



**February 9, 2023**

## Questions and Answers Report



Mayor Kirk Watson

Council Member Natasha Harper-Madison, District 1

Council Member Vanessa Fuentes, District 2

Council Member José Velásquez, District 3

Council Member Josè “Chito” Vela, District 4

Council Member Ryan Alter, District 5

Council Member Mackenzie Kelly, District 6

Council Member Leslie Pool, District 7

Council Member Paige Ellis, District 8

Council Member Zohaib “Zo” Qadri, District 9

Council Member Alison Alter, District 10

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## QUESTIONS FROM COUNCIL

**Items #3:** Approve an ordinance amending the Fiscal Year 2022-2023 Economic Development Department Operating Budget Special Revenue Cultural Arts Fund (Ordinance No. 20220817-004) to increase appropriations in the amount of \$2,654,892 for creative arts purposes.

### COUNCIL MEMBER A. ALTER'S OFFICE

- 1) *Please explain the source of the extra appropriations for items 3, 4, and 5. I assume HOT receipts exceeded expectations over a period of time prompting these appropriations and yet according to the fiscal notes we are appropriating the existing balances and not adding more money to each base fund at this time. Please also clarify how the totals for each appropriation (items 3, 4, and 5) were calculated.*

The HOT receipts transfer exceeded expectations in FY2021-22 from an estimated of \$10,239,763 to \$12,870,914 in actual receipts. Also, the FY2021-22 budget also included a one-time transfer from the Budget Stabilization Reserve Fund in the amount of \$4.8 million in anticipation of a possible shortfall. The increase was calculated based on the ending balance minus a 10% reserve. Accordingly, the total requirements available for FY2022-23 is \$12,894,655 which includes leftover ending balance plus program requirements.

**Item #3:** Approve an ordinance amending the Fiscal Year 2022-2023 Economic Development Department Operating Budget Special Revenue Cultural Arts Fund (Ordinance No. 20220817-004) to increase appropriations in the amount of \$2,654,892 for creative arts purposes.

### COUNCIL MEMBER VELA'S OFFICE

- 1) *What kinds of projects are eligible for this funding? For example, performances, festivals, award shows, conferences, studio/work spaces for creatives, business assistance/consulting for creatives, loans, health insurance, housing for creatives, organizations that support creatives, legal services (such as IP protection)?*

Austin utilizes the full 15% of statutory Hotel Occupancy Tax (HOT) funding for arts-related expenditures that have a direct impact on tourism and the convention and hotel industry. This budget amendment will bring the available Fiscal Year 2022-23 Cultural Arts Fund to \$12,894,655. The vast majority of the Cultural Arts Fund is deployed as direct funding to local artists and arts/culture organizations, and a small percentage is allocated for marketing, tourism, and administration as allowed by state law.

This funding supports artists and arts organizations producing and presenting a variety of public events and activities to promote tourism. Section 351.101 (4) of State Law allows this funding to be used for, "the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture,

design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.”

Per the City of Austin Cultural Funding Program’s general eligibility guidelines, arts and cultural activities of all artistic disciplines are eligible. The activities must take place in Austin or its Extra Territorial Jurisdiction and must be open to residents, visitors, and tourists of Austin as the funds are provided by the Hotel Occupancy Tax. The activities can be free or tickets/an admission fee may be charged. Performances and festivals are eligible. Studio/workspaces for creatives, business assistance/consulting for creatives, loans, and housing for creatives are not eligible. Award shows and conferences may be eligible if there is an artistic component, but generally only that artistic component would be funded. Organizations that support creatives, including by providing legal services, are eligible if the creatives are based in the Austin area. Health insurance in and of itself is not eligible. However, payments and benefits (including employer provided health insurance) to artistic/cultural staff are eligible. Similarly, arts education activities are eligible only if they culminate in some type of public performance or exhibition.

- 2) *What is encompassed by creative or cultural projects? Does that include performing arts such as stand-up comedy, improv, spoken word poetry, physical performances such as acrobatics, dance, cultural performances, etc.? Are non-English language performances eligible?*

All cultural projects that include an artistic component would be eligible, including the ones listed above and non-English language performances.

- 3) *Are projects to restore/renovate, preserve, or build new performance venues eligible for the funding?*

No. However, the Economic Development Department has other programs to support restoration, renovation, preservation, and/or building of new performance venues. Examples include the Creative Space Assistance Program and the Heritage/Preservation Grants.

- 4) *Has any of the funding already been awarded for FY22-23? If so, how much is remaining?*

No funding has been awarded. However, the Thrive Program completed the application, review, and selection cycle. The Economic Development Department will recommend distributing \$3.935 million in Thrive Program grant awards at the February 23 City Council meeting. If the recommendation is approved, there will be \$6 million remaining for Cultural Funding programs administered by the Cultural Arts Division in FY23. These funds will support the Elevate Program (\$5.75 million for 150 awards to support established cultural producers) and the Nexus Program (\$250,000 for 50 awards to encourage new talent).

- 5) *If any projects have already been funded, please identify any located in District 4, and how much funding each project is receiving.*

No projects have already been funded. However, staff reports will include the Council Districts for each recommended grant awardee.

- 6) *What resources does the City provide to assist applicants in participating in the program?*

Economic Development Department staff work closely with the Arts Commission, cultural organizations, and community partners to conduct outreach about programs and provide technical assistance.

For the most recent Thrive Grant, assistance included:

- **Awareness Sessions** (234 attendees):
  - Virtually (October 12, October 27, November 7)
  - In-person with various local hosts (October 22- Asian American Cultural Center, October 23 – KMFA, October 26 – East Austin Creative Coalition, November 1— Latinos in Architecture, November 3 – Austin Film Society).
- Online **Recordings** in both English (207 views) and Spanish (20 views)
- Hybrid **Open Office Hours** occurred every Tuesday (October 4 - November 29 with 9 attendees)
- Technical Assistance through **Community Navigator** Austin Revitalization Authority
- **Drop-in Help Days** (15 attendees):
  - Hybrid Zoom + EDD offices (November 18, November 21, December 1, December 2)
  - In person at African American Cultural Heritage Facility (November 19, November 20)

The Thrive Grant marketing summary included:

- 3 EDD **Newsletters** (over 5,000 on the list serve)
- 2 **direct** promotional **emails** to 559 organization contacts in the EDD CRM
- **Paid Social** Total Reach: 43,096 (5 posts across 3 EDD accounts - FB, IG, Twitter)
- Total Organic **Facebook** Reach: 15,247 (162 posts across 4 EDD Facebook Accounts)
- Total Organic **Twitter** Reach: 5,661 (81 posts across 2 EDD Twitter Accounts)
- Total Organic **Instagram** Reach: 1,785 (5 posts across 1 EDD Instagram Account)

**Item #4:** Approve an ordinance amending the Fiscal Year 2022-2023 Economic Development Department Operating Budget Special Revenue Cultural Arts Fund (Ordinance No. 20220817-004) to increase appropriations in the amount of \$2,654,892 for creative arts purposes.

#### COUNCIL MEMBER A. ALTER’S OFFICE

- 1) *Please explain the source of the extra appropriations for items 3, 4, and 5. I assume HOT receipts exceeded expectations over a period of time prompting these appropriations and yet according to the fiscal notes we are appropriating the existing balances and not adding more money to each base fund at this time. Please also clarify how the totals for each appropriation (items 3, 4, and 5) were calculated.*

The HOT receipts transfer exceeded expectations in FY2021-22 from an estimate of \$2,925,647 to \$3,675,020 in actual receipts. The increase was calculated based on the ending balance minus a 10% reserve. Accordingly, the total requirements available for FY2022-23 is \$4,100,000 which includes leftover ending balance plus program requirements.

- 2) *Please provide an overview of the goals, eligibility requirements, and funding timeline for the FY 23 Live Music Fund Event Program.*

The [Live Music Fund Event Program](#) encourages, promotes, improves, and showcases Austin's diverse live music industry through supporting live and online music events, recording studio production, video production, merchandise distribution (i.e., vinyl, compact discs, cassettes, posters) and music broadcasting (i.e., television, radio, podcasts) that can be marketed to local audiences, visiting and potential tourists, and conventions delegates. The program prioritizes Austin's professional musicians, bands, and independent promoters who produce and promote live and online music events, recording studio production, video production, merchandise distribution, and music broadcasting.

#### Goals/Core Principals

[Music Commission Recommendation 20201019-2bii](#) provided that a Preservation, Innovation and Elevation & Collaboration (PIE) fund be established from the Live Music Fund to create greater equitable economic growth in the music sector. Based on this direction, the core principals of PIE are incorporated in the Live Music Fund Event Program, the pilot program supported through the Live Music Fund.

#### Eligibility Requirements

- Priority is given to professional musicians and independent promoters living in the Austin area with the greatest need.
  - Eligibility Definitions:
    - Professional Musician (must meet at least one of the following requirements):
      - At least 2 years of documentation showing that applicant has regularly performed as a professional musician—solo or as part of a band—in live performances to public audiences, or
      - 6 released recordings (singles), or
      - 6 promotionally released music videos.
    - Independent Promoter (must meet all the following requirements):
      - No more than 3 staff, including main promoter, and
      - At least 2 years documentation showing that Applicant has curated and promoted live shows featuring musicians and bands, and
      - Must not be contractually tied to one venue.
- Eligibility Requirements:
  - Professional Musician:
    - Professional musicians who live in the Austin–Round Rock Metropolitan Statistical Area (MSA)—which includes Travis, Williamson, Hays, Bastrop, and Caldwell Counties—and perform solo, lead a band, or have an equal stake in a band.
    - Only one application per individual or band.
    - Musicians may perform in multiple bands receiving awards; however, the band leader / lead Applicant may only qualify for one application.
    - Activities proposed in the application must take place in a City of Austin Council District and/or the Extraterritorial Jurisdiction (ETJ) and include at least 51% performers who fit the COA definition for "Professional Musician" and live in the MSA.

- Compensates participating Professional Musicians and Creative Workers at least the City of Austin fair pay / Living Wage standard rates of pay, including:
      - Professional Musicians (\$200 / hour per artist)
      - Event / show Creative Workers (\$15 / hour)
    - Must be at least 18 years old to apply.
  - Independent Promoter:
    - Independent live music promoters who live in the Austin–Round Rock Metropolitan Statistical Area (MSA)—which includes Travis, Williamson, Hays, Bastrop, and Caldwell Counties—and regularly curate shows for audiences.
    - Only one application per promoter allowed.
    - Event activities proposed in the application must take place in a City of Austin Council District and/or the Extraterritorial Jurisdiction (ETJ) and include at least 51% performers who fit the COA definition for "Professional Musician" and live in the MSA.
    - Compensates participating Professional Musicians and Creative Workers at least the City of Austin fair pay / Living Wage standard rates of pay, including:
      - Professional Musicians (\$200 / hour per artist)
      - Event / show Creative Workers (\$15 / hour)
    - Must be at least 18 years old to apply.
- Eligible Expenses
  - Contractors
    - Accounting
    - Event, Studio, Video
    - Security (if separate from other fees)
    - Stage Crew (if separate from other fees)
  - Employee Salaries Dedicated to Project
  - Distribution Materials & Fees (Vinyl, Digital, Compact Disc, Cassette, Video)
  - Insurance – General Liability
  - Marketing
    - Advertising Paid Placements
    - Design Fees for Artwork
    - Project Merchandise
    - Posters, Banners, Signage
    - "Street Team" Contractors
  - Miscellaneous Project Expenses (please specify)
  - Lodging and travel to Austin for visiting artists/promoters
  - Performance Fees / Guarantees
  - Stage Lighting Rental (if separate from any Venue Rental Fee)
  - Stage Rental (if separate from any Venue Rental Fee)
  - Stage Sound Rental (if separate from any Venue Rental Fee)
  - Studio Production & Rental, excluding Capital Expenditures (see "Ineligible Expenses")
  - Supplies for Project Activities
  - Telephones / Internet
  - Venue / Office Rental

- Video Production & Rental, excluding Capital Expenditures (see “Ineligible Expenses”)

#### Funding Timeline

Applications for the will open in Spring 2023. Evaluations and scoring will be complete by Summer 2023. Grant agreements will be executed, and first payments sent to grantees, by the end of July 2023.

**Item #4:** Approve an ordinance amending the Fiscal Year 2022-2023 Economic Development Department Operating Budget Special Revenue Live Music Fund (Ordinance No. 20220817-004) to increase appropriations in the amount of \$525,000 for creative arts purposes.

#### COUNCIL MEMBER VELA’S OFFICE

- 1) *What kinds of projects are eligible for this funding? For example, performances, festivals, award shows, conferences, studio/work spaces for creatives, business assistance/consulting for creatives, loans, health insurance, housing for creatives, organizations that support creatives, legal services (such as IP protection)?*

The [Live Music Fund Event Program](#) encourages, promotes, improves, and showcases Austin’s diverse live music industry through supporting live and online music events, recording studio production, video production, merchandise distribution (i.e., vinyl, compact discs, cassettes, posters) and music broadcasting (i.e., television, radio, podcasts) that can be marketed to local audiences, visiting and potential tourists, and conventions delegates.

The program prioritizes Austin’s professional musicians, bands, and independent promoters who produce and promote live and online music events, recording studio production, video production, merchandise distribution, and music broadcasting.

Eligibility criteria for this program is available online at [www.austintexas.gov/atxmusic/live-music-fund-event-program](http://www.austintexas.gov/atxmusic/live-music-fund-event-program).

- 2) *What is encompassed by creative or cultural projects? Does that include performing arts such as stand-up comedy, improv, spoken word poetry, physical performances such as acrobatics, dance, cultural performances, etc.? Are non-English language performances eligible?*

The Live Music Fund Event Program supports projects considered part of the live music industry, which could include creative expressions like dance and spoken word poetry as part of a musical performance or project. English and non-English performances and projects would be eligible if they meet the eligibility criteria, which can be found online at [www.austintexas.gov/atxmusic/live-music-fund-event-program](http://www.austintexas.gov/atxmusic/live-music-fund-event-program).

- 3) *Are projects to restore/renovate, preserve, or build new performance venues eligible for the funding?*  
No. However, the Economic Development Department has other programs to support restoration, renovation, preservation, and/or building of new performance venues. Examples include the Creative Space Assistance Program and the Heritage/Preservation Grants.

- 4) *Has any of the funding already been awarded for FY22-23? If so, how much is remaining?*  
No funding has been awarded. However, the Economic Development Department plans to begin accepting applications for this program in Spring 2023.
- 5) *If any projects have already been funded, please identify any located in District 4, and how much funding each project is receiving.*  
No projects have already been funded. However, staff reports will include the Council Districts for each recommended grant awardee.
- 6) *What resources does the City provide to assist applicants in participating in the program?*  
The Economic Development Department will provide technical assistance to Live Music Fund Event Program applicants to ensure complete applications are submitted for consideration. This assistance includes regular virtual office hours, staff assistance related to program guidelines, and assistance from the Community Navigator Program.

For Live Music Fund Event Program awardees, staff will provide ongoing assistance to ensure all projects stay on track and are successful. Additionally, awardees will:

- Compensate participating professional musicians and creative workers at least the City of Austin fair pay / living wage standard rates of pay, including:
  - Professional musicians (\$200 / hour per artist minimum)
  - Project creative workers (\$15 / hour minimum)
- Agree to participate in technical assistance and other capacity building support provided by the City of Austin (e.g., business development, financial planning, etc.)
- Agree to participate in or host one professional development opportunity for the community (e.g., speaker, workshop, webinar, panel, etc.).
- Participate in the Undoing Systemic Racism Training provided through the City of Austin
- Submit an Austin Music Equity Strategic Plan to help undo policies and practices that have led to historic systemic inequities, with special attention paid to business ownership, employment, artist of color and genre development, and audience outreach and development.

**Item #5:** Approve an ordinance amending the Fiscal Year 2022-2023 Economic Development Department Operating Budget Special Revenue Historic Preservation Fund (Ordinance No. 20220817-004) to increase appropriations in the amount of \$2,120,446 for historic restoration and preservation purposes.

#### COUNCIL MEMBER A. ALTER'S OFFICE

- 1) *Please explain the source of the extra appropriations for items 3, 4, and 5. I assume HOT receipts exceeded expectations over a period of time prompting these appropriations and yet according to the fiscal notes we are appropriating the existing balances and not adding more money to each base fund at this time. Please also clarify how the totals for each appropriation (items 3, 4, and 5) were calculated.*



The HOT receipts transfer exceeded expectations in FY2021-22 from an estimated \$13,165,410 to \$16,545,934 in actual receipts. The increase was calculated based on the FY 2021-22 ending balance minus a 10% reserve. Accordingly, the total requirements available for FY2022-23 is \$20,771,677 which includes leftover ending balance plus program requirements.

**Item #11:** Authorize negotiation and execution of a cooperative contract to provide law enforcement software application products and services, with LexisNexis Risk Data Management LLC d/b/a LexisNexis Risk Solutions, for a term of five years in an amount not to exceed \$1,800,000. [Note: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C (Minority Owned and Women Owned Business Enterprise Procurement Program). For the goods and services required for this procurement, there were insufficient or no subcontracting opportunities; therefore, no subcontracting goals were established].

COUNCIL MEMBER FUENTES'S OFFICE

- 1) *For clarity, does this contract give the City of Austin access to LexisNexis data or does it give LexisNexis access to City of Austin data? Or both?*

APD will push limited data from the records management system to LexisNexis. This data will not contain any criminal justice information (CJI). LexisNexis will share data they collect from various public sources as well as other participating law enforcement departments' records with APD.

**Item #13:** Authorize execution of five contracts for grounds maintenance with Incircle Management Inc.; Corza Construction LLC; Unity Contractor Services, Inc.; Pyramid Contracting Services, Inc., and Abescape Group LLC, each for a term of five years in an amount not to exceed \$28,000,000, divided among the contractors.

COUNCIL MEMBER R. ALTER'S OFFICE

- 1) *To what extent do these proposed contractors utilize zero-emissions landscaping equipment for non-emergency maintenance operations and what plans exist to increase the utilization of low or zero-emissions equipment by landscaping contractors of the City?*

Currently, it's most common for contractors to use battery-powered electric equipment for hand tools, such as saws. Watershed estimates 10 – 20% of equipment used by the current contracted vendors are low emissions equipment. Emissions is an important topic for Watershed leading to the creation of programs such as the wildflower meadow program. Through this program, Watershed staff identify properties to seed with native species and reduce the number of times each property is mowed. The City currently has over 214 acres managed as meadows, and the area grows every year.

Additionally, per the Scope of Work published with the solicitation:

Scope Section 4.1: "The City values innovative approaches to reducing the impact on the natural environment through use of alternative energy, low-emission equipment, biodegradable chemicals, or items with recycled content. City Council resolutions #20071129-045 and #20070215-023 relate to the adoption of sustainable business practices that reduce chemical

and greenhouse gas emissions, comply with Leadership in Energy and Environmental Design (LEED) standards, and promote the use of recycled materials in goods and services purchased by the city.”

Scope Section 4.2: “The Contractor shall establish and demonstrate their landscaping and maintenance practices to limit the impact of equipment emissions, excessive noise, and use of fertilizers, insecticides, or other chemicals and any other practices that negatively affect the wildlife or environment of the areas referenced in this Scope of Work.”

Scope Section 6.8.3.2: “Any equipment deemed unacceptable by the City for use with this contract due to failures that include, but are not limited to, continuous equipment malfunctions, excessive noise, unacceptable emissions, and leaking or spillage, shall be replaced at the Contractors expense prior to the next scheduled visit.”

As for grounds maintenance and landscaping contracts in general, the Sustainability Office is currently collaborating with Financial Services Department on updating the City’s sustainable and environmental preferable procurement program, as a component of the City’s Climate Action Plan, to develop standards for products and services targeted in this program to limit emissions, noise and contamination levels for grounds maintenance and landscaping products and services.

**Item #28:** Authorize negotiation and execution of an amendment to a legal services agreement with Denton Navarro Rocha Bernal & Zech, P.C. for representation in connection with the City’s public safety labor contract negotiations in the amount of \$200,000, for a total contract amount not to exceed \$600,000.

COUNCIL MEMBER VELA’S OFFICE

1) *Our understanding of the public safety labor contract negotiations is that they have been handled by the Law department, the Labor Relations Office, and the City Manager’s Office. What is the nature of the legal services being provided by this law firm in relation to the ongoing public safety contract negotiations?*

In addition to the city resources you name above, the City has historically used an outside law firm to assist with labor negotiations. The Denton Navarro firm and the individual attorneys in that firm who support the City’s labor negotiations are recognized subject matter experts in labor contracts for Texas local governments. They have firsthand knowledge of the contents of current and historical labor contracts for a very large number of local governments throughout Texas, and firsthand knowledge of how different local governments have addressed the common issues that arise in public safety labor negotiations across the state. This firm provides both important background information and overall guidance on negotiation strategies, and often serves as a City spokesperson during negotiations.

**Item #42:** Approve a resolution initiating amendments to City Code Title 25 related to disaggregation of substandard lots and lots that qualify for small-lot amnesty.

COUNCIL MEMBER R. ALTER’S OFFICE

1) *How many substandard lots or lots that qualify for small-lot amnesty exist city-wide?*

Development Services Department enforces substandard lot and small lot amnesty regulations. Staff apply certain rules when reviewing plans for these lots, however the department does not track the number of plans that are subject to these regulations nor the number of these lots that might exist city-wide.

**Item #77:** Approve an ordinance authorizing the building official to exempt certain electrical activities from permit requirements, extending the deadline for certain permit applications, waiving registration requirement for electricians, and declaring an emergency.

COUNCIL MEMBER FUENTES' OFFICE

1) *Describe the types of electrical activities that are exempt from permitting requirements.*

There are a number of electrical activities that can be performed without an electrical permit. In addition to the items already exempted from permitting requirements, this ordinance will allow the Building Official to evaluate other minor repairs required to restore power and determine if a permit is required. Work that may be performed without an electrical permit must comply with all applicable federal, state, and local requirements.

Under current code, an electrical permit is not needed:

- a) to replace an approved cable or cord and plug connected to a motor or portable appliance;
- b) to replace components of approved equipment or a fixed approved appliance of same type and rating, in the same location;
- c) to install temporary holiday decorative lighting;
- d) when the maximum voltage is 480 and the maximum ampacity is 30, to replace a snap, single, three-way, or four-way or dimmer switch, receptacle, ceiling paddle fan, or luminaire;
- e) to reinstall a receptacle with a ground-fault circuit interrupter receptacle, a tamper-resistance receptacle, an arc-fault circuit interrupter receptacle, or weather-resistance receptacle;
- f) when the service will not be de-energized, to replace an overcurrent protection device or fuse of same voltage and amperage and in the same location;
- g) to repair or replace an electrode or transformer of the same size and capacity for a sign or gas tube system;
- h) to replace insulating material to a splice;
- i) to remove electrical and communication wiring;
- j) to install temporary wiring for experimental purposes in a suitable experimental laboratory;
- k) to install wiring for a temporary theater, motion picture, or television stage set;
- l) to install or repair an electrical device, appliance, apparatus, equipment, or electrical wiring operating at less than 25 volts and not capable of supplying more than 50 watts of energy;

- m) to install or repair a low-energy power, control and signal circuit of Class II or Class III as defined in the 2020 Electrical Code;
- n) for the following activities, if performed in connection with the transmission of electrical energy: to install, alter, or repair electrical wiring, apparatus, equipment, or the generation, transmission, distribution, or metering of electrical energy;
- o) to operate signals or to transmit intelligence by a public or private utility in the exercise of its function as a serving utility; or
- p) except for activities related to electrical service, for electrical work in a building or structure owned and occupied by the State of Texas or the federal government.