

**City Council Questions and Answers for  
Thursday, August 22, 2013**

These questions and answers are related to the  
Austin City Council meeting that will convene at 10:00 AM on  
Thursday, August 22, 2013 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Lee Leffingwell  
Mayor Pro Tem Sheryl Cole  
Council Member Chris Riley, Place 1  
Council Member Mike Martinez, Place 2  
Council Member Kathie Tovo, Place 3  
Council Member Laura Morrison, Place 4  
Council Member William Spelman, Place 5**

*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 the final report is distributed at noon to City Council the Wednesday before the council meeting.*

## **QUESTIONS FROM COUNCIL**


### **1. Agenda Item # 11**


- a. QUESTION: What is the "baseline reference year" mentioned in the agenda backup? COUNCIL MEMBER SPELMAN
- b. ANSWER: For the Lower Colorado River Authority's (LCRA's) pro-rata curtailment plan process, the baseline reference year is the 12-month period of September 2010 through August 2011. This is the period that LCRA designated as a baseline year from which an initial 20% pro-rata curtailment reduction would be calculated. According to the pro-rata curtailment plan, the reference year is a comparable recent dry year, which is used to establish a customer's baseline amount. In addition to other modifications, LCRA's pro-rata curtailment rules provide for a customer's baseline amount to be adjusted to reflect water conservation savings that occurred during the reference year. The water savings from that period can be added to the reference year use to represent the total demand if the water savings measures are not in place. The initial 20% pro-rata curtailment reduction would be calculated from the higher modified amount. In addition to receiving a baseline reference year modification for water conservation savings, Austin also received a modification for customer growth.

### **2. Agenda Items # 22-26**

- a. QUESTION: For each of these items, please provide the following information: 1) when application was submitted to the city, 2) how and when value was determined, 3) who prepared the appraisal, 4) what the approximate fee would be if the applicant was instead granted a license agreement, 5) whether the applicant has an existing license agreement for the same encroachment, 6) if appropriate, the length of time the encroachment has existed, 7) rationale for considering the granting of a permanent encroachment rather than a license agreement (for all but # 21 and # 25), and 8) whether staff recommend granting the right as requested and rationale for that recommendation. COUNCIL MEMBER TOVO
- b. ANSWER: See attachment

**END OF REPORT - ATTACHMENTS TO FOLLOW**

 The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.

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## Council Question and Answer

Related To	Agenda Item # 22-26	Meeting Date	August 22, 2013
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### Additional Answer Information

**Item 22:**

Authorize the negotiation and execution of an encroachment agreement to permit Kevin Burns the limited right to the long-term encroachment of private structures into a portion of the public right-of-way, constituting approximately 219 square feet of land, being a portion of West avenue, an eighty (80) foot wide right-of-way out of and a part of Outlot No. 11, Division "Z," situated in the City of Austin, Travis County, Texas, and adjoining a called 2.148 acre tract of land, located at 801 West 5th Street.

**QUESTION (CM TOVO):**

Please provide the following information:

- (1) **when application was submitted to the city**  
An application for the 1<sup>st</sup> Amendment to an existing license agreement #WP 177-0506A was received on March 2, 2012.
- (2) **how and when value was determined**  
The current appraised fair-market value of this encroachment is \$9,362. This was determined by an internal appraisal process, encroachment value reported as of July 23, 2013.
- (3) **who prepared the appraisal**  
The appraisal was prepared by Ronald L. Olderog, MAI, SR/WA, ORES staff appraiser.
- (4) **what the approximate fee would be if the applicant was instead granted a license agreement**  
The annual license agreement fee would be \$3,695.
- (5) **whether the applicant has an existing license agreement for the same encroachment**  
There is an existing license agreement for a balcony. The current request is from a new owner who wishes to enclose the balcony.
- (6) **if appropriate, the length of time the encroachment has existed**  
The previous license agreement was for a balcony. The new request is for an enclosure to the balcony, which has not yet been constructed.
- (7) **rationale for considering the granting of a permanent encroachment rather than a license agreement (for all but #23 and #25)**  
The Law Department determined that a permanent encroachment would be the appropriate legal mechanism rather than a license agreement, due to the fact that the proposed building projection (upper level) encroaching into the right-of-way will not be readily removable, and a license for this use could not be revoked or enforced.
- (8) **whether staff recommend granting the right as requested and rationale for that recommendation**  
The Public Works Director and all departmental and utility stakeholders have reviewed and approved the request, which would ensure that the property will revert back to the City if the encroachment is demolished.

**Item 23:**

Authorize the negotiation and execution of an encroachment agreement to permit WALLER CREEK ELEVEN, LTD. the limited right to the long-term encroachment of private structures into a portion of the public right-of-way, constituting approximately 6,130 square feet land, being a portion of Sabine Street (80' Right-of-Way) and East Cesar Chavez Street (80' Right-of-Way), adjoining Block 11, Original City of Austin, Travis County, Texas, adjacent to 101 Red River Street.

**QUESTION (CM TOVO):**

Please provide the following information:

- (1) when application was submitted to the city  
An application for a vacation of right of way # 9032-1202 was received on February 7, 2012.
- (2) how and when value was determined  
The current appraised fair-market value of this encroachment is \$458,600. This was determined by an internal appraisal process, encroachment value reported as of July 23, 2013.
- (3) who prepared the appraisal  
The appraisal was prepared by Ronald L. Olderog, MAI, SR/WA, ORES staff appraiser.
- (4) what the approximate fee would be if the applicant was instead granted a license agreement  
The annual license agreement fee would be \$68,963.
- (5) whether the applicant has an existing license agreement for the same encroachment  
This is a brand new building – no existing license agreement.
- (6) if appropriate, the length of time the encroachment has existed  
This is a brand new building – no existing encroachment.
- (7) whether staff recommend granting the right as requested and rationale for that recommendation  
The Public Works Director and all departmental and utility stakeholders have reviewed and approved the request, which would ensure that the property will revert back to the City if the encroachment is demolished.

**Item 24:**

Authorize the negotiation and execution of an encroachment agreement to permit WC 4th & COLORADO, LP the limited right to the long-term encroachment of private structures into a portion of public right-of-way along West 4th Street, comprising two areas consisting of approximately 480 square feet of land and 232 square feet of land, more or less, both being a portion of the West 4th Street right-of-way and being adjacent to Lots 7 and 8 of Block 29 of the Original City of Austin, Texas, said Lots 7 and 8 being conveyed by Deed to WC 4th and Colorado LP, a Texas limited partnership, as recorded in Document Number 2011090550 of the Official Public Records of Travis County, Texas and both being inside of the south right-of-way of 4th Street at 117 West 4th Street, in Austin, Travis County, Texas.

**QUESTION (CM TOVO):**

Please provide the following information:

- (1) when application was submitted to the city  
An application for the 2<sup>nd</sup> amendment to an existing license agreement # WP 11-50501B was received on January 16, 2013.
- (2) how and when value was determined  
The current appraised fair-market value of this encroachment is \$32,467. This was determined by an internal appraisal process, encroachment value reported as of July 23, 2013.

**(3) who prepared the appraisal**

The appraisal was prepared by Ronald L. Olderog, MAI, SR/WA, ORES staff appraiser.

**(4) what the approximate fee would be if the applicant was instead granted a license agreement**

No fee was previously assessed for this license agreement because the property is listed as an historic location. If an annual fee were to be assessed today, it would be calculated at \$8,544.

**(5) whether the applicant has an existing license agreement for the same encroachment**

There is an existing license agreement for a loading dock, but that dock has been torn down and is being replaced with a new dock configuration.

**(6) if appropriate, the length of time the encroachment has existed**

The previous dock had a license agreement filed with the county on August 6, 1975. That agreement has been terminated and rolled into a new agreement that was executed on January 6, 2006. Construction on the new docks has not been completed.

**(7) rationale for considering the granting of a permanent encroachment rather than a license agreement (for all but #23 and #25)**

The Law Department determined that a permanent encroachment would be the appropriate legal mechanism rather than a license agreement, due to the fact that the proposed raised docks adjoining the exterior of the building, encroaching into the right-of-way, will not be readily removable, and a license for this use could not be revoked or enforced.

**(8) whether staff recommend granting the right as requested and rationale for that recommendation**

The Public Works Director and all departmental and utility stakeholders have reviewed and approved the request, which would ensure that the property will revert back to the City if the encroachment is demolished.

**Item 25:**

Authorize the negotiation and execution of an encroachment agreement to permit WESAUS, LLC the limited right to the long-term encroachment of private structures into a portion of public right-of-way, constituting approximately 0.050-acre tract of land, being a portion of the East 5th Street (80' R.O.W.) Right-of-Way, adjoining Lots 1-3, Block 58 of the Original City of Austin, adjacent to 310 East 5th Street, in Austin, Travis County, Texas.

**QUESTION (CM TOVO):**

Please provide the following information:

**(1) when application was submitted to the city**

An application for a license agreement # LA 615-1304 was received on April 8, 2013.

**(2) how and when value was determined**

The current appraised fair-market value of this encroachment is \$144,571. This was determined by an internal appraisal process, encroachment value reported as of July 23, 2013.

**(3) who prepared the appraisal**

The appraisal was prepared by Ronald L. Olderog, MAI, SR/WA, ORES staff appraiser.

**(4) what the approximate fee would be if the applicant was instead granted a license agreement**

The annual license agreement fee would be \$21,740.

**(5) whether the applicant has an existing license agreement for the same encroachment**

This is a brand new building – no existing license agreement.

**(6) if appropriate, the length of time the encroachment has existed**

This is a brand new building – no existing encroachment.

- (7) **whether staff recommend granting the right as requested and rationale for that recommendation**  
The Public Works Director and all departmental and utility stakeholders have reviewed and approved the request, which would ensure that the property will revert back to the City if the encroachment is demolished.

**Item 26:**

Authorize the negotiation and execution of an encroachment agreement to permit COUSINS 3rd & COLORADO, LLC the limited right to the long-term encroachment of private structures into approximately 121 square feet of right-of-way along Colorado Street and approximately 100 square feet along West 3rd Street, adjacent to Lots 11-12, Block 29, Original City of Austin, at 311 Colorado Street, in Austin, Travis County, Texas.

**QUESTION (CM TOVO):**

**Please provide the following information:**

- (1) **when application was submitted to the city**  
An application for a license agreement # LA 566-1210 was received on October 2, 2012.
- (2) **how and when value was determined**  
The current appraised fair-market value of this encroachment is \$49,000. This was determined by an external appraisal process, with the appraisal report dated June 18, 2013.
- (3) **who prepared the appraisal**  
The appraisal was prepared by Keith T. Bodungen & John M. Coleman, MAI, SRA, from The Aegis Group, Inc.
- (4) **what the approximate fee would be if the applicant was instead granted a license agreement**  
The annual license agreement fee would be \$3,729.
- (5) **whether the applicant has an existing license agreement for the same encroachment**  
This is a brand new building – no existing license agreement.
- (6) **if appropriate, the length of time the encroachment has existed**  
This is a brand new building – no existing encroachment.
- (7) **rationale for considering the granting of a permanent encroachment rather than a license agreement (for all but #23 and #25)**  
The Law Department determined that a permanent encroachment would be the appropriate legal mechanism rather than a license agreement, due to the fact that the proposed building projections (upper level) encroaching into the right-of-way will not be readily removable, and a license for this use could not be revoked or enforced.
- (8) **whether staff recommend granting the right as requested and rationale for that recommendation**  
The Public Works Director and all departmental and utility stakeholders have reviewed and approved the request, which would ensure that the property will revert back to the City if the encroachment is demolished.