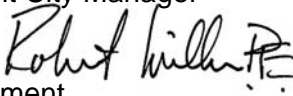




## MEMORANDUM

**TO:** Mayor and Council Members

**CC:** Marc A. Ott, City Manager  
Robert Goode, P.E., Assistant City Manager

**FROM:** Robert Spillar, P.E., Director,   
Austin Transportation Department

**DATE:** January 29, 2014

**SUBJECT:** **CIUR 1187 - Mopac Sound Wall #3 Re-poll**  
**City Council Resolution 20131212-076**

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On December 12, 2013, the Austin City Council passed resolution 20131212-076 directing the City Manager to communicate to the Texas Department of Transportation (TxDOT) and the Central Texas Regional Mobility Authority (CTRMA) that the City of Austin has concerns about the construction of Sound Wall #3 north of Bullard Drive and intends to revisit the City's approval of this portion of the inter-local agreement and the granting of right-of-way access.

The resolution also directed the City Manager to re-poll individuals identified by CTRMA as eligible voters north of Bullard Drive and to report the results to Council along with an outline of available options for Council consideration.

An initial meeting was held with representatives of CTRMA, TxDOT Austin District, and the Environmental Division of TxDOT on December 20, 2013. At that meeting, the Austin Transportation Department (ATD) conveyed the City of Austin's concerns as directed by Council. Simultaneously, TxDOT and CTRMA provided a listing of those properties eligible to participate in the re-vote to be conducted by the City. As part of that process, a total of thirteen (13) residential properties plus the Austin Independent School District (AISD 1) were identified as eligible voters by CTRMA/TxDOT. Three properties located on Great Northern Boulevard and at the north end of the subject area, including the Montessori school were identified by CTRMA/TxDOT as not eligible because the proposed sound wall would not extend in front of these properties. These three properties had previously been allowed the opportunity to vote in the original CTRMA/TxDOT sound wall balloting, but their votes were not counted with the previous decision.

Based on the direction from Council to use the CTRMA/TxDOT identified eligible voting list and using an official TxDOT polling format, ATD sent ballots to eligible property owners on January 10, 2014. To assure a satisfactory response rate from the affected properties, ATD staff visited with eligible resident owners within the study area to encourage completion of the ballot. TxDOT procedures require a 50% plus 1 response rate for any decisions related to sound walls.

### Eligible Voters

Based on information provided by CTRMA/TxDOT (independently verified by ATD staff), the City of Austin identified 14 properties north of Bullard Drive that meet the criteria established by CTRMA/TxDOT as eligible voters (13 residential properties and AISD 1).

The enclosed map shows the residential properties that were given the opportunity to re-vote regarding sound wall #3 and their corresponding vote. In addition to the residential properties, AISD was given the opportunity as they are the listed owners of the property located between Hunt Trail and Bullard Drive (the current location of Gullett Elementary School). This property will be partially affected by the southern portion of sound wall #3. If the northern portion of sound wall #3 is constructed, the AISD property will be wholly affected by the entirety of sound wall #3.

### Voting Results

The following is a summary of the voting results for sound wall #3, north of Bullard Drive:

- 14 -- Total ballots distributed.
  - 5 – Eligible property owners voted yes, in favor of the sound wall.
  - 7 – Eligible property owners voted no, opposed to the sound wall.
  - 2 – Eligible property owners did not return a ballot (including AISD which replied that “the District has decided to not take a position one way or the other on the construction of the sound wall”).
  - 1 – Ballot was received without the required self-identification information required. This ballot could not be verified as a valid ballot and therefore was not tallied as part of the results.
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- 85.7% (12/14) return rate corresponds to a valid sound wall participation rate as identified by CTRMA/TxDOT balloting requirements.
  - 58.3% (7/12) of those properties voting indicated a preference for “**No Sound Wall**”. This corresponds to a valid indication of owner preferences as identified by the CTRMA/TxDOT balloting requirements (50%+1). Had this result been received as part of an initial sound wall balloting, it is presumed that Sound Wall #3, north of Bullard Drive would not have been recommended by CTRMA/TxDOT.

### City of Austin Options

On September 3, 2012 the City of Austin entered into an inter-local agreement with the CTRMA permitting construction of sound wall #3 within the City of Austin right-of-way from approximately RM 2222 to south of Far West Boulevard. All of the sound walls along Mopac are to be funded and constructed by the CTRMA as part of the Mopac Improvement project. Sound walls are only required to be considered when new capacity is added to a roadway. Neighborhoods opting out of construction of a sound wall now, may not have future opportunities to receive regional funding for sound wall construction.

Given the results of the polling results, City Council has two primary options.

**Option 1:** City Council could direct the above information to be delivered to CTRMA/TxDOT in a formal communication and take no further action. This would leave the previously approved interlocal agreement in place, allowing the City's right-of-way to be used for construction of Sound Wall #3, north of Bullard Drive. This does not guarantee that the wall would be constructed as proposed. Should constructability issues be discovered that negate the ability to construct the wall or if CTRMA/TxDOT determine an alternate course of action is appropriate, then the decision would lie with those organizations as to how to proceed.

**Option 2:** City Council could express a desire to remove its approval for use of the City's right-of-way for construction of that portion of Sound Wall #3, north of Bullard Drive. This would take the form of a communication demanding a renegotiation of the inter-local agreement between the City and CTRMA.

It should be noted that a small portion of Great Northern Boulevard, adjacent to AISD property, is required for that portion of sound wall #3 that is not in question (southern portion). Should Council pursue Option 2, staff recommends that the portion of right-of-way needed to complete the southern portion of sound wall #3 not be included in the demand for renegotiation.

Presumably, an action by Council pursuing Option 2 would create a changed condition, necessitating a response from CTRMA/TxDOT to either resolve the conflict legally or abandon construction of that portion of sound wall #3, north of Bullard Drive in question. Action by Council does not guarantee that the wall will not be constructed and we have received no indication as to how CTRMA/TxDOT will choose to proceed.

