



**City Council Questions and Answers for  
Thursday, May 12, 2016**

These questions and answers are related to the  
Austin City Council meeting that will convene at 10:00 AM on  
Thursday, May 12, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, 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**

1. Agenda Items # 2, # 3, # 4, # 5, # 9, # 13, and # 14: # 2" Authorize the use of the Competitive Sealed Proposal method for solicitation of maintenance, inspection, warranty, and construction work consisting of dewatering, providing access, and removal of sedimentation in support of the Waller Creek Tunnel Project. # 3: Authorize additional contingency funding for the construction contract with OSCAR RENDA CONTRACTING for the Waller Creek Inlet Facility at Waterloo Park project in the amount of \$5,000,000, for a total contract amount not to exceed \$39,781,250. # 4: Authorize additional contingency funding for the construction contract with SJ LOUIS CONSTRUCTION OF TEXAS for the Waller Creek Tunnel Main Tunnel and 4th Street Creek Side Inlet project in the amount of \$500,000, for a total contract amount not to exceed \$50,400,500. # 5: Authorize additional contingency funding for the construction contract with OSCAR RENDA CONTRACTING for the Waller Creek Tunnel 8th Street Creek Side Inlet Facility project in the amount of \$1,500,000 for a total contract amount not to exceed \$6,974,052. # 9: Authorize negotiation and execution of all documents and instruments necessary or desirable to acquire a temporary construction easement, totaling approximately 14,458 square feet, for the Waller Creek Tunnel Project, located at 701-703 East 9th Street, Austin, Travis County, Texas, from ASHLAND EQUITIES COMPANY LLC, A NEW YORK LIMITED LIABILITY COMPANY, in an amount not to exceed \$119,221 (District 9). # 13: Approve an ordinance amending the Fiscal Year 2015-2016 Watershed Protection Department Capital Budget (Ordinance No. 20150908-002) to increase appropriations by \$7,500,000 for the Waller Creek Tunnel Project. Related to Item # 14. # 14: Approve a resolution declaring the City's official intent to reimburse itself from Certificates of Obligation to be issued for expenditures related to the Waller Creek Tunnel Project in the total amount of \$7,500,000. Related to Item # 13.
- a. QUESTION: 1) What is the total cost to the City of the entire project from the start, including planning, consultants, purchase of property or easements, construction, etc..? 2) Can staff share all TIF agreements and documents? 3) How much total funding is expected to come from the TIF to pay for this project? 4) Is a TIF an additional tax on a property? 5) Without a TIF, where would the additional property tax revenue have gone? 6) When is the TIF

expected to be dissolved? 7) Are there additional funding sources, like hotel occupancy taxes, that have been approved to be used for this project? 8) How much funding, total and yearly, has come from this source? 9) What will be the estimated interest paid on debt associated with this project? COUNCIL MEMBER TROXCLAIR'S OFFICE

b. ANSWER: See attachment.

c. QUESTION: 1) What was the original cost estimate (we believe somewhere near \$25m)? 2) What was the original bid amount? 3) What change orders/new items were added that increased the cost? 4) Were there any karst (or other) features or endangered species that were discovered after construction began that increased the costs? 5) Who from City Staff will invite someone from Oscar Renda Contracting and SJ Louis Construction of Texas be at the Council meeting to answer questions from Council? 6) Who (which individual(s)) from the City signed off that there were no issues regarding the Capitol View Corridors? 7) Are they still with the city? 8) Were there any consequences to the City employee(s) for signing off and then discovering that mistakes were made? 9) What additional facts are still in dispute that may lead to additional money needed for this project? COUNCIL MEMBER ZIMMERMAN'S OFFICE

d. ANSWER: See attachment.

2. Agenda Item # 6: Approve ratification of an amendment to an interlocal agreement with TRAVIS COUNTY and the AUSTIN TRAVIS COUNTY MENTAL HEALTH MENTAL RETARDATION CENTER for the Austin Travis County Integral Care Substance Abuse Management Service Organization to provide mental health, public health and substance abuse services for indigent citizens and other eligible clients within the Downtown Austin Community Court, in an amount not to exceed \$175,000, with three 12-month renewal options, in an amount not to exceed \$175,000 per renewal term for a total amended amount not to exceed \$700,000.

a. QUESTION: 1) Are the people who utilize these services generally court-ordered to participate or are there voluntary participants? 2) Page 9 of Exhibit 1, "FY '16 WORK STATEMENT", contains provisions regarding reporting requirements and performance measures. Please provide access to any past reporting and performance measures. 3) Section III B of Exhibit 1 describes inpatient treatment. What physical facilities are presently dedicated to this treatment, and what are their locations? COUNCIL MEMBER TROXCLAIR'S OFFICE


b. ANSWER: 1) Those who enter our case management program, enter only on a voluntary basis. 2) FY15 performance measure: Target 65 / served 70 (\$395,000). 3) Detox services are provided at Cross Creek Hospital located at 8402 Cross Park Drive, Austin, Texas 78754. A New Entry has two locations; McCabe (providing both residential inpatient and transitional housing) and


Webberville (provides structured transitional housing): McCabe- 1915 E Martin Luther King Jr Blvd, Austin, TX 78702 (Case management services to include drug treatment groups, life skills classes and sobriety groups), Webberville- 1808 Webberville, Austin, TX 78721 (Sobriety groups, employment fairs).

3. Agenda Item # 7: Authorize negotiation and execution of an amendment to an interlocal agreement with TRAVIS COUNTY and the AUSTIN TRAVIS COUNTY MENTAL HEALTH MENTAL RETARDATION CENTER for the Austin Travis County Integral Care Road To Recovery Program to provide mental health, public health and substance abuse services for indigent citizens and other eligible clients within the Downtown Austin Community Court, in an amount not to exceed \$543,427, with three 12-month renewal options, in an amount not to exceed \$543,427 per renewal term, for a total amended amount not to exceed \$2,173,708.
  - a. QUESTION: 1) Is the Road to Recovery Program distinct from or a part of the services described in Item 6? 2) Does either agreement address identifying individuals who may exhibit a propensity for violence, and assuring proper treatment and monitoring both during and after care? 3) Term 13.10 precludes the Center from carrying out activities "in a manner free from religious influence," as well as from executing "any agreement with any primarily religious organization to receive Agreement Funds." Does the agreement preclude a referral resource for clients who may benefit from supplemental religious guidance? COUNCIL MEMBER TROXCLAIR'S OFFICE
  - b. ANSWER: 1) Road to Recovery is distinct from the Substance Abuse Management Services Organization (SAMSO) services. 2) Target population may have criminal records. Individuals are approved for services based on an assessment conducted by ATCIC. Community Court case managers provides the pre-screening of clients who are volunteering for the services provided by Road to Recovery. The case managers at Road to Recovery will monitor the behavior of the clients and have the discretion to end services if clients display any violent behavior towards staff or anyone in the program. 3) No, clients may enter into a supplemental religious program if they choose during the last 30 days of the 90 day treatment program.
4. Agenda Item # 10: Approve an ordinance amending City Code Chapter 9-2 relating to requirements for non-peak hour concrete installation within portions of the Central Business District and Public zoning districts.
  - a. QUESTION: Please provide a side by side comparison table showing the differences between the original regulations, the current interim regulations (Ordinance No. 20141120-056), the March 31, 2016 staff recommendation, and the May 12, 2016 revised staff recommendation. COUNCIL MEMBER GALLO'S OFFICE
  - b. ANSWER: See attachment.

5. Agenda Item # 12: Authorize negotiation and execution of a 36-month contract with AUS-TEX TOWING AND RECOVERY LLC, to provide towing of City vehicles in an amount not to exceed \$1,483,646, with three 12-month extension options in an amount not to exceed \$494,549 per extension option, for a total contract amount not to exceed \$2,967,292.
  - a. QUESTION: Questions from the dais on May 5, 2016.
  - b. ANSWER: See attachment.
6. Agenda Item # 22: Approve an ordinance amending City Code Section 2-1-144 relating to the Environmental Commission.
  - a. QUESTION: 1) Who initiated this amendment process, City Staff or the Environmental Commission? 2) What was the original intent for making changes to the Environmental Commission? COUNCIL MEMBER GALLO'S OFFICE
  - 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.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*



### Council Question and Answer

Related To	Waller Creek Items	Meeting Date	May 12, 2016
Additional Answer Information			

**QUESTION:** 1) What is the total cost to the City of the entire project from the start, including planning, consultants, purchase of property or easements, construction, etc..? 2) Can staff share all TIF agreements and documents? 3) How much total funding is expected to come from the TIF to pay for this project? 4) Is a TIF an additional tax on a property? 5) Without a TIF, where would the additional property tax revenue have gone? 6) When is the TIF expected to be dissolved? 7) Are there additional funding sources, like hotel occupancy taxes, that have been approved to be used for this project? 8) How much funding, total and yearly, has come from this source? 9) What will be the estimated interest paid on debt associated with this project? COUNCIL MEMBER TROXCLAIR'S OFFICE

#### ANSWER:

#### **1. What is the total cost to the City of the entire project from the start, including planning, consultants, purchase of property or easements, construction, etc..?**

Answer: Starting with the passage of the 1998 bonds, the total estimate for the tunnel project (including planning, design, land and easement acquisition, and construction) is \$149.8 million.

A \$5.6 million appropriation was approved by City Council in 2015 bringing total appropriations to \$155.4 million. Should Council approve the \$7.5 million in requested new appropriation, total appropriations would equal \$162.9 million.

#### **2. Can staff share all TIF agreements and documents?**

Answer: The following links will direct you to all of the documents associated with Tax Increment Financing Reinvestment Zone No. 17 (Waller Creek Tunnel Project) presented to Council since its creation.

June 21, 2007 – Public hearing and approval of an ordinance to create the TIF, establish a board of directors, and related matters  
<http://www.austintexas.gov/departments/city-council/2007/20070621-reg.htm#151>

February 17, 2011 - Approved of execution of an amendment to the agreement with Travis County to fund and participate in the Waller Creek TIF  
<http://www.austintexas.gov/departments/city-council/2011/20110217-reg.htm#026>

#### **3) How much total funding is expected to come from the TIF to pay for this project?**

Answer: The estimate of funding from the TIF is approximately \$162 million.

**4) Is a TIF an additional tax on a property?**

Answer: A TIF is not an additional tax on a property, it is a dedication of property tax revenues collected from within a defined boundary. When a TIF is established, a base value is also established. As the value of the properties within the TIF continues to grow, the amount beyond the base is considered the increment. The taxes collected against the incremental increase through the regular property tax rate are then set aside for the project associated with the TIF. For example, assume a property was valued at \$100,000 in the base year and then grew to \$110,000 in year two. The property taxes collected against the base \$100,000 would continue to flow to the General Fund but the property taxes collected against the \$10,000 increment are set aside for the project. The property owner does not pay any additional tax because it is located within the TIF.

**5) Without a TIF, where would the additional property tax revenue have gone?**

Answer: Without a TIF, the property tax revenue would have flowed to the General Fund. However, but for the TIF and tunnel project, it would not have resulted in such an increase to property tax revenue.

**6) When is the TIF expected to be dissolved?**

Answer: The TIF will terminate on September 30, 2028.

**7) Are there additional funding sources, like hotel occupancy taxes, that have been approved to be used for this project?**

Answer: The project includes \$25 million in bonds approved in 1998 as part of a special voter approved venue as well as funding from Hilton Hotel excess earnings and subsidies received under the Build America Bonds (BABs) program. The \$25 million in bonds were issued in 1999 and debt service is paid through the Convention Center Venue Fund which receives its revenues from Hotel Occupancy Tax (assessed under Chapter 334 of the Local Government Code) approved via the 1998 vote. The purpose of the Hilton and BABs funds, in accordance with the financing plan, is to provide an interim funding for debt service payments in the early years of the TIF since it would take time for property valuations to reach a point to adequately cover debt service requirements each year.

**8) How much funding, total and yearly, has come from this source?**

Answer: Through Fiscal Year 2016, \$13.9 million in Hilton Hotel excess earnings and \$7.7 million in Build America Bonds (BABs) subsidies for a total of \$21.6 million. The table below provides a breakout by source and fiscal year.

<b>Fiscal Year</b>	<b>Hilton</b>	<b>BABs</b>	<b>Total</b>
2008	\$2,018,792	\$0	\$2,018,792
2009	\$2,324,717	\$0	\$2,324,717
2010	\$0	\$0	\$0
2011	\$1,290,686	\$1,346,802	\$2,637,488
2012	\$269,902	\$1,346,802	\$1,616,704
2013	\$2,034,786	\$1,287,027	\$3,321,813
2014	\$1,950,168	\$1,249,833	\$3,200,000
2015	\$2,000,000	\$1,248,486	\$3,248,486
2016 (est.)	\$2,000,000	\$1,248,486	\$3,248,486
<b>TOTAL</b>	<b>\$13,889,050</b>	<b>\$7,727,435</b>	<b>\$21,616,485</b>

**9) What will be the estimated interest paid on debt associated with this project?**

Answer: The TIF financing plan includes the original \$25 million in bonds approved in 1998 and \$106 million in certificates of obligation approved via the TIF financing plan. Due to refunding sales (refinancing), staff did not have enough time to fully research and reconcile total interest payments made/remaining on the original \$25 million in order to respond to the Council Member's questions in a timely manner. The sale of the \$106 million was broken out into five bond sales to match more closely with expenditures (cash flow) requirements of the project. The table below provides a breakout of the principal and interest.

<b>Sale Series</b>	<b>Principal</b>	<b>Interest</b>
2011	35,000,000	28,062,000
2012	10,000,000	4,529,000
2013	25,000,000	16,354,000
2014	25,000,000	12,316,000
2015	11,055,000	5,604,000
<b>TOTAL</b>	<b>106,055,000</b>	<b>66,865,000</b>





### Council Question and Answer

Related To	Waller Creek Items	Meeting Date	May 12, 2016
Additional Answer Information			

**QUESTION:** 1) What was the original cost estimate (we believe somewhere near \$25m)? 2) What was the original bid amount? 3) What change orders/new items were added that increased the cost? 4) Were there any karst (or other) features or endangered species that were discovered after construction began that increased the costs? 5) Who from City Staff will invite someone from Oscar Renda Contracting and SJ Louis Construction of Texas be at the Council meeting to answer questions from Council? 6) Who (which individual(s)) from the City signed off that there were no issues regarding the Capitol View Corridors? 7) Are they still with the city? 8) Were there any consequences to the City employee(s) for signing off and then discovering that mistakes were made? 9) What additional facts are still in dispute that may lead to additional money needed for this project? COUNCIL MEMBER ZIMMERMAN'S OFFICE

#### ANSWER:

##### **1) What was the original cost estimate (we believe somewhere near \$25m)?**

The concept of a tunnel to alleviate flooding along lower Waller Creek was first developed in the mid-1970's. In anticipation of a potential bond election, the City commissioned a local engineering firm to develop a cost estimate for the tunnel and associated bank improvements in 1996. Based on this report, the City included \$25 million in a 1998 bond proposition (to be repaid using hotel-motel occupancy tax) to fund the construction of the tunnel. After the successful passage of the bonds, new cost studies were performed in 1999 and again in 2001 during the preliminary engineering report phase. These studies determined that construction costs far exceeded the \$25 million available funding for the project. From 2001 to 2007, several strategies were evaluated to fund varying tunnel designs and associated costs.

In March 2008, the City Council approved the Waller Creek Tunnel Project Plan and Reinvestment Zone Financing Plan that identified a project budget of \$143.55 million (in 2010 dollars) not including the \$3.25 million previously spent on studies and preliminary engineering. Upon initiation of final design work and the scheduling of construction contracts over a multi-year period, the current financing plan approved in 2011 set the working "day-forward" project budget at \$146.55. When all projects costs (including the prior studies and preliminary engineering costs) are taken into account, the total project budget is \$149.8 million.

##### **2) What was the original bid amount?**

The original bid amounts for the four construction contracts are provided in the back-up to the RCAs and are summarized below:

CONTRACT OR	CONTRACT	BID AMOUNT	CONTINGENCY	TOTAL
Oscar Renda	Waller Creek Inlet Facility at Waterloo Park	\$27,825,000	\$695,625	\$28,520,625
SJ Louis	Waller Creek Main Tunnel and 4 <sup>th</sup> Street Creek Side Inlet	\$48,683,500	\$1,217,000	\$49,900,500
Oscar Renda	8 <sup>th</sup> Street Creek Side Inlet	\$5,213,382	\$260,670	\$5,474,052
Zachry	Ladybird Lake Outlet	\$13,162,313	\$350,000	\$13,512,313
	<b>TOTAL</b>	<b>\$94,884,195</b>	<b>\$2,523,295</b>	<b>\$97,407,490</b>

**3) *What change orders/new items were added that increased the cost?***

The change order history for each of the construction contracts is provided in the back-up for each of the RCAs. In general, the changes to the contracts listed in the response to Question 2 above were not due to new items being added but rather were due to the need address unforeseen conditions, design discrepancies, and field adjustments. The single largest matter requiring contract changes were the remedies associated with the Capitol View Corridor intrusion, including the deconstruction, rework, and settlement of the delay/inefficiency claims

**4) *Were there any karst (or other) features or endangered species that were discovered after construction began that increased the costs?***

There were no karst features or endangered species identified on this project that increased the cost.

**5) *Who from City Staff will invite someone from Oscar Renda Contracting and SJ Louis Construction of Texas be at the Council meeting to answer questions from Council?***

City staff will be present to respond to questions from Council. Upon advice from the City's attorney, matters that address the City's positions in negotiations with Oscar Renda and SJ Louis will be presented in Executive Session as necessary.

This question will also be addressed separately by the Law Department.

**6) *Who (which individual(s)) from the City signed off that there were no issues regarding the Capitol View Corridors?***

The Engineer of Record is responsible for providing a set of plans and specifications that comply with all relevant and applicable laws and regulations. The Engineer of Record is the KBR-Espey Joint Venture.

This question will also be addressed separately by the Law Department.

**7) *Are they still with the city?***

This question is not applicable to this situation, as the Engineer of Record is responsible for providing a set of plans and specifications that comply with all relevant and applicable laws and regulations.

This question will also be addressed separately by the Law Department.

**8) *Were there any consequences to the City employee(s) for signing off and then discovering that mistakes were made?***

The Engineer of Record is responsible for providing a set of plans and specifications that comply with all relevant and applicable laws and regulations. The Engineer of Record is the KBR-Espey Joint Venture.

This question will also be addressed separately by the Law Department.

**9) *What additional facts are still in dispute that may lead to additional money needed for this project?***

The following matters remain in dispute on the project:

- The City is negotiating a final settlement with the contractor (Zachary) on the outlet facility. At this time, staff believes the claim can be settled within the existing authorization and no Council action is requested.
- The contractor on the tunnel (SJ Louis) has outstanding claims for delays during construction. The City has warranty claims and assertions for liquidated damages. While staff believes settlement of these issues will result in a positive cash flow back to the City, there may be future action required to reach final settlement.
- The contractor on the 4<sup>th</sup> Street Inlet (SJ Louis) has outstanding claims for delays during construction and forced removal of nonconforming concrete. The City has assertions for liquidated damages. While staff believes settlement of these issues will result in a positive cash flow back to the City, there may be future action required to reach final settlement.
- The contract changes with Oscar Renda on the 8<sup>th</sup> Street Inlet and the Waterloo Inlet and Park represent final settlement of all outstanding matters, and there is no expectation that additional funding will be required.

## After Hours Concrete Installation Regulations Adopted & Proposed (December 2014-Present)

	Original Code Language	Interim Ordinance (20141120-056)	March Staff Recommendation	Current Staff Recommendation
<b>Eligible Properties</b>	- Properties in CBD zoning district AND - within 600ft of a residence, church hospital, hotel or motel.	-Property that is located in the Downtown Density Bonus area defined by section 25-2-586(B) of City Code, AND - Properties in CBD or P zoning district AND -within 600ft of a residence, church hospital, hotel or motel.	The current staff recommendation that is being offered is unchanged from the March recommendation which was presented to stakeholders (see column to the right.)	-Property that is located in the Downtown Density Bonus area defined by section 25-2-586(B) of City Code, AND - Properties in CBD or P zoning district AND -within 600ft of a residence, church hospital, hotel or motel.
<b>Hours</b>	7:00pm-6:00am	7:00pm-2:00am, OR 7:00pm-6:00am for a limited number of special circumstances per site.		7:00pm-6:00am
<b>Decibel Limit</b>	None	None		- 85 Decibels between 7:00am and 10:30pm Sunday-Wednesday, 11:00pm Thursday, Midnight Friday & Saturday; OR - 3 Decibels above ambient sound level between above times and 6:00am.
<b>Permit Duration</b>	Up to 72 hours.	Up to 72 hours.		Up to 72 hours.
<b>Notification</b>	Not Required	- Contact adjacent property owners located next door or across the street and residents within 600ft and provide a 24-hour contact person.		- Contact adjacent property owners located next door and representatives of property owners and residents residents within 300ft and provide a 24-hour contact person. - On a sign posted at the construction entrance and visible from the street.

	Original Code Language	Interim Ordinance (20141120-056)	March Staff Recommendation	Current Staff Recommendation
<b>Sound Mitigation Plan</b>	Not Required	Yes, created by applicant.	The current staff recommendation that is being offered is unchanged from the March recommendation which was presented to stakeholders (see column to the right.)	Yes, created by applicant OR if work is permitted after 10:30pm the plan must be sealed by an acoustical engineer certified by the National Council of Acoustical Consultants or the Acoustical Society of America.
<b>Concrete Finishing</b>	No special requirement; permitted from 7:00pm-6:00am.	Permitted from 7:00pm-6:00am.		Permitted from 7:00pm-6:00am.
<b>Grandfather Clause</b>	Not Applicable	Projects with building permits submitted prior to 12/1/2014 follow original ordinance language, except a sound and light mitigation plan must be provided.		Projects with building permits submitted prior to 12/1/2014 follow original ordinance language, except a sound and light mitigation plan must be provided.
<b>Bad Actor Clause</b>	None	None		Accountable official may refuse to issue permit if the applicant or site have two or more convictions of sound regulations or conditions on previously issued permit.
<b>Accountable Official</b>	Development Services Department (formerly Planning & Development Review)	Development Services Department		Development Services Department
<b>Enforcement</b>	Austin Police Department	Noise Violations: Austin Police Dept Other Violations: Austin Code Dept		Noise Violations: Austin Police Dept Other Violations: Austin Code Dept



## Council Question and Answer

Related To	Item #12	Meeting Date	May 12, 2016
Additional Answer Information			

**QUESTION:** Questions from the dais on May 5, 2016.

**ANSWER:**

During the May 5, 2016 Council Meeting, there were a number of questions raised and statements made concerning Item 14, Towing of City Vehicles (now Item 12 on the May 12, 2016 Council Agenda). At Council's request, Purchasing has reviewed this item in consultation with the customer department, Fleet Services, as well as the towing industry representatives who provided comments on this item.

During the review of this procurement, including conversations with speakers following the May 5, 2016 Council Meeting, staff learned that a number of the stated comments were based on the contents of the original solicitation (IFBBV SLW0203) issued last August. As described below in this Q&A, the original solicitation included aggregate requirements for a single towing contractor, but based on feedback from City staff and with approval of the customer department, the original solicitation was subsequently canceled in order to allow for multiple awards. A revised solicitation, which divided the solicitation's scope into multiple categories of equipment requirements and allowed for multiple awards by vehicle category and by specific vehicles within a category, was issued in December 2015, and is the solicitation associated with this item.

Below is a summary of the questions and statements made, followed by additional clarification and responses from staff. After reviewing this procurement further, Purchasing continues to find no legal, policy or procedural reasons that would cause us to change our recommendation on this item.

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**Question/Statement:** Council Members expressed concern that the solicitation may have been designed to exclude certain bidders. Specifically Council Members pointed to the item's previous Q&A and to a comment made by a company who did not respond to the revised solicitation, as suggesting that the solicitation's requirements may have been too restrictive.

**Response/Clarification:** As noted above, the original solicitation issued in August 2015 was intended to award the contract to one single contractor. However, staff determined that the contract could be performed by multiple companies if the solicitation's scope was further divided into multiple categories of equipment requirements. As a result, the original solicitation was canceled and revised, resulting in the current solicitation that allows for multiple awards by vehicle category and by specific vehicles within a category.

**Question/Statement:** Council Member comments seemed to suggest that the recommended company for this item may have been the same company that won the Austin Police Department's towing contract that was solicited last year.

**Response/Statement:** The recommended company for this item is Aus-Tex Towing & Recovery, LLC (Aus-Tex). The current provider of the Austin Police Department (APD) towing contract, awarded last year, is AutoReturn. Aus-Tex is referenced in the contract as one of three subcontractors providing impound yard and vehicle storage services, but the award of the APD contract has no bearing on this solicitation, as is the practice of the Purchasing Office.

**Question/Statement:** Council Members questioned the number of vehicles towed per year. Specifically Council Members pointed to the item's previous Q&A where staff gave annual estimates of the number of vehicles towed per year.

**Response/Clarification:** Staff's previous Q&A response was as follows.

*Frequency of tows for the last Fiscal Year (Fiscal Year 2015) are as follows:*

<i>Average Daily Tow</i>	<i>8</i>
<i>Average Weekly Tows</i>	<i>45</i>
<i>Average Monthly Tows</i>	<i>184</i>
<i>Total Tows</i>	<i>2,394</i>

Currently there are about 6,200 vehicles/units within the City's fleet. Tows are most commonly required when a vehicle is involved in an accident or it breaks-down. Vehicles are towed from wherever they become immobilized to one of the City's seven Service Centers. Depending on the work required and the location of the applicable Service Center, some vehicles may be towed multiple times. A lot of the tows are generated by accidents or maintenance related issues. Examples of maintenance related issues would be problems with the engine, cooling system, or transmission. The quantity of tows set forth in the solicitation are consistent with the needs of the Fleet Services Department and do not suggest any regulatory or policy issues with this procurement.

**Question/Statement:** Council Members suggested that minority vendors are able to perform these services.

**Response/Clarification:** Staff agrees with this suggestion and would have welcomed any additional proposals. This solicitation was reviewed by the City's Small and Minority Business Resources (SMBR) Department for the availability of subcontract goals. For the services required, SMBR noted that there were no City of Austin certified Minority or Women-owned Business Enterprises (M/WBEs) available nor were there sufficient subcontract opportunities to set goals. Aside from these subcontract requirements, staff has no statutory ability to direct, favor or somehow limit contract awards to minority vendors.

For small businesses in general, staff can help increase the likelihood that such companies will be successful in City procurements by limiting the kinds of requirements we include in our solicitations to only those necessary to meet the needs of our customer departments – not including any policy-based requirements prescribed by Council. In addition to reviewing the requirements with our customers, staff also uses any feedback we receive during the solicitation process to help determine if any of our requirements may unintentionally limit competition. Staff will often use this feedback to amend solicitations to clarify, change or remove requirements. If the changes are substantive, staff may opt to cancel, revise and re-issue the solicitation.

**Question/Statement:** A speaker on this item at the May 5, 2016 Council Meeting stated that a rotator and two 50 ton trucks are not necessary to perform services.

**Response/Clarification:** A rotator tow truck is a heavy duty vehicle equipped with a large boom and crane that can rotate a full 360 degrees. Rotator tow trucks were only required if offerors were responding to the medium and heavy duty vehicle services categories. Fleet requires the services of a rotator tow truck to tow very large vehicles such as aerial fire trucks, garbage trucks (may be fully loaded with refuse), tractor trailers, etc.

**Question/Statement:** A speaker also suggested that the solicitation's response times were too restrictive.

**Response/Clarification:** Fleet reviewed the service response time requirement but reaffirms that this period of time is necessary for both operational and safety reasons; the response time requirement will prevent vehicles from blocking traffic and allow Fleet to return vehicles to service as quickly as possible to minimize impacts to the City's service delivery.

**Question/Statement:** A speaker further suggested that this procurement be split into multiple contracts.

**Response/Clarification:** As mentioned previously, this revised solicitation allows for multiple awards by vehicle category and by specific vehicles within a category. This procurement was originally solicited back in August 2015; in

that original solicitation (IFBBV SLW0203), the City's requirements anticipated a single award. Although a single contractor was preferable for operational purposes, staff determined that the contract could be performed by multiple companies if the solicitation's scope was further divided into multiple categories of equipment requirements. With Fleet's concurrence, staff canceled IFBBV SLW0203, revised the requirements to allow for multiple contractors and re-issued the solicitation, now RFP SLW0203REBID, in December 2015.

In the new solicitation (RFP SLW0203REBID), the solicitation instructions stated:

*"A Successful Proposer may be awarded either the entire contract, the majority of the contract, or select line items."*

The Scope of Work (first sentence) stated:

*"This Request for Proposal (RFP) is to establish contracts with multiple Vendors able to provide Towing and Related Services for City of Austin ("City") light-duty, medium-duty, and heavy-duty class categories of vehicles and equipment."*

Further, in the Scope of Work staff established the categories and the minimum equipment required for each. Last, staff further clarified the City's intentions when responding to questions received at the Pre-Proposal conference, in the solicitation's Addendum no. 1.

**Question/Statement:** A speaker also suggested there may have been a lack of return of emails and phone calls concerning this solicitation.

**Response/Clarification:** Staff has no record of any emails or phone calls that were not responded to.

**Question/Statement:** A speaker then suggested that a performance bond could be required – presumably in lieu of the required equipment.

**Response/Clarification:** Surety bonds, including offer, performance and payment bonds, are occasionally used to offset the government's damages when a contractor fails to perform. Sureties of this type are often used in capital contracts and other contracts where the risk of contractor failure is higher. Bonds are triggered when the contractor fails and a third party, the bond underwriter, steps in to take over the contract's performance or to compensate the government for its damages. Using sureties in lieu of contract specifications introduces unnecessary risk into contracts and is therefore a much less preferred approach.

**Question/Statement:** A speaker further stated that this was the third time this solicitation was issued.

**Response/Clarification:** RFP SLW0203REBID was the second issuance for this procurement. As was described earlier, the reason it was re-solicited was to increase opportunities for small businesses. Re-soliciting a procurement from time to time is a necessary and normal operational action.

**Question/Statement:** A speaker then contended that the solicitation's bid sheet (the form into which the offerors insert their prices) didn't indicate that offerors could bid on a single line or category of line items.

**Response/Clarification:** The cost sheet was separated by item and vehicle category, with each category including its own subtotal, with an aggregate total for all categories at the bottom for those offerors submitting pricing on all items. The cost sheet is but one part of a solicitation however. Solicitations and their resulting contracts must be considered in their entirety. RFP SLW0203REBID clearly stated that offerors could respond to any item or category of items.

**Question/Statement:** Finally, a speaker stated that when they called the Purchasing Office they were told that if they didn't have the heavy equipment, they couldn't bid.

**Response/Clarification:** Again, staff has no record of any call or response as stated. This solicitation was re-issued specifically to allow for multiple opportunities, including for those contractors with varying equipment types.





### Council Question and Answer

Related To	Item #22	Meeting Date	May 12, 2016
Additional Answer Information			

**QUESTION:** 1) Who initiated this amendment process, City Staff or the Environmental Commission? 2) What was the original intent for making changes to the Environmental Commission? COUNCIL MEMBER GALLO'S OFFICE

**ANSWER:**

1) The amendments were initiated by the City Clerk's office at the request of the Environmental Commission.

2) There were a number of changes made to the Environmental Commission's enabling ordinance that were approved by Council in December 2014 to incorporate recommendations of the Boards and Commissions Transition Task Force. Some of the changes created unintended consequences and some parts of the ordinance were not changed that the Environmental Commission recommended changing because the references were outdated, unclear, or not consistent with the previous ordinance.

An example of an unintended change is; the original ordinance provided that a commissioner representing the Barton Springs/Edwards Aquifer Conservation District (BSEACD) need not be an Austin resident. The 2014 amendments changed the ordinance such that a BSEACD commissioner must be an Austin resident and required that a commissioner with expertise in arboriculture, urban forestry, or landscape architecture does not have to be a resident. The Environmental Commission recommended amending the ordinance to go back to the original language so the BSEACD representative is not required to be an Austin resident, but all others would be required to live in Austin, including those with the special expertise mentioned above.

An example of a text change the Commission felt was needed is; the current ordinance identifies the Director of the Parks and Recreation Department (PARC) as an ex officio member of the Commission. This was included in the 2014 ordinance changes because the Commission absorbed the responsibilities of the Urban Forestry Commission and the Urban Forest program had been in PARC. However, the Urban Forestry program was moved to the Development Services Department in 2014 and so the Commission is recommending that the DSD Director be an ex officio member rather than the PARC Director.