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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.

- 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.

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.
74

75 **ADOPTED:** _____, 2022 **ATTEST:** _____

77 Myrna Rios
78 City Clerk
79

DRAFT