



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Denise Lucas, Director *Denise Lucas*  
Development Services Department

Robert Spillar, Director  
Austin Transportation Department

*Robert Spillar*

**DATE:** January 14, 2020

**SUBJECT:** January 23<sup>rd</sup> Council Agenda- Item 56 (Capitol Complex Fee Waivers)

On January 23, 2020, Council will be posted to consider a request from the Texas Facilities Commission (TFC) to waive additional temporary use of right-of-way fees for Phase One of the Capitol Complex Master Plan. The purpose of this memorandum is to provide Council with additional information regarding TFC's request.

### Background

In December 2017, Council authorized execution of an Interlocal agreement with the Texas Facilities Commission for development of Phase One of the 2016 Texas Capitol Complex Master Plan. Phase One of the 2016 Texas Capitol Complex Master Plan includes the construction of two new office buildings, underground parking garages, a pedestrian mall, expansion of the existing central utility plant, and thermal utility tunnels. The Interlocal includes provisions that support:

- Priority processing of all aspects of the project requiring City consideration;
- Waiver of temporary use of right-of-way fees, with the total amount waived credited to the City on the ledger maintained between TFC (formerly the General Services Commission) and the City;
- Conversion of 16<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> Streets to two-way traffic; and,
- Vacation of North Congress Avenue from the northern boundary of 15<sup>th</sup> St. to Martin Luther King, Jr. Blvd., along with a portion of 17<sup>th</sup> St., and a permanent easement for State-operated utilities.

Council approved Ordinance No. 20171214-090 waiving temporary use of right-of-way fees in an amount not to exceed \$6.8M. Fees waived do not include cost-of-service; only fees associated with right-of-way usage.

### Additional Temporary Use of Right-of-Way Fee Waivers

The temporary use of right-of-way fee waiver approved by Council will be fully expended in February 2020. TFC has requested a waiver of additional temporary use of right-of-way fees anticipated to be incurred by the project through the end of July 2020, in the amount of \$3.5M.

TFC anticipates the need for street closures through May 2022. Between now and the end of July, TFC will work with City staff to refine their fee waiver needs and will follow-up with a request for additional waivers once the refinement process is complete. Staff recommends approval of this request.

Fees waived would not include cost-of-service; only fees associated with right-of-way usage. Pursuant to the Interlocal, the amount of fees waived will be added as a credit to the City on the ledger maintained between TFC and the City. Once the full amount of the original fee waiver has been expended, the ledger balance will be approximately \$8.1M.

### **Progress Update and Future Interlocal Amendments**

Phase One of the Capitol Complex Project is scheduled for completion in June 2022. To date, the State has fulfilled the following commitments:

- Addition of waived fees to the ledger maintained between the City and TFC
- Successful passage of legislation that provides for expanded use of the funds on the ledger maintained between the City and TFC to include credits toward the transfer, sale, or exchange of real property or an interest in real property with any state agency other than an institution of higher education
- Successful passage of legislation granting an easement for a pedestrian bridge to the City on State owned property near a development known as the Grove at Shoal Creek
- \$130,500 contribution toward the relocation of a 39-inch Live Oak tree
- Lease of up to 100 parking spaces in the Capitol Complex at a discounted rate for use by City employees
- Participation in the City of Austin's Affordable Parking Program
- State funded conversion of 16<sup>th</sup> St. to two-way
- State funded installation of a new traffic signal at Colorado St. and Martin Luther King, Jr. Blvd.
- Incorporation of sustainability and conservation components into building and property design
- Continued coordination with the University of Texas, the Waller Creek Conservancy, and the Central Health District

TFC has notified the City of the need for an amendment to the Interlocal concerning tree planting requirements to adjust for unforeseen utility conflicts, and include updated best practice recommendations from the project landscape architect.

The Interlocal includes a provision that requires TFC to provide over 1,300 caliper inches of new trees through the planting of over 300 trees. This provision commits TFC to using best efforts to maintain and program the project area in a way that prevents removal of the new trees, but allows TFC to use standard best practices, including editing the trees to encourage growth and development of the trees in aggregate. The referenced provisions were included in the Interlocal based on the project concepts included in the Master Plan document and did not take into account the potential for site development challenges.

The Master Plan contemplates new tree plantings that would line the 1800 block of Martin Luther King, Jr. Blvd. The original concept includes relocation of an electrical and communication duct bank to an area under the roadway. Based on unanticipated underground utility conflicts in the area, TFC had to relocate the duct work to run underneath the sidewalk. This shift prohibits the planting of the trees planned for the block.

In addition, based on the advice of the landscape architect overseeing this portion of the project, TFC is also proposing a scaling of the plantings proposed for the pedestrian mall in the area that was previously Congress Avenue. As noted above, the original concept included extensive planting with editing over time to promote growth. TFC has been advised that procurement of the originally proposed volume of trees would be a challenge in the one-month timeframe during which the trees must be planted. The recommended approach is to plant larger trees, in less volume with no editing, as opposed to planting many smaller trees with required editing over time.

While the proposal is still under development, TFC's current proposal reduces tree plantings to approximately 744 caliper inches through the planting of 207 larger trees. TFC is working with the landscape architect of record to develop a plan that maximizes canopy coverage to meet the needs of the surrounding pedestrian-centric environment, results in lower project costs, and a higher degree of preservation over time.

Proposed Interlocal amendments will also include revisions to the following provisions:

- Central Utility Plant Expansion and Utility Tunnels  
The Master Plan and Interlocal contemplate an expansion of the existing Central Utility Plant (CUP) at 14<sup>th</sup> St. and San Jacinto (on State property), and construction of new utility tunnels to extend services lines to the newly constructed State facilities. Upon further evaluation, and in coordination with Austin Energy, the State has decided to relocate the CUP to a different site on State property altogether. With this shift there is no longer a need for an expansion of the existing CUP or construction of a utility tunnel. The Interlocal will be amended to reflect this change.
- Street Modifications:  
The Master Plan and Interlocal call for State funded conversion of 16<sup>th</sup> St., 17<sup>th</sup> St., and 18<sup>th</sup> St. between Guadalupe St. and Trinity St. from one-way to two-way. Based on discussions between the State and the Austin Transportation Department, conversion of 18<sup>th</sup> St. west of Colorado St. is no longer recommended. The Interlocal will be amended to reflect this change.
- Bike Share:  
The Interlocal requires designation of two locations within the Capitol Complex for the placement of State funded Austin B-Cycle Stations in City right-of-way. This provision will be re-evaluated to ensure consistency with the City of Austin's Shared Micro-Mobility Program.

City staff is working with TFC to finalize the details of the proposed amendments. An item will be scheduled for Council consideration later this spring.

For additional information, please contact Denise Lucas, Director, Development Services Department at (512) 974-2614; or Rob Spillar, Director, Austin Transportation Department, at (512) 974-2488.

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