MEMORANDUM

TO:	Mayor and City Council
THROUGH:	Ed Van Eenoo, Chief Financial Officer
FROM:	Kimberly Olivares, Director of Financial Services/Deputy CFO
DATE:	May 17, 2024
SUBJECT:	**Staff Response to Sub Quorum Cap and Stitch Funding Proposal**

The purpose of this memo is to provide the staff response to each element of the "Potential Cap Funding Options" presented at the May 6, 2025, Council Work Session on behalf of a sub quorum of Council. The presentation included seven proposed funding sources totaling $433.5 million to fund the $410 million needed to cap the IH35 highway from Cesar Chavez to 7th Street and the roadway elements for all caps south of the Red Line Parkway. This memorandum fulfills a portion of the proposed item from council (IFC) included on the May 22 Council agenda addendum directing staff to further explore this proposal.

On or before May 30, 2025, the Texas Department of Transportation (TxDOT) requires Council to vote on a funding commitment for the design and construction of roadway structural supports at specific cap deck locations. Should the City desire any "caps," it must commit to the roadway supports by the end of May 2025. This funding commitment will substantiate the construction scope of work that TxDOT will "let," also known as advertising for construction bids. TxDOT has represented to the City that there will be no future opportunity to change the number, location or size of roadway structural supports in the construction design and bid documents after the May 30th date.

Council also has the opportunity on May 22, 2025, to determine which cap decks to fund and thus be included in TxDOT's construction letting package in Summer 2026. If Council commits to fund certain cap decks to be included in TxDOT's construction letting package, the decks' "design fee" will be required by Council, and funds are due to TxDOT by Fall 2026. After May, Council can choose to fund the design and construction of cap deck(s) at locations where the City has committed to fund the structural roadway elements any time before 2032 when TxDOT's construction window closes. The change order(s) could add 35% or more to the cap costs. All City payments for construction are dispersed to TxDOT at increasing amounts starting in 2026 through 2033. This allows staff to time any related debt issuances accordingly as well as seek out other potential funding sources. Council action on May 22 is the foundation of the contractual obligation with TxDOT (Advanced Funding Agreement or AFA) to fund the roadway elements although payment for that commitment comes at a future date. Future Councils may choose to fund cap deck design and construction as funding becomes available and subsequent contracts with TxDOT are executed, but only for those locations that Council has already committed to funding the roadway elements and at substantial additional cost.

Street Impact Fees: $10 million (slide #3)

- ***Prioritize the next $10 million in SIF collected from areas I, J, and DT***
- ***Approximately 2-3 years' value***

Staff Response:

The purpose of the Street Impact Fee (SIF) program is to mitigate traffic impacts of new development by funding roadway capacity improvements. The proposed Cap and Stitch project over I-35 does not meet this purpose. The Cap and Stitch project is focused on enhancing urban design and multimodal connectivity — not the expansion of roadway capacity. Chapter 395 of the Texas Local Government Code allows collected SIF to be used only for the costs of constructing capital improvements or facility expansions identified in a Capital Improvement Plan for "roadway facilities."

The term "roadway facilities" is defined narrowly as arterial or collector streets on an officially adopted roadway plan of the political subdivision, along with associated improvements. While it can include the City's share of improvements to the state or federal highway system, such improvements must expand vehicular capacity to serve new development. Because the Cap and Stitch project does not increase vehicular capacity, it does not qualify as a roadway facility under Chapter 395.

Furthermore, the caps are not currently included in the City's adopted Roadway Capacity Plan and are not located within a designated SIF Service Area. Since the Cap and Stitch project does not involve new or expanded roadway facilities, it would not qualify for inclusion in a designated SIF Service Area in the upcoming update to the Roadway Capacity Plan. As a result, the Cap and Stitch project is ineligible for SIF funding.

For further context, please refer to staff response to Question #71, Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov.

Temporary Use of ROW Fees: $24.5 million (slide #4)

- ***Increase of the temporary use of ROW fee (TURP) by 25%***
- ***Use 7 years of the value from this additional increment***

Staff Response:

The Temporary Use of Right of Way (ROW) permit generates revenue based on short-term use of public right of way, primarily driven by development activity. The purpose of the fee includes compensating the City for the non-City use of municipal property. Before raising this fee, the City must complete an analysis to determine the legally appropriate fee levels and extent to which the fee can be raised.

In Fiscal Year 2023, the City of Austin collected a record $22.3 million due to elevated development levels and a fee adjustment. However, revenue declined by $8 million in Fiscal Year 2024 following reduced usage of the ROW. This trend in lower revenue and usage has persisted in the current fiscal year. Given the volatility of this funding source and its strong ties to development trends, a 25 percent increase to the fee does not guarantee a corresponding 25 percent increase in revenue.

For additional context on the prior Q&A answer linked below, the Convention Center does not pay Temporary ROW fees as part of the project as such payment would be for City use and therefore outside of the framework for Temporary ROW fees as discussed above. In addition, such payments would not generate additional revenue for the City since they would already be City funds.

For further context, please refer to staff response to Question #66, Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov.

Car Rental Tax: $100 million (slide #5)

- ***Car rental tax currently supports bonds for the Palmer Event Center and garage. Bonds expire in 2029***
- ***Dedicate this funding to revenue bonds***
- ***Requires an election; Can occur prior to 2029***

Staff Response:

Staff's response to Question #74 posted to Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov explained that the 5% Special Motor Vehicle Rental Tax (Tax) was authorized by a voter-approved election on November 3, 1998. This tax, along with Palmer Event Center (PEC) facility and parking revenues, is pledged for debt service and operations of the PEC through FY 2030. The use of the tax funds must be in accordance with the venue project use approved by the voters.

To use the Motor Vehicle Rental Tax on the I-35 caps, the caps or the portion of the caps that the Tax is used on would need to be part of a venue project of the City under Local Government Code Chapter 334, Subchapter E. Venue projects have legally specific definitions under the statute and under that Chapter, infrastructure is only eligible to be part of the venue project if it is related to a venue. The City would need to go to the voters to approve that re-authorization of the tax including that venue project in the scope of the uses approved by the voters. Per Chapter 334, a municipal park and any of its included features/structures are not an eligible venue project for Motor Vehicle Rental Tax.

The election on the new venue project and re-authorization of the car rental tax rate may be held prior to the expiration of the current bonds. Any proposed bond issuance is contingent on (a) the new venue election, (b) repayment (through final maturity or early redemption) of the existing, outstanding bonds, and (c) revenues sufficient to support both venue projects. The existing bonds are currently outstanding at a 1.875% interest rate and final maturity is currently scheduled for November 15, 2029. PEC bonds were refunded in 2016 which upheld the bond ordinance and covenants established in the May 12, 2005 Official Statement. The bond ordinance requires that all revenues from the 5% Special Motor Vehicle Rental Tax, PEC parking revenues and facility revenues be used to pay debt service, fund a debt service reserve account, a repair and replacement account, operations of the PEC (facility and garage), and an operating reserve. The PEC is one of three rental facilities managed by the Austin Convention Center Department. As the Austin Convention Center undergoes closure and expansion from April 2025 to Spring 2029, it is critical that PEC remains fully operational to meet event and community demand and uphold financial obligations.

The PEC is also an aging facility. In addition to ongoing debt service obligations, and operational costs, the department is budgeting approximately $17 million for capital improvements to both the facility and its garage. Planned investments include roof replacement, new concession areas, and structural enhancements to the garage—all aimed at preserving the long-term viability of this community asset. Given increased utilization and escalating maintenance costs, diligent and strategic financial management of the PEC remains imperative. Although the defeasance of debt is permitted per the bond ordinance, it is not feasible under current circumstances.

Finally, if the designation of a venue was possible in this scenario, the motor vehicle rental tax funds would likely remain unviable for current needs because they would not be available until after FY 2031.

For further context, please refer to staff response to Question #74, Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov.

Redbud Trail Bridge Bond: $37 million (slide #6)

- **Redirect funds from this project to the caps**
  - **This is within the allowable uses in the contract with the voters**
- **Projected cost to build far exceeds available revenue**
  - **Likely need to include additional funds in 2026 bond**
- **Justification for replacement**
  - **Old**
  - **Impassible during high water event, but alternate route exists**

Staff Response:

Redirection: From a bond funding perspective, voter approved bond funds can be reallocated between projects if both projects fall within the project description included in the related proposition and any supplemental contract with the voters. If Council takes any steps after an election to commit funds to certain projects, the reallocation of funds may require subsequent Council action. In addition, the contract with the voters approved as part of the 2018 bond program, includes the Redbud Trail Bridge as a named project and reallocating funds from this project could result in legal risks.

Cost Estimates: The most recent project estimate for Redbud Trail Bridge over Lady Bird Lake was reduced to $32M (construction only) through substantial value engineering and a significant reduction in project scope. The two bridge structures in this location are now 74 years old, well beyond their life span, and need to be replaced. Full funding is available for design, easements, utility work, and permits; however, only about $10M remains available for construction.

Approximately $22M in additional funding is still needed for construction. The original 100% design is complete but will have to be significantly revised due to the required value engineering to reduce project cost. Staff are researching additional opportunities to further reduce the cost, possibly within the available funds. To facilitate this effort, staff will procure a detailed analysis and load testing assessment by a professional engineering firm and provide a recommendation based upon the results.

Based on the current cost estimates, redirecting $37M from this project to cap and stitch would increase the project's funding gap from $22M to $59M and thus require a larger GO bond commitment in a future bond election. As a result, it does not positively impact the overall debt capacity limitations for the City.

For further context, please refer to staff response to Question #69 and Question #70, Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov.

Convention Center Expansion: $171 million (slide #7)

- **Cesar Chavez – 4th St. cap enhances the use and appeal of the Convention Center**
  - **Natural extension of the CC space for use by attendees**
  - **Could incorporate limited CC programming**

Staff Response:

Based on the financial modelling completed by PFM, it is not feasible to add this level of funding to the project. Additionally, the Cesar Chavez cap has thus far not been included as part of the Convention Center project, and as such is not an eligible use of the funding sources for the convention center project. Even if the cap were to be added to the project, its eligibility for fund utilization would depend on the revenue type at issue. Each of these points is further explained below.

Adding Costs to the Current Budget

The Convention Center expansion project, with an estimated budget of approximately $1.6 billion, has reached a key milestone with demolition of the existing facility now underway. The Convention Center and project team have worked carefully to manage costs, including refining the current scope to fit within available resources while maintaining a plan for full build-out in the future. At this stage, the project budget is fully committed to delivering the expansion as currently planned. Adding $171 million to the project would compromise the project's financial viability. Given the scale and complexity of the effort, maintaining the current funding structure is critical to ensuring the project's completion.

Additional Capacity.

In August 2019, the Austin City Council approved an increase in the municipal Hotel Occupancy Tax (HOT) rate from 7% to 9% to support the expansion of the Austin Convention Center. This 2% increase under Chapter 351, combined with the existing 4.5% Chapter 351 HOT and revenues from the Project Financing Zone, forms the basis of the project's financing.

The current financial plan anticipates issuing multiple series of bonds between 2025 and 2029, aligned with construction progress and cash flow needs. Bonding capacity is being modeled with a focus on maintaining a minimum debt service coverage ratio of 1.25x—consistent with the threshold for an "A" credit rating. The Convention Center credit is currently rated "A," supported by strong HOT revenue performance, healthy coverage ratios, and sound financial management

The expansion is currently being modeled with a debt issuance of $1.25 billion, and staff are in active conversations with bond underwriters around this capacity. Based on projected HOT revenues, this is believed to be the maximum amount that can be supported through debt financing under current conditions. Slower-than-expected HOT revenue growth in FY 2025, combined with the sizeable expansion budget, has resulted in tight revenue projections. The first issuance will occur in the fall of 2025. This will allow the project to remain on schedule and is critical to the overall success of the project and the budget Preliminary estimates suggest that HOT revenues in FY 2026 will be sufficient to meet the debt service requirements, but the coverage ratio remains narrow. Financing assumptions include a 5.5% interest rate and reserve funding requirements, which contribute to current limitations on adding further debt to the budget.

Increasing bond repayments from 30-years to 40-years modestly enhances bonding capacity from $1.25 to $1.3 billion. However, at this point in our modeling, that lever is helpful **only** for the *existing* expansion budget as staff continue modeling different options to improve debt service coverage and ratings on the expansion project. It is also important to note that increasing the repayment period by 10 years and principal amount by $50 million also increases the total interest expense from $1.44 billion to $2.235 billion. Based on the combination of a constrained project budget, the condition of capital markets, and ever-changing tariff situation, the City's financial team cannot recommend utilizing the convention center expansion budget to support the caps.

Funding Sources:
4.5% Chapter 351 HOT: **Tax Code Chapter 351 prohibits HOT use for general government operations.**

Tax Code Chapter 351 stipulates HOT revenue may not be used for the general revenue purposes or general governmental operations of a municipality. Chapter 351 requires HOT assessed under this chapter must **first** meet the criteria of directly promoting tourism and convention and hotel industry, **and** also fall into one of the authorized categories, not all of which are applicable to Austin. Those categories allowable in Austin include:

- the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- 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;

- historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
    - at or in the immediate vicinity of convention center facilities or visitor information centers; or
    - located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
- signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;
- transportation of tourists from hotels to area attractions.

The I-35 caps would not be eligible for the 4.5% HOT under Section 351.101 if they do not fall under one of the listed categories.

2% additional Chapter 351 HOT (approved 2019): These funds are only available for the construction of an expansion of the City's existing convention center facility. As stated above, Council formally approved an ordinance raising the municipal HOT by 2% in support of an expansion of the Austin Convention Center in 2019 (Ordinance No. 20190808-148). The funds must be used in accordance with that ordinance. The I-35 caps were not included in that ordinance.

Project Financing Zone (PFZ) revenues: PFZ funds can be used for infrastructure related to a convention center expansion project. However, the I-35 caps have not been included as related infrastructure in the convention center project.

In December 2024, Council adopted Project Financing Zone #1 (Ordinance No. 20241212-005). A Project Financing Zone (PFZ) allows an eligible municipality to create a 3-mile zone centered around a qualified project in which the increment – or growth – in the State's hotel-associated revenues from all hotels within the PFZ's boundaries can be captured and used by a city for a 30-year period for investment in qualified projects. Hotel-associated revenues include the State's hotel occupancy tax, sales tax revenue, mixed beverage sales tax revenue, and mixed beverage gross receipts tax revenue collected from hotels and businesses located within hotels. Unlike standard HOT revenues which flow from the hotel customer through the hotels to the City, the PFZ revenues flow from the taxpayers to the State Comptroller then to the City. The State Comptroller therefore has control of the PFZ funds until the City demonstrates it has established an eligible use.

Texas Tax Code section 351.1015 governs what constitutes a qualified project and what expenses are eligible uses of the Zone revenues, which can include infrastructure related to the qualified project. The currently approved Austin Project Financing Zone #1 includes the following projects: the Austin Convention Center, the Palmer Events Center, and the Long Center. Of these, only the Austin Convention Center has been approved as "commenced" under the Comptroller's definition, and thus, is the only project that PFZ revenues can be pledged toward currently. That approval came from the Notice to Proceed (NTP) document signed by the City's construction firm for the project. The geographic limits of construction are shown on the approved site plan and set the boundaries of the project. The NTP was based on the scope of work related to that site plan, which consists solely of the six city blocks of the existing convention center. The I-35 caps were not included in the boundaries of the project. Modifying the Convention Center project to include the I-35 Caps could require many modifications of the underlying project documents, risking the project and debt issuance schedules. The first issuance will occur in the fall of 2025. This will allow the project to remain on schedule and is critical to the overall success of the project and the budget

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ACE Funds: $50 million (slide #8)

- **Austin Convention Enterprise (ACE) debt retired in 2034**
    - **After debt retirement, ~$20 million available/year**
    - **Could pledge a portion of those funds for revenue bonds**

Staff Response:

The final payment towards the First and Second Tier bonds issued by ACE is scheduled for January 1, 2034. Council cannot take an action now that commits a future Council to use funds that will not become available until 2033-2034. Additionally, it is impossible to predict the amount of revenue that will be available to the City in 2033-2034 once the debt obligations for the Hilton Austin Hotel are paid. Please refer to staff response to Question #76 for additional context: Our Future 35: Council Cap & Stitch Questions | AustinTexas.gov.

State Infrastructure Bank Loan: $41 million (slide #9)

- ***Already secured by TPW***

Staff Response:

The previously awarded $41 million State Infrastructure Bank (SIB) loan terms include a repayment period of up to 20 years and 3.54% interest rate. These terms are comparable to the GO debt the City currently issues. The total cost to the City, including principal and interest, is approximately $57 million. Because the debt service portion of the property tax rate will repay the principal and interest, it is included in the calculation of the City's overall GO debt capacity.

Should you have additional question, please contact Kimberly Olivares, Director/Deputy CFO at Kimberly.Olivares@austintexas.gov or (512) 974-2924 or Christine Maguire, Redevelopment Division Manager, Financial Services at Christine.Maguire@austintexas.gov or (512) 974-7131.

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