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## RESOLUTION NO.

**WHEREAS**, developments participating in the Downtown Density Bonus Program (DDBP) must commit to providing “Great Streets” standard streetscape improvements along all public street frontages as part of the minimum requirements; and

**WHEREAS**, properties within the Rainey Street Subdistrict of the Waterfront Overlay are eligible to participate in the DDBP; however, certain properties in this subdistrict front on Texas Department of Transportation (TxDOT) right-of-way, and the City cannot require streetscape improvements in TxDOT right-of-way; and

**WHEREAS**, TxDOT has denied Great Streets improvements along its right-of-way for these projects; and

**WHEREAS**, two Rainey subdistrict projects with frontage along TxDOT right-of-way seek to participate in the DDBP but cannot meet the Great Streets “gatekeeper requirements” of City Code Section 25-2-586(C)(1); and

**WHEREAS**, a fee-in-lieu provision for this specific circumstance could prove a benefit to developers while also providing funding for Great Streets elements; and

**WHEREAS**, the Downtown Density Bonus Program does not have such a provision for a fee-in-lieu; and

**WHEREAS**, Resolution No. 20200312-040 gave direction to the City Manager to do the following:

- Bring forward a recommendation for creating a fee-in-lieu option for the Great Streets requirement of the Downtown Density Bonus Program for

26 projects unable to provide such streetscapes due to other jurisdictional  
27 opposition to their construction.

- 28 • Bring forward a recommendation for establishing a fund into which such  
29 fees-in-lieu can be deposited and creating an administrative process for  
30 allocating these funds only for the provision of Great Streets within the  
31 areas of Downtown included in the Great Streets and Downtown Density  
32 Bonus Program boundaries.

33 **WHEREAS**, on July 7, 2022, the Director of the Housing and Planning  
34 Department provided a memorandum in response to this resolution (Fee-in-Lieu  
35 Memorandum), recommending the following:

- 36 1. Create a fee-in-lieu for properties located along TxDOT frontages that  
37 cannot comply with Great Streets standards in the range of \$55-\$60 per  
38 square foot of frontage along the TxDOT right of way.
  - 39 2. Adjust the fee for construction periodically, but not more than once per  
40 fiscal year, to account for increases in the cost of construction.
  - 41 3. Create an additional up-front, one-time cost in the amount of 10% of the  
42 cost for construction (\$5.50-\$6 per square foot) to cover maintenance of  
43 any Great Streets improvements, including landscape elements, trash  
44 receptacles, benches, bike infrastructure, and streetlights.
  - 45 4. Create a specific fund within the Public Works Department for the  
46 design, construction, and maintenance of Great Street CIP projects within  
47 the downtown area.
- 48

- 49           5. A deposit of the fee-in-lieu would be required to be posted to the fund  
50           prior to the issuance of a Certificate of Occupancy (CO) for the building;

51 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF**  
52 **THE CITY OF AUSTIN:**

53           The City Council initiates a code amendment to amend City Code Section  
54           25-2-586 (*Downtown Density Bonus Program*) to provide an alternative option for  
55           properties located along TxDOT frontages that cannot comply with Great Street  
56           Standards.

57 **BE IT FURTHER RESOLVED:**

58           The City Council directs the City Manager to incorporate the following  
59           recommendations from the Fee-in-Lieu Memorandum into the code amendment:

- 60           1. allow a fee-in-lieu for properties located along TxDOT frontages that  
61           cannot comply with Great Streets standards;
- 62           2. require a fee-in-lieu and one-time fee for maintenance of Great Streets  
63           improvements for properties that utilize the fee-in-lieu option; and
- 64           3. create a specific fund for the design, construction, and maintenance of  
65           Great Street capital improvement projects within the Downtown area.

66 **BE IT FURTHER RESOLVED:**

67           As soon as feasible and no later than October 13, 2022, the City Manager  
68           shall prepare the necessary code amendments to create a fee-in-lieu for properties  
69           located along TxDOT frontages that cannot comply with Great Streets standards.  
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71 **BE IT FURTHER RESOLVED:**

72 The City Manager shall present a fee schedule for approval by the City  
73 Council contemporaneously with the necessary code amendments.  
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75  
76 **ADOPTED:** \_\_\_\_\_, 2022 **ATTEST:** \_\_\_\_\_  
77 Myrna Rios  
78 City Clerk  
79