



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Sylnovia Holt-Rabb, Acting Director, Economic Development Department *Sylnovia Holt-Rabb*  
Rosie Truelove, Director, Housing and Planning Department *ROSIE*  
Rob Spillar, Director, Austin Transportation Department *Robert Spillar*

**DATE:** August 30, 2021

**SUBJECT:** Red River Cultural District CIUR Resolution No. 20200521-096

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This memorandum provides a summary of the progress the Economic Development Department (EDD) in partnership with Housing and Planning Department (HPD) and Transportation Department (ATD) has made in addressing the directives of City Council Resolution 20200521-096. The resolution directs the City Manager to explore and evaluate the feasibility of a variety of programs and policy tools intended to support economic recovery for the Red River Cultural District (RRCD)—home to thirteen (13) live music venues, hotels and other businesses in a district essential to Austin’s music industry ecosystem. The strategies for evaluation include the following:

1. Removal or downward adjustment of Parking and ROW (tour bus parking) fees;
2. Removal or downward adjustment of fees associated with patio cafes and expedited permitting processes and fee adjustments associated with upgrading structures to be compliant with any new safety protocols;
3. Transfer of Development Rights (TDRS), land banking, and acquisition strategies for stabilizing assets in the Red River Cultural District;
4. Creation of dedicated recovery funding for music venues;
5. Using the Live Music Fund for re-employment/payroll assistance for venues during safe reopening; and
6. Creation of an economic development entity whose mission would include the retention, stabilization, or acquisition of creative space for a cultural trust.

### 1. Tour Bus Parking Fees

In response to Council Resolution No. 20200521-096 where the City Manager was directed to review and evaluate tour bus parking within the RRCD, ATD will launch a pilot using a digital permit reservation system in the district to collect transaction data. This will allow ATD to better

understand zone usage and demand over the next six months while maintaining focus on community health by becoming a less physical, more digital City.

The pilot will help ATD understand market recovery needs and streamline administrative processes. This permit reservation system will facilitate permitting of dedicated on-street spaces through the Park ATX app in lieu of the traditional ROW parking space permit process. Using specific zone numbers and unique validation codes, businesses would be able to reserve and use parking spaces for short-term business functions when needed. This digital environment would simplify permitting and data collection on how businesses and our community are engaging with curb space throughout the RRCD. During the pilot phase, it is anticipated that fees would be close to zero, while ATD works to understand actual costs and develop a more in-line permitting fee structure for venue support.

As of 2019, ATD has worked diligently to modernize curb management policies to support the City's goal of reducing single-occupant vehicle usage and other long-term mobility goals laid out in the Austin Strategic Mobility Plan. Previously implemented policies include reduction of punitive parking practices, creation of progressive parking fees for increased access, and deployment of technology to reduce system dependence on physical payment infrastructure. The scope of this potential digital permit system aligns with ATD's objective to continue modernizing curb management and expands the department's ability to solve similar mobility demand issues. For more information related to bus parking fees, please contact Jason Redfern, Parking Enterprise Manager, Austin Transportation Department, at [jason.redfern@austintexas.gov](mailto:jason.redfern@austintexas.gov).

## **2. Fee Adjustments, Patios, and Cafes**

During the COVID-19 pandemic the Austin Center for Events (ACE) deployed a program called "Shop the Block" in response to [Ordinance No. 20200604-047](#). This program was intended to facilitate the conversion of outdoor public and private space into active restaurant and retail space, facilitating reduced dependence on high-risk, indoor sales and shifting dining and shopping to lower-risk outdoor settings. "Shop the Block" allows for expanded street patios by reducing the costs for these improvements substantially. While there are not similar fee reductions for sidewalk patios, many businesses have utilized the program to expand outdoor seating into their off-street parking areas. These parking lot cafes are similar in effect to the sidewalk cafes, and "Shop the Block" allowed more flexibility in parking space and occupancy requirements as well as waiving basic fees associated with conversion of parking lots. To date, no businesses in the RRCD have used the "Shop the Block" program.

The program will end in December 2021, with applications available through December and approved permits valid for six months. Following this program, Council may consider making more permanent changes to the sidewalk patio and street café programs, including reducing or waiving fees in designated cultural districts, retaining more flexibility in parking space and occupancy-related requirements, and instructing staff to provide design support for café and patio applications.

While “Shop the Block” focused exclusively on expansion of outdoor commercial space, the Austin Small Business Relief Grant allowed for businesses to reimburse the costs of any space modifications or improvements related to COVID compliance or safety. The Austin Live Music Venue Preservation Fund also awarded grants to music venues in Austin, with several Red River venues benefitting directly from this program. Like the Austin Small Business Relief Grant, the Live Music Venue Preservation Fund program allowed venues to recoup costs of space modification and permits.

### **3. Transfer of Development Rights**

The HPD explored this directive by conducting a review of Transfer of Development Rights, relevant municipal case studies, and their potential application to the RRCD. HPD’s full review is included as **Appendix A** to this memorandum. For more information regarding the Transfer of Development Rights, please contact Stevie Greathouse, Capital Program Consultant, Housing and Planning Department, at [stevie.greathouse@austintexas.gov](mailto:stevie.greathouse@austintexas.gov).

### **4. Dedicated Recovery Funding for Music Venues**

City staff received more than \$128 million in requests for funds from the Austin Small Business Relief Grant (formerly called the Commercial Loans for Economic Assistance & Recovery program, or CLEAR). Council allocated \$10 million from the City’s CARES Act allocation for this grant program. Due to the overwhelming demonstrated need from businesses across multiple sectors, staff did not create a specific subcategory of funding for local music venues. Sixty-two live performance/music venues applied for funding; their requests collectively totaled \$2 million. Forty-one of these applicants were awarded grants collectively totaling \$380,000.

City staff also awarded grants to live music and performance venues through other COVID-19 economic relief programs. The Austin Creative Space Disaster Relief Program award \$417,000 to 12 live performance/music venues, and the Austin Live Music Venue Preservation Fund awarded \$1.34 million to 67 local live music venues during Phase 1 of the program. Phase 2 of the Austin Live Music Venue Preservation Fund is still ongoing, and staff anticipate awarding at least \$3.66 million during Phase 2.

### **5. Live Music Fund**

On April 8, 2020, the Music Commission stated in [Recommendation 20200408-2](#) that the Live Music Fund should not be used for relief grants for venues unless other funds were identified to pay back what was used from the Live Music Fund. After considering other budget sources, the Music Commission decided to keep the Live Music Fund whole in order to preserve the monies for their intended use after the pandemic improved. The minutes from this meeting of the Music Commission can be found here: <http://www.austintexas.gov/edims/document.cfm?id=343169>.

## 6. Economic Development Entity

The Austin Economic Development Corporation (AEDC) was officially created by Mayor and Council through Resolution 20201001-055 on October 1, 2020. Since that time, staff and consultants have organized a significant amount of research and work to refine the scope of the cultural trust while working with legal teams to determine viability of roles for the organization to support the use of the \$12 million Creative and Cultural Facilities Bond. On June 10, 2021, Council approved the City's Interlocal Agreement with the AEDC, including legal authority for the organization to support the proposal for the South Central Waterfront District, the Creative and Cultural Facilities Request for Proposals (RFP), and the Cultural Trust – under which the AEDC is establishing a 501(c)(3) for leveraging philanthropic contributions. Council also allocated \$2.4 million for the Iconic Venue Fund established by Resolution 20201203-046 to create leasing structures to acquire and permanently preserve creative and music venues that promote tourism, support equity, and represent Austin's brand and history.

Staff supporting the launch of AEDC is meeting with its consultant team to discuss the steps outlined in the outreach strategy of the RFP and assembling resources to support prompt execution. Staff is drafting the RFP and will seek additional feedback from the Cultural Trust Advisory Committee (CTAC) with respective AEDC Board representatives before final executive review. The AEDC is looking at partnerships for capacity building with community organizations to align outreach strategic efforts for a strong RFP release. Staff and partners are currently planning an outreach campaign, stand-up press event, and info sessions for the community to support the release of the RFP. The selection committee for the RFP will include some CTAC members who will join AEDC staff members in evaluating the responses of the RFP.

xc:     Spencer Cronk, City Manager  
          Rodney Gonzales, Assistant City Manager  
          Gina Fiandaca, Assistant City Manager  
          Veronica Briseño, Chief Economic Recovery Officer

## Appendix A

### Transfers of Development Rights

#### Overview

On May 21, 2020, the Austin City Council approved Resolution No. 20200521-096 directing the City Manager to:

*...“explore Transfer of Development Rights (TDRS), land banking, and acquisition strategies for stabilizing assets in the Red River Cultural District and shall provide options to City Council as soon as possible. Such options shall include identification of strategies, timing, and funding sources, but shall not include 2018 creative space bonds, other than through the solicitation process open to all 65 entities.”*

The Housing and Planning Department (HPD) staff explored the following items, which are further expanded upon, below:

- What is Transfer of Development Rights?
- Municipal Case Studies
- Initial Study Findings
- Alternative Recommendations

#### What is Transfer of Development Rights?

Transfer of Development Rights (TDRS) is a zoning tool that allows a property owner to sell and transfer unused development potential to another property. The property that sells the development rights is known as the “sending” site, and the property that receives or purchases the development rights is known as the “receiving” site. Once the development rights are sold, the sending site may continue to operate and use the site as it exists or redevelop to the same intensity of what is already there; however, it cannot develop further as its remaining development potential has been transferred to another site. Development rights that are transferred are typically floor area, density allowances, height, or parking allowances. TDRS is also known as air rights transfer or transfer of floor area rights.

TDRS can be used for many purposes, including the preservation of historic structures, the conservation of open space, environmental protection for sensitive ecological areas, preservation of farmland, and guiding development into specific areas. It also provides a way for property owners to generate income if they never plan on utilizing their full entitlements.

Typically, implementation is conducted by identifying specific areas of the City that will be the “sending area,” and specific areas that will be the “receiving area.” These areas can overlap or be the same if development is desired in the same area as preservation, or they can be completely different if the desired development area and the preservation area are not at the same location.

Appropriate amounts of supply and demand for development rights must exist for the program to be successful. Because of this, sending and receiving areas typically need to be fairly large to provide enough supply and demand.

### Municipal Case Studies

To prepare this response, the HPD reviewed case studies from Los Angeles, King County (Seattle MSA), and Portland. Additionally, the City of Austin has TDRS programs available from the Watershed Protection Department (WPD). Below is a brief summary of each city's application of a TDRS program:

#### Los Angeles, California

- Los Angeles Transfer of Floor Area Rights (TFAR) is applied to approximately 25% of Downtown. This program allows for the purchase of floor area from sending sites. Most parcels in Downtown are restricted to a FAR of 6:1 FAR, so this transfer of floor area allows increased density and height in Downtown. The primary sending sights are the Los Angeles Convention Center and the Staples Center. As part of the TFAR process, applicants must provide a payment to the Public Benefits Trust Fund as well as a TFAR Transfer Payment.
- The City of Los Angeles is currently considering bolstering this program with a new Community Benefits Program during the Downtown Community Plan update. This program will work in conjunction with the TFAR program, but cover a much broader area of Downtown and operate similarly to a density bonus program.

#### King County, Washington

- Transfer of Development Rights (TDR) in King County is intended to conserve rural and resource lands. Sending sites must be zoned rural, agricultural, or forest and be located outside of an incorporated city. Any parcel that meets those qualifications may apply to be a sending site. Receiving sites are typically within partner cities, such as Seattle. King County maintains a constant TDR Exchange, which is a market-driven commodity exchange of TDRs.

#### Portland, Oregon

- The City of Portland permits Transfer of Floor Area if the sending site has all affordable units, preserves trees that are 12 inches or greater in diameter, or is a historic landmark. The receiving site must be zoned multi-dwelling.

- Within specific districts, floor area may be transferred from sites zoned with the Environmental Protection Overlay or sites within the special flood hazard area to areas that can accommodate the additional density without environmental conflict.

#### Austin, Texas

- The Land Development Code (LDC) allows for transfers of development rights (e.g., additional impervious cover or units in the uplands) in exchange for the dedication of environmentally sensitive areas to the City (e.g. Critical Water Quality Zones). The intent of this provision is to encourage dedication of riparian areas, both for enhanced protection (through management) and future connectivity of greenspace. The provision was first created by the 1986 Comprehensive Watershed Ordinance. It was refined and expanded during the 2013 Watershed Protection Ordinance to encourage additional participation. It is still used fairly infrequently.
- In addition, the redevelopment exceptions for the Barton Springs Zone and the Water Supply Watersheds also have a de facto TDRS component. The LDC allows for redevelopment of existing properties in the Barton Springs Zone and Water Supply Watersheds that do not comply with current watershed regulations. One of the conditions of using this exception is that the redevelopment must mitigate the high impervious cover level of the project by either purchasing land off-site, removing development rights from land off-site, or paying into a mitigation fund that is used by the City to purchase open space. There have only been a handful of projects that have utilized this provision since its original adoption in 2007.

Each city uses TDRS programs for different purposes, but all have a fairly large pool of sending and receiving sites. Additionally, there is a proven market demand for the transferred entitlements that accompany each TDRS program.