portion of the fee revenue that directly pays for the operation and maintenance of the ROW permitting, ROW management, Inspection, and Enforcement services necessary to efficiently manage the ROW and provide the permit;

- **Rental fees:** portion of the revenue that is reinvested more broadly in the transportation system through ATD to manage traffic and safety across the city.

The fee-for-service portion of the ROW fee structure is needed to provide the basic services of directly managing the right-of-way. At a minimum, these fees are required to generate the on-going revenue and provide the management services on behalf of the City.

The Rental fee portion of the revenue is critical to the success of our City's transportation program. These funds pay for roadway maintenance and operation of the City's signal, signs, and markings programs. They are invested by the department to design and construct new bike and pedestrian improvements as well as develop the design for new roadways and other mobility systems. The revenue pays for Vision Zero programming, helping to fund stepped-up prevention of driving while intoxicated, reduce speeding, reduce distracted driving and other dangerous behaviors. The funds pay for transportation planning, systems development, transportation demand management programming and the administration of the Austin Transportation Department.

TURP fees also contribute to the Rainey Street Neighborhood fund. Parking fees generated in the defined district also contribute necessitating other ATD funding sources, including TURP revenues, to subsidize the Parking Fund. Per Council direction, ATD currently contributes approximately \$250,000/year for mobility improvements in the Rainey Street Neighborhood.

### **Enterprise Department Revenue**

ATD is an enterprise department and generates its entire budget from various fees. ATD receives a small amount of General Fund to replace fees typically waived by Council for certain special events.

Although ROW fees have been largely unaffected by COVID because construction has been deemed an essential activity, they are only sustainable while the development market remains healthy. Dedication of these fees over the past 12 years to the transportation portfolio has allowed ATD and Public Works to minimize the increase in the Transportation User Fee (TUF) and other fees that jointly fund our departments. We recognize, however, that the ROW fees are not sustainable and fluctuate with changes in the development market. ATD is thus conservative in forecasting annual basis revenue from TURP fees. However, the revenue generated from TURP fees is heavily relied upon in funding the overall budget for ATD, representing just less than 1/3 of our overall budget.

TURP fee revenue is currently incorporated into ATD's FY21 Budget. Loss of TURP revenue at the start of the fiscal year would necessitate an increase in the TUF to meet immediate department requirements. It would require ATD to submit a revised budget proposal, likely proposing an immediate increase in the TUF and a significant cut in our basic services to create a sustainable program for the remainder of FY21. Carryover revenue generated from the TURP fees collected in FY20 and projected to be collected in FY21 are planned to flow into ATD's fund balance to carry the department into FY22. This carryover was planned as part of the Department's budgeting strategy to survive the pandemic impact to our other revenue streams that have been decimated by the economic slowdown (i.e., ATD's Parking Fund). ATD is actively using fund balance in our FY21 budget to maintain service levels.

The attached Table 1 describes the TURP fee revenue collected through August for FY 20 and its uses. The table provides the projections for FY21 and its planned uses as well. As indicated previously, TURP fees are performing strongly, despite COVID. However, we are only projecting this strong growth out over the next six months, returning to a more normal rate of activity within the construction market for the latter part of FY 21. This projection is built into our overall fund projection for FY 21. The table also shows the use of fund balance along with the entire revenue generated from TURP fees to carry the department through FY 22 (indicated by our declining fund balance). ATD is projecting that by the end of FY 21, transportation funding will reach a more stable state on a year over year basis, resulting in a minimal fund balance of just \$195,000 at the end of FY21/beginning of FY22.

**Table 1 ATD Dependency on the TURP and Uses**

Fiscal Year	TURP Revenue	TUF Revenue	Total Revenue (TR)	ROW Direct Costs (C1)	ATD Mobility Fund Costs (C2)	Contribution from Fund Balance TR – (C1+C2)	Ending Fund Balance
FY2019	6,633,000	25,854,000	43,573,000	3,475,000	43,777,000	(204,000)	\$11,750,000
FY2020 *	7,810,000	26,918,000	43,300,000	3,540,000	48,145,000	(4,845,000)	\$7,778,000
FY2021 **	8,367,857	29,459,000	49,043,000	4,480,000	56,625,690	(7,582,000)	\$195,000

\* Estimated revenue based on actuals through August, 2020

\*\* Estimates based on current development market and used in ATD's FY 21 budget proposal

An estimate of the required increase in the Transportation User Fee, necessary to replace the loss of TURP revenue is shown in Table 2. These TUF increases are in addition to the \$0.25 increase in this fee already proposed as part of ATD's FY 21 budget. Should Council direct the transfer of the TURP revenue to a business preservation fund, it is likely that the department would recommend both a cut in current service levels as well as an increase in the TUF. However, this type of business planning would take a longer, more in-depth analysis than can be provided in this response.

**Table 2: TUF Increases Needed to Replace TURP Revenue**

Estimated Monthly TUF Increase Needed to Replace TURP	Estimated Revenue
\$0.05	\$570,000
\$0.10	\$907,000
\$0.25	\$1,921,000
\$0.50	\$3,610,000
\$0.70	\$5,029,999
\$0.85	\$6,043,000
\$1.00	\$7,000,000

## **Contribution for Preservation of Small Businesses**

As indicated, removal of the TURP fees as a primary funding source for transportation for even two years would have significant impact on ATD. However, portions of that revenue may be easier to redirect than others. ATD offers the following options across all of ATD's revenue sources if Council wishes to redirect part of the funding generated from TURP fees to a business stabilization fund:

- Temporarily (for 2-years) eliminate the transfer of Parking Revenue to the Great Streets Fund. This transfer is currently a burden on ATD's overall financial health, requiring ATD to move funds from our Transportation Fund into the Parking Fund to maintain the Parking Fund's solvency. This would free up approximately \$750,000/year in the Parking Fund, allowing ATD to contribute that same amount from our Transportation Fund (e.g., funds generated from TURP fees) to the desired business stabilization fund.

With the advent of the new Transportation Criteria Manual over the next year, establish the Great Street design criteria as the standard requirement for downtown development, allowing a fee in lieu for those developments that physically are unable to comply. Direct the City Manager to return to Council prior to the end of the two-year period with a revised Great Street plan and program. ATD will work with the Zoning and Planning Department to achieve an appropriate outcome that proposes a way to compensate for the density bonus requirements achievable under the current Great Street program.

The existing significant balance in the Great Street Fund would remain accessible to the Zoning and Planning Department for use over the next 2-year period as per the current program.

- As part of ATD's FY 21 Budget Proposal, the department has proposed to fund approximately \$1.5 Million in capital projects that are not otherwise currently funded by bond programs or other capital funding at this time. This funding is achieved through a transfer to ATD's Capital Fund, largely enabled by the TURP revenue supporting our Transportation Operating Fund.

Projects include:

- Vision Zero intersection safety projects
- Signal and pedestrian hybrid beacon funding
- Speed management projects
- Bike and pedestrian improvements not otherwise funded
- Transit enhancement program in coordination with Capital Metro

Should Council so desire, these projects could be delayed until after the 2020 bond election currently before voters intended to fund active transportation projects. These projects theoretically would all be fundable under new bond funds that may be gained through the planned election. The department would recommend that if this course of action is adopted, that these projects and potential revenue diversion be frozen and be revisited as part of a mid-year budget adjustment in January or February to make a final decision.

**CC:** Gina Fiandaca, Assistant City Manager