





## MEMORANDUM

**TO:** Mayor and City Council

**THROUGH:** Robert Goode, P.E., Interim Assistant City Manager 

**FROM:** Richard Mendoza, P.E., Director, Austin Transportation and Public Works 

**DATE:** December 8, 2023

**SUBJECT:** TxDOT I-35 Cap & Stitch: 30 Percent Design Advance Funding Agreement and Community Project Funding Advance Funding Agreement

---

We want to share with you information regarding two I-35 Cap & Stitch items on the December 14, 2023, Council agenda. In addition to providing context for these items and upcoming project milestones, the memo also addresses questions raised by Council at the November 7, 2023, work session Cap & Stitch briefing regarding funding tools/options and an overview of the funding utilized for the Klyde Warren and Southern Gateway Caps in Dallas (appendix A).

**Design Funding** - Item # 20231214-61 authorizes the City Manager to negotiate and execute an advance funding agreement (AFA) with the Texas Department of Transportation (TxDOT) for the city to contribute \$15.4M to start the design and associated work for the I-35 cap and stitch structures to be integrated into the I-35 CapEx Central Project Per the November 7 briefing, caps and stitches to be included in this design work are:

- Holly St. Stitch
- Cesar Chavez-4<sup>th</sup> St. Caps
- 4<sup>th</sup>-7<sup>th</sup> St. Caps
- 11<sup>th</sup>/12<sup>th</sup> St. Cap
- 32<sup>nd</sup> St. Stitch
- 38<sup>th</sup> ½ - Airport Blvd. Caps
- 51<sup>st</sup> St. Stitch
- Woodland Avenue (redesign removed stitch)

The total amount required by TxDOT to fund 30 percent design and associated work for these caps and stitches is \$15,445,000. If future prioritization and phasing analysis determines that the City will not move forward with the construction of all potential caps and stitches listed above, TxDOT will apply any remaining, unused design funds toward future City funding commitments. This includes the balance of \$19M required by TxDOT by December 2024 to complete the cap and stitch 100 percent design.

City staff will work closely with TxDOT throughout the technical design and engineering process to ensure that City objectives are met.

**Community Project Funding AFA** – Item # 20231214-60 is an amended resolution to enter an AFA with TxDOT to accept federal earmark funding in the amount of \$1.5 million.

On December 8, 2022, Council passed Ordinance No. 20221208-54 authorizing the advance funding agreement to support design and engineering of highway caps and stitches and the development of community benefits and amenities. This Community Project Funding was secured through sponsorship from Congressman Lloyd Doggett and will be administered by TxDOT.

This amended AFA is a clean-up of the previous Council ordinance and action on December 8, 2022, which did not specify signatory authority that the City will be responsible for any cost overruns beyond the estimated costs, nor did the previous ordinance reference the required 10 percent local match. These updates will allow the AFA to be fully executed with TxDOT. Staff intends to use these funds to support community-wide engagement and outreach in 2024 (see below).

#### **Upcoming Cap & Stitch Milestones** – *Design and Construction Schedule*

Upon City commitment to fund design via this resolution and AFA in December 2023, TxDOT will commence coordination with City staff on the structural design work for City-sponsored caps and stitches in early 2024. The projected project timeline is as follows:

- January 2024 – Begin structural design coordination
- December 2024 – Additional amount up to \$19M due from City to complete (100%) design
- Spring, 2026 – 100% design complete
- Fall, 2026 – TxDOT roadway construction begins (Holly St. – US 290 East)
- 2027 – Deadline for City-funded change orders
- 2032 – TxDOT target for any City-sponsored, separate contract for cap & stitch construction (if needed)
- Spring 2032 – MLK to US 290 East roadway and cap construction complete (City amenity construction may begin)
- Fall 2032 – Holly St. to MLK roadway and cap construction complete (City amenity construction may begin)

#### *Additional Upcoming/Ongoing Cap & Stitch Efforts*

*Construction Prioritization/Phasing Strategy* – As presented at Council on November 7, 2023, TxDOT is allowing the City flexibility regarding how construction of cap & stitch elements are phased. Potential scenarios include:

- Constructing vertical support and roadway elements only, as a preliminary phase, with horizontal deck and fire/life-safety elements constructed in a subsequent phase.
- Constructing all vertical, horizontal, and fire/life-safety elements as a preliminary phase, with construction of surface amenities in a subsequent phase.<sup>1</sup>

---

<sup>1</sup> TxDOT has stipulated that TxDOT construction must be complete before City contractors may begin surface amenity construction.

As such, City staff will commence work in early 2024 to develop for Council consideration a prioritization/phasing strategy for City-funded cap and stitch elements. This strategy will be developed with Council input regarding prioritization and may include a blend of phasing approaches across the various cap and stitch opportunities. It will also provide funding and timeline implications for these various phasing options for Council consideration.

*Our Future 35 Vision and Goals and Equitable Development Strategy*

Since late 2022, City staff has begun work with residents and stakeholders to identify community members' goals and desired outcomes for new caps and stitches in Austin. This initial, preliminary input was intended to provide a foundational starting point for commencing robust, community-wide public engagement in 2024. Articulating and documenting community members' vision and goals for new caps and stitches will help us ensure that future cap amenity designs truly reflect the community's desired outcomes. Staff are currently developing a public engagement plan for this effort (to be funded with Federal Community Project Funding) and look forward to sharing more about this upcoming work with the City Council. We will schedule meetings with each Council office in early 2024 to seek input on this next step.

**Funding Tools/Options for I-35 Cap & Stitch**

If Council chooses to authorize the AFA with TxDOT for 30 percent design of cap and stitch structures, there are two associated funding actions required at the December 14, 2023, Council meeting:

1. A capital budget amendment in the amount of \$15.4M (Item #20231214-62), and
2. A reimbursement resolution expressing the City's intent to reimburse itself through a future bond issuance (Item #20231214-10).

The reimbursement resolution is an IRS requirement that preserves the City's ability to issue tax-exempt bonds for this expense. However, the reimbursement resolution does not require that the City issue tax-exempt bonds. The options for reimbursing the expense would include (in order of preference):

- Federal grant funds
- TIFIA loan
- Voter-approved bonds
- Cash from reserve funds or the operating budget of the Transportation and Public Works Department or the General Fund (only recommended if design work proceeds but the project does not get built)
- Certificates of obligation (not recommended)

Please contact Richard Mendoza, Transportation and Public Works Director regarding any questions on this matter at (512) 974-2488 or Ed Van Eenoo, CFO, for finance questions at (512) 974-2638.

cc: Jesús Garza, Interim City Manager  
Ed Van Eenoo, Chief Financial Officer

## Appendix A.

### State and Federal Funding for Klyde Warren and Southern Gateway

At the November 7 Council briefing, a question was raised regarding the types of State and Federal funds used to help construct Klyde Warren Park and Southern Gateway in Dallas, and the potential applicability of those funding sources toward Austin's Cap & Stitch effort. Below are funding streams applied toward the Dallas freeway parks that may be applicable toward Austin's effort.

- *Category 7 Surface Transportation Block Grant (STBG)* is Federal funding allocated to CAMPO by formula (roughly \$37M/year) and administered by the Transportation Policy Board (TPB). Category 7 funds were used to help fund caps in Dallas and are the most flexible/relevant discretionary funding source to support cap projects. CAMPO conducts a Call for Projects to award funds as they become available, with the last call awarded in 2018.

The Category 7 funds previously awarded in 2018 were deferred in 2020 by the CAMPO TPB in order to contribute \$160.5M towards the \$4.9B Capital Express Central project. Current funds have been fully allocated by CAMPO to the TxDOT highway project and there are no remaining funds available at this time. The next call for Category 7 funds is anticipated to take place in 2024. However, before allocating funding to new projects, the CAMPO TPB has committed to refunding the remaining deferred projects from 2018, potentially accounting for a vast majority of available funds in 2024. There are two City of Austin projects on the deferred projects list: Lakeline Blvd Expansion and West Rundberg Extension, for a combined total of approximately \$20M.

If eligible elements of TxDOT's Capital Express Central project are funded by other categories, such as Category 10, the existing Category 7 funds currently allocated to the TxDOT project could be considered for the caps and stitches. Additionally, the Category 7 funds that are anticipated to refund the Lakeline Blvd Expansion and West Rundberg Extension, valued at \$20M, could be reallocated to the Cap & Stitch in 2024. Lastly, future applications for Category 7 funds could be submitted when they become available.

- *Category 9 Transportation Alternatives (TA) Set-Aside funds* are Federal funds administered by both CAMPO and TxDOT. Dallas' Klyde Warren Phase I project received \$20M in Category 9 funds (then called Transportation Enhancement Program). TxDOT and CAMPO administer Category 9 funds through separate calls for projects. The 2023 TA Call for Projects administered by TxDOT awarded \$345M to 83 projects across the state (the City of Austin was awarded \$11.3M in Category 9 funds to expand and enhance the Metro Bike program).

The 2023 TA Call for Projects included all available and anticipated future funds from FY22-23 through FY24-25. The next call is anticipated to be in two years when new Category 9 funds will be available. CAMPO has not held a TA Call for Projects in recent years but has made commitments to fund several projects using their allocation of Category 9 funds. CAMPO receives a Federal apportionment of Category 9 funds yearly between \$2M to \$4M but it is unclear when new funds will be available. As future funding becomes available in 2025 and

beyond, applications could be submitted to CAMPO and TxDOT to fund eligible activities on caps and stitches.

- *Category 10 Supplemental Transportation Programs*, including several sub-programs such as the Carbon Reduction Program (CRP), are Federal funds administered by both CAMPO and TxDOT. The CRP is a new program created by the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA), which provides funds for projects designed to reduce transportation emissions. The Texas apportionment is an estimated \$529M to be used over a five-year period (FY 2022 to FY 2026).

Statewide projects are administered by TxDOT's Transportation Planning & Programming Division whereas funds distributed to urbanized areas are administered by MPOs, such as CAMPO. TxDOT has already obligated CRP funds to projects in FY24. CAMPO has also obligated its current \$11M in available funding. However, \$38M is available in 2025 and \$39M in 2026 statewide and CAMPO will have an additional \$4.5M per year. These funds are generally available to the same projects that qualify for Category 9 TA funding. Non-vehicular, multimodal elements of the I35 Cap & Stitch Program could be a fit for CRP funds based on the potential to mitigate carbon emissions of the highway project.

### **The Role of Philanthropy at Klyde Warren Park**

At the November 7 City Council briefing, a question was raised regarding the potential role of philanthropic contributions toward the funding stack needed for Austin's Caps and Stitches, and the role that private philanthropy played at Klyde Warren Park and Southern Gateway in Dallas.

The Woodall Rodgers Park Foundation was formed in 2004 by private citizens in Dallas to move the concept of a freeway deck park forward. The foundation was the lead agent in moving the project from design to completion, and now through operations. The Woodall Rodgers Park Foundation reports that of the \$110m required for the initial capital campaign for the 5-acre deck park, \$52.3m was raised from private contributions. This includes the donation and associated naming rights from the Warren family.

Additionally, the foundation continues to accept donations to support ongoing operations via their "Friends of Klyde Warren Park" memberships, naming opportunities (including for chairs, benches, and other park amenities), and for private sponsorships and promotion opportunities.

As a nonprofit, the foundation can accept private gifts and donations. Similarly, private contributions toward Austin's I-35 Cap & Stitch could be directed toward a third-party foundation, conservancy, or other such nonprofit. Alternatively, the City has authority to accept private gifts and donations. Due in part to the higher capital costs and longer construction timelines required for Austin's Cap & Stitch effort, the City's Financial Services Department has suggested private donations and philanthropy is likely best suited to help fund amenity construction and ongoing operations, as opposed to initial structural construction costs.