



July 29, 2020

Questions and Answers Report



Mayor Steve Adler

Mayor Pro Tem Delia Garza, District 2

Council Member Natasha Harper-Madison, District 1

Council Member Sabino "Pio" Renteria, District 3

Council Member Gregorio Casar, District 4

Council Member Ann Kitchen, District 5

Council Member Jimmy Flannigan, District 6

Council Member Leslie Pool, District 7

Council Member Paige Ellis, District 8

Council Member Kathie Tovo, District 9

Council Member Alison Alter, 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

Item #12: Approve a resolution finding the use of the competitive sealed proposal method of contracting, as authorized by Subchapter D, Chapter 2269 of the Texas Government Code, as the project delivery method that provides the best value to the City for the Town Lake Metro Park Seaholm Intake Facility Phase 1 Rehabilitation project to rehabilitate this historic structure.

COUNCIL MEMBER FLANNIGAN'S OFFICE

What are the source of fund for this project?

This project was identified as a need and discussed as part of the 2018 Bond Development process; however, was not a named project in the same way that the Cultural Centers projects were communicated via ballot language. The PARD investment is consistent with the facility plan priority. Current funding allocation includes:

- \$2 million in 2018 CIP bond
- \$600,000 in HOT funds

Item #16: Authorize negotiation and execution of a construction manager at risk agreement with SpawGlass Contractors, Inc., for preconstruction and construction services for the Faulk Library/Austin History Center Archival Repository Expansion project in an amount not to exceed \$12,600,000.

COUNCIL MEMBER CASAR'S OFFICE

Does authorizing this contract preclude an alternative use for the first floor of the Faulk building?

This RCA is for a CMAR agreement with SpawGlass Contractors Inc. for a GMP Contract not to exceed \$12,661,189 Dollars to rehabilitate the Faulk Library / Austin History Center. The main work will be improvements to the HVAC, plumbing, elevators, flooring, interior wall finishes and adding archival space on the 2nd and 3rd floor. This contract does include first floor building scope in the project deliverables but it does not preclude an alternative use of the first floor. The building will not be accessible for 2-3 years while under construction.

COUNCIL MEMBER FLANNIGAN'S OFFICE

What part(s) of the Faulk renovation does the \$12,600,000 pay for? Please provide an estimate of what the remainder of the project will cost and where those funds are expected to come from.

The \$12.6 M Bond allocation for the JH Faulk is program to convert the 2nd and 3rd Floors into an Archival Repository, infrastructure and system upgrades. The allocation represents the entirety of FY2018 Bond allocation for JF Faulk. The Scope of Work for this project further details as follows;

1. The main work will be minor demolitions and improvements to the HVAC, plumbing, electrical, elevators, flooring, interior wall finishes and creating a archival repository on the 2nd and 3rd floor.
2. Sustainability and retrofits for ADA upgrades are project goals.
3. Asbestos and lead-based paint abatement
4. Life safety systems upgrades and lighting retrofits
5. Toilet accessories and signage
6. Minor exterior work including replacement of landscaping
7. Interior and exterior security cameras and card access system

Item #32: Authorize negotiation and execution of a 12-month interlocal agreement with the Capital Metropolitan Transportation Authority (Capital Metro), to allow City employees access to Capital Metro's transportation services in an amount not to exceed \$530,000, with four 12-month extension options in an amount not to exceed \$530,000 for each extension option for a total amount not to exceed \$2,650,000.

COUNCIL MEMBER FLANNIGAN'S OFFICE

What is the estimate of the impact on the general fund? Is this distributed across all departments or just those where passes are requested? Are costs allocated to enterprise departments where possible?

For FY21, City contributions are not increasing. Based on budgeted FTEs, the cost allocated to the General Fund is \$303,000 and \$227,000 to Enterprise departments.

COUNCIL MEMBER TOVO'S OFFICE

Given the number of employees teleworking, has the City considered renegotiating this ILA to reduce the number of passes purchased?

The ILA allows for daily rides and passes to be purchased in an amount not to exceed \$530,000 for a 12-month period, which includes a purchase of up to 5,000 passes. Due to the number of employees currently teleworking, staff are not expecting to spend up to the \$530K annually, and therefore reserve the option to purchase all 5,000 passes included in the ILA until necessary dependent upon the reintegration plan.

Item #36: Authorize negotiation and execution of all documents and instruments necessary or desirable to accept 215.148 acres out of the T.J. Chambers Survey, Abstract No. 7 and the Albert Sillsbe, Abstract No. 744, in Travis County, Texas, known as the Bright Leaf Preserve, located at 4113 Old Bull Creek Road, from Austin Community Foundation.

COUNCIL MEMBER FLANNIGAN'S OFFICE

Is the Bright Leaf Foundation endowment projected to cover all the maintenance of the preserve or will city funds be needed? Are there any general fund impacts to accepting this land? Does this fully cover cost of maintenance?

The Austin Community Foundation has agreed to pay upfront for needed fencing and building repair/demolition. Then, an annual endowment of roughly \$20,000/year will be applied to maintain the preserve. The annual endowment is expected to cover all maintenance, as it is more than what is usually spent on most similar-sized (roughly 200 acres) preserves. Furthermore, Bright Leaf already has active volunteers to help as they

have for decades now. After acquisition, Austin Water's Wildlands Conservation Division can assist as needed with staff to help patrol, evaluate potential wildfire issues, and conduct biological assessments.

Item #52: Approve an ordinance amending the Fiscal Year 2019-2020 Austin Public Health Department Operating Budget Special Revenue Fund (Ordinance No. 20190910-001) to accept and appropriate an additional \$10,859,249 in grant funds from the U.S. Department of Housing and Urban Development through the Emergency Solutions Grant to serve homeless individuals and those at risk of homelessness who have been economically impacted by COVID-19.

COUNCIL MEMBER FLANNIGAN'S OFFICE

Please provide more detail of what services the ESG-CV funds will be used for to "support [current ESG] organizations to expand current services, as well as assist in the community's COVID-19 response to assist homeless persons."

Current Emergency Solutions Grant (ESG) funding is allocated to three agencies to provide shelter and rapid rehousing services to persons who are homeless. These agencies use funds to purchase HMIS licenses and Austin Public Health uses a percentage of the funds for administration of the grant. It is anticipated that these funds will be used to support these organizations to expand current services as well as assist in the community's COVID response for people experiencing homeless. Austin Public Health is working with the Ending Community Homeless Coalition and other community partners to determine the most urgent needs of the community. The ESG-CV funds will be utilized for the following services

100% Rapid Rehousing to Rehouse People from the Protective Lodge, rehouse the emergency shelter population and provide homeless prevention services.

Item #59: Authorize an amendment to an existing contract with Overdrive Inc., for continued digital content materials and services, that would increase the contract amount by \$10,710,000 and extend the term by three years, for a revised total contract amount not to exceed \$16,020,201. (Note: This amendment was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this contract there were no subcontracting opportunities identified; therefore, no subcontracting goals were established).

COUNCIL MEMBER FLANNIGAN'S OFFICE

In previous years the terms each cost about \$1 million, but for this extension each year costs on the order of \$3 million; is this a correct interpretation? Is the proposal also expanding the size of the contract to meet the increased demand from the stay-at-home orders?

Yes. When the current contract was authorized the Austin Public Library estimated that annual usage for these services would be approximately \$1,000,000 per year. This estimate was based on past usage and anticipated annual increases as online usage of Library materials increased in the coming year. Due to the unforeseen events associated with the current COVID-19 pandemic, usage over the last six months has dramatically exceeded the Library's estimates. As the pandemic proceeds and is eventually resolved, the Library estimates that usage will also continue to grow, and Library user's adoption of these new materials will become more prevalent. In the past four months Virtual Library usage has gone up 37%.

Demand for the Virtual Library, of which Overdrive is our biggest contract, has grown significantly over the years. For example, from the end of Fiscal Year 2014 until the end of Fiscal Year 2019 demand for the Virtual Library has increased by 485%. This is before COVID-19.

The cost of e-books continues to increase. For example, the print version of the bestseller *The House of Kennedy* by James Patterson and Cynthia Fagen costs the library about \$15. The e-book costs the library about \$65 which is a 333% increase in cost. These are based on prices set by the publisher.

This proposed amendment will allow us to fund important partnerships like the Charter school library cards. We're looking to add 80,000 new library users in the near future, and this will increase demand on Overdrive due to Overdrive's popularity. The students who get the cards will be putting more demand on the Overdrive contract.

Item #63: Authorize negotiation and execution of a multi-term contract with Acushnet Company, to provide golf course accessories and supplies, for up to five years for a total contract amount not to exceed \$1,000,000. (Note: Sole source contracts are exempt from the City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established).

COUNCIL MEMBER FLANNIGAN'S OFFICE

Is this a cost-of-goods-sold contract?

This is a contract to purchase items at wholesale prices from the manufacturer and resell them at marked up prices to the public using the City's golf courses.

Is it funded from the golf course fund?

Funding for this contract is from the Parks and Recreation Department's Operating Budget, and not funded by the Golf Course Fund. Golfers often want to purchase miscellaneous items to play golf and they prefer to purchase those items instead of bringing them on the day they play. Therefore, the Golf Course has discovered that carrying a limited product line, allows the golfer to purchase those items on an as needed basis.

How much do we expect to earn in revenue based on this expense?

The standard profit margin is between 15% to 20% mark-up on golf resale items.

Item #84: Approve a resolution approving amendments to the bylaws of Austin Convention Enterprises, Inc.

COUNCIL MEMBER TOVO'S OFFICE

Please provide additional context for the proposed by-law changes. If applicable, please provide examples of other peer cities or similar corporations where the Board President is compensated. From what funding source would the Board President's compensation be funded?

The proposal to approve amendments to the Austin Convention Enterprises, Inc. ("ACE") bylaws originated from a request made by the ACE Board of Directors in its June 10, 2020 memorandum

to the Mayor and Council. A copy of that memorandum is attached. ACE's governing documents give the ACE Board the authority to amend its bylaws, but state law (Local Gov't Code Chap. 303.038(a)) also requires that such amendments be approved by the Council.

The amendments do two things. First, the amendments allow the ACE Board to hire a professional in the role of president to run the day-to-day operations of ACE. This role is not a member of the ACE Board, but would rather be hired by the ACE Board and act on its behalf. Currently these day-to-day activities are handled by ACE's volunteer Board Members. The June 10 memo from the ACE Board to the Mayor and Council explains the need and rationale for this amendment. Second, the amendments authorize the ACE Board to use email to communicate meeting notices and provide other communications among the Board members, in addition to the postal mail and facsimile methods that are currently permissible.

The June 10 memo from the ACE Board notes that the City of Denver's convention hotel uses a paid executive manager similar to the arrangement intended the proposed bylaw amendment. Pages 2-3 of the June 10 memo provide the ACE Board's discussion of that arrangement.

Funding for a compensated president of ACE would come from ACE's operating revenues. These are not City funds. We also note that under the ACE Articles of Incorporation, the City Council has the right to approve an annual budget for ACE, so the Council would have the ability to review and approve the compensation of the ACE president, as referenced in the June 10 memo.

Item #90: Approve a resolution directing the City Manager to enhance funding for displacement mitigation and provide options for implementing and funding active transportation.

COUNCIL MEMBER POOL's OFFICE

Please provide the remaining, unspent amounts from the 2016 and 2018 bonds for Vision Zero/Transportation Safety, Urban Trails, Sidewalks and Safe Routes to School, and Bikeways or other relevant Active Transportation infrastructure?

The Austin Transportation Department and Public Works Department continue to advance projects funded by the 2016 and 2018 Bond programs; the 2016 Mobility Bond is on an eight-year spend plan, and the 2018 Bond is on a six-year spend plan. Program teams continue to deliver projects on time and on budget, providing needed safety and mobility improvements to the City's transportation network and our community. Construction spending on many of these projects accelerates towards the end of the 8- and 6-year deployment targets.

The table below highlights the balance of 2016 and 2018 Bonds specific to the programs inquired about (*as of July 16, 2020, via the City's Controller website*). Staff also recently presented information regarding progress on bonds to the Bond Oversight Commission. The presentation is available on ATXN, [online here](#) (see item 2a).

	Included in Proposition	Sum of Expenses (expenditures & encumbrances)	"Unspent"	Percent Unspent	Percent Spent
2016 Bond (Local Mobility only)					
Bikeways	\$20,000,000	\$4,455,866	\$15,544,134	77.70%	22.30%
Sidewalks (<i>new sidewalks</i>)	\$32,000,000	\$20,751,470	\$11,248,530	35.20%	64.80%
Urban Trails	\$24,700,120	\$5,112,644	\$19,587,476	79.30%	20.70%
VO/Intersection Safety	\$15,000,000	\$5,625,714	\$9,374,286	62.50%	37.50%
Safe Routes to School	\$27,500,000	\$4,871,473	\$22,628,527	82.30%	17.70%
<i>2016 total from selected programs</i>	<i>\$119,200,120</i>	<i>\$40,817,167</i>	<i>\$78,382,953</i>	<i>65.76%</i>	<i>34.24%</i>
2018 Bond (Proposition G - select programs only)					
Urban Trails	\$3,000,000	\$0	\$3,000,000	100.00%	0.00%
Sidewalk (<i>rehab</i>)	\$20,000,000	\$867,949	\$19,132,051	95.70%	4.30%
VO/Intersection Safety	\$15,000,000	\$193,456	\$14,806,544	98.70%	1.30%
<i>2018 total from selected programs</i>	<i>\$38,000,000</i>	<i>\$1,061,405</i>	<i>\$36,938,595</i>	<i>97.2%</i>	<i>2.8%</i>

Please note, in addition to the programs above, the 2016 Mobility Bond Program also included funding for Corridor Mobility and Regional Mobility projects that include significant investment in active transportation elements, such as new and repaired sidewalks, bike facilities, ADA-curb ramps and infrastructure, shared use paths and more. For example, the Corridor Program's Corridor Construction Program *alone* is estimated to include approximately \$40 million in behind-the-curb bike and pedestrian improvements along the corridors. Similarly, there are also projects in the 2018 Bond program – such as the replacement of the Red Bud Trail Bridge – that include improvements to bicycle and pedestrian facilities, in addition to the program-specific spending above. These dollars are not as easy to extrapolate from the overall projects. Because of the required design phases for these larger bond elements, these projects are now initiating construction and will further accelerate bond expenditures over the remaining program term.

COUNCIL MEMBER ALISION ALTER'S OFFICE

1. *What is our financial policy around bond elections?*

Timing of general obligation bond elections shall be determined by the inventory of current authorized unissued bonds remaining to be sold. An estimated two years of

authorized unissued bonds shall remain before an election will be held. (General Obligation Debt Financial Policy #7)

2. *When is our next anticipated bond election?*

Given the financial policy mentioned above, the next General Obligation bond election would not be anticipated to take place until 2024 at the earliest.

3. *How many remaining bonds do we still need to sell from our existing bonds?*

Per the “Authorized but unissued GO Bonds” table within the FY2021 Proposed Budget (page 605), the City has \$1.419 billion in remaining bonds to issue. It is currently anticipated that the City will be issuing \$58.6 million of the remaining authority this fall.



Council Question and Answer

Related To	Item #12	Meeting Date	July 29, 2020
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Additional Answer Information

Approve a resolution finding the use of the competitive sealed proposal method of contracting, as authorized by Subchapter D, Chapter 2269 of the Texas Government Code, as the project delivery method that provides the best value to the City for the Town Lake Metro Park Seaholm Intake Facility Phase 1 Rehabilitation project to rehabilitate this historic structure.

QUESTION/ANSWER Council Member Flannigan’s Office

What are the source of fund for this project?

This project was identified as a need and discussed as part of the 2018 Bond Development process; however, was not a named project in the same way that the Cultural Centers projects were communicated via ballot language. The PARD investment is consistent with the facility plan priority. Current funding allocation includes:

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Council Question and Answer

Related To	Item #16	Meeting Date	July 30, 2020
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Additional Answer Information

Authorize negotiation and execution of a construction manager at risk agreement with SpawGlass Contractors, Inc., for preconstruction and construction services for the Faulk Library/Austin History Center Archival Repository Expansion project in an amount not to exceed \$12,600,000. [Note: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 19.80% MBE and 6.60% WBE participation.]

QUESTION/ANSWER: Council Member Casar's Office

Does authorizing this contract preclude an alternative use for the first floor of the Faulk building?

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Council Question and Answer

Related To	Item #16	Meeting Date	July 29, 2020
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Additional Answer Information

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QUESTION/ANSWER: Council Member Flannigan’s Office

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The \$12.6 M Bond allocation for the JH Faulk is program to convert the 2nd and 3rd Floors into an Archival Repository, infrastructure and system upgrades. The allocation represents the entirety of FY2018 Bond allocation for JF Faulk. The Scope of Work for this project further details as follows;

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Council Question and Answer

Related To	Item #32	Meeting Date	July 29, 2020
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Additional Answer Information

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QUESTION/ANSWER: Council Member Flannigan's Office

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QUESTION/ANSWER: Council Member Tovo's Office

Given the number of employees teleworking, has the City considered renegotiating this ILA to reduce the number of passes purchased?

The ILA allows for daily rides and passes to be purchased in an amount not to exceed \$530,000 for a 12-month period, which includes a purchase of up to 5,000 passes. Due to the number of employees currently teleworking, staff are not expecting to spend up to the \$530K annually, and therefore reserve the option to purchase all 5,000 passes included in the ILA until necessary dependent upon the reintegration plan.



Council Question and Answer

Related To	Item #36	Meeting Date	July 29, 2020
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Additional Answer Information

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COUNCIL MEMBER FLANNIGAN'S OFFICE

Is the Bright Leaf Foundation endowment projected to cover all the maintenance of the preserve or will city funds be needed? Are there any general fund impacts to accepting this land? Does this fully cover cost of maintenance?

The Austin Community Foundation has agreed to pay upfront for needed fencing and building repair/demolition. Then, an annual endowment of roughly \$20,000/year will be applied to maintain the preserve. The annual endowment is expected to cover all maintenance, as it is more than what is usually spent on most similar-sized (roughly 200 acres) preserves. Furthermore, Bright Leaf already has active volunteers to help as they have for decades now. After acquisition, Austin Water's Wildlands Conservation Division can assist as needed with staff to help patrol, evaluate potential wildfire issues, and conduct biological assessments.



Council Question and Answer

Related To	Item #52	Meeting Date	July 29, 2020
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Additional Answer Information

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QUESTION/ANSWER: Council Member Flannigan’s Office

Please provide more detail of what services the ESG-CV funds will be used for to “support [current ESG] organizations to expand current services, as well as assist in the community’s COVID-19 response to assist homeless persons.”

Current Emergency Solutions Grant (ESG) funding is allocated to three agencies to provide shelter and rapid rehousing services to persons who are homeless. These agencies use funds to purchase HMIS licenses and Austin Public Health uses a percentage of the funds for administration of the grant. It is anticipated that these funds will be used to support these organizations to expand current services as well as assist in the community’s COVID response for people experiencing homeless. Austin Public Health is working with the Ending Community Homeless Coalition and other community partners to determine the most urgent needs of the community. The ESG-CV funds will be utilized for the following services

100% Rapid Rehousing to Rehouse People from the Protective Lodge, rehouse the emergency shelter population and provide homeless prevention services.



Council Question and Answer

Related To	Item #59	Meeting Date	July 29, 2020
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Additional Answer Information

Authorize an amendment to an existing contract with Overdrive Inc., for continued digital content materials and services, that would increase the contract amount by \$10,710,000 and extend the term by three years, for a revised total contract amount not to exceed \$16,020,201. (Note: This amendment was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this contract there were no subcontracting opportunities identified; therefore, no subcontracting goals were established).

QUESTION/ANSWER: Council Member Flannigan’s Office

In previous years the terms each cost about \$1 million, but for this extension each year costs on the order of \$3 million; is this a correct interpretation? Is the proposal also expanding the size of the contract to meet the increased demand from the stay-at-home orders?

Yes. When the current contract was authorized the Austin Public Library estimated that annual usage for these services would be approximately \$1,000,000 per year. This estimate was based on past usage and anticipated annual increases as online usage of Library materials increased in the coming year. Due to the unforeseen events associated with the current COVID-19 pandemic, usage over the last six months has dramatically exceeded the Library’s estimates. As the pandemic proceeds and is eventually resolved, the Library estimates that usage will also continue to grow, and Library user’s adoption of these new materials will become more prevalent. In the past four months Virtual Library usage has gone up 37%.

Demand for the Virtual Library, of which Overdrive is our biggest contract, has grown significantly over the years. For example, from the end of Fiscal Year 2014 until the end of Fiscal Year 2019 demand for the Virtual Library has increased by 485%. This is before COVID-19.

The cost of e-books continues to increase. For example, the print version of the bestseller The House of Kennedy by James Patterson and Cynthia Fagen costs the library about \$15. The e-book costs the library about \$65 which is a 333% increase in cost. These are based on prices set by the publisher.

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Council Question and Answer

Related To	Item #63	Meeting Date	July 29, 2020
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Additional Answer Information

Authorize negotiation and execution of a multi-term contract with Acushnet Company, to provide golf course accessories and supplies, for up to five years for a total contract amount not to exceed \$1,000,000. (Note: Sole source contracts are exempt from the City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established).

QUESTION/ANSWER: Council Member Flannigan’s Office

Is this a cost-of-goods-sold contract?

This is a contract to purchase items at wholesale prices from the manufacturer and resell them at marked up prices to the public using the City’s golf courses.

Is it funded from the golf course fund?

Funding for this contract is from the Parks and Recreation Department’s Operating Budget, and not funded by the Golf Course Fund. Golfers often want to purchase miscellaneous items to play golf and they prefer to purchase those items instead of bringing them on the day they play. Therefore, the Golf Course has discovered that carrying a limited product line, allows the golfer to purchase those items on an as needed basis.

How much do we expect to earn in revenue based on this expense?

The standard profit margin is between 15% to 20% mark-up on golf resale items.



Council Question and Answer

Related To	Item #84	Meeting Date	July 29, 2020
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Additional Answer Information

Approve a resolution approving amendments to the bylaws of Austin Convention Enterprises, Inc.

QUESTION/ANSWER: Council Member Tovo’s Office

Please provide additional context for the proposed by-law changes. If applicable, please provide examples of other peer cities or similar corporations where the Board President is compensated. From what funding source would the Board President’s compensation be funded?

The proposal to approve amendments to the Austin Convention Enterprises, Inc. (“ACE”) bylaws originated from a request made by the ACE Board of Directors in its June 10, 2020 memorandum to the Mayor and Council. A copy of that memorandum is attached. ACE’s governing documents give the ACE Board the authority to amend its bylaws, but state law (Local Gov’t Code Chap. 303.038(a)) also requires that such amendments be approved by the Council.

The amendments do two things. First, the amendments allow the ACE Board to hire a professional in the role of president to run the day-to-day operations of ACE. This role is not a member of the ACE Board, but would rather be hired by the ACE Board and act on its behalf. Currently these day-to-day activities are handled by ACE’s volunteer Board Members. The June 10 memo from the ACE Board to the Mayor and Council explains the need and rationale for this amendment. Second, the amendments authorize the ACE Board to use email to communicate meeting notices and provide other communications among the Board members, in addition to the postal mail and facsimile methods that are currently permissible.

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Funding for a compensated president of ACE would come from ACE’s operating revenues. These are not City funds. We also note that under the ACE Articles of Incorporation, the City Council has the right to approve an annual budget for ACE, so the Council would have the ability to review and approve the compensation of the ACE president, as referenced in the June 10 memo.

June 10, 2020

Mayor and City Council,

This memorandum provides you an update regarding Austin Convention Enterprises, Inc. ("ACE") and requests that you approve the attached proposed amendment to the ACE bylaws.

Update

As you know, three new board members were appointed to the ACE board late in February. At that time, ACE's board president had just resigned in connection with his move to Florida. Within days after we were appointed, the two other board members resigned after they were sued individually by 555, the residential condominium association located in the hotel building, who alleged an inherent conflict of interest in being simultaneously a City of Austin employee, an ACE board member, and a director in the building's master condominium association. While this left us with no institutional knowledge on the ACE board, it provided an opportunity for a fresh look at how ACE is managed and operated.

One of the first things we noticed was that ACE was almost invisible. While a public website was maintained by the City of Austin, it was not kept up to date. Prior board minutes and agendas were not posted to this site. The public could not easily access or review public documents relating to ACE without making a request to ACE. The new board wanted to increase the transparency of ACE and allow greater public scrutiny of its actions. In furtherance of this goal, we have created a website for ACE where the public (and your staff) will be able to quickly and easily access relevant public information relating to ACE. That website is expected to go live shortly and will be at www.austinconventionenterprises.com.

The new website will also aid in the transition for future new board members, as the collection and distribution of information to us was ad hoc and mostly paper based. In the future, almost all of the ACE public documents will be available on the cloud. That website will also contain a public bulletin board, similar to the City Council's, where ACE directors can post comments and communicate with each other in a manner that complies with the Open Meetings Act. With only three board members appointed by City Council, we have been unable to communicate at all except in public meetings and the bulletin board will alleviate that problem.

With the new website, we have also created ACE-specific email addresses for the ACE board. This will assist with record-retention as new board members are appointed and existing members (and staff) retire over time.

We also noticed that the ACE board meetings allowed no opportunity for public comment. While not required by law, we have now implemented a procedure to accept online registrations in advance of meetings and each of our meetings now begin with an invitation for public comments.

Finally, with respect to your resolution from last August regarding labor peace agreements, I am proud to report that we have communicated to Hilton in writing that the new management agreement will need to include an affirmative obligation to enter into labor peace agreements, in compliance with applicable laws. In addition, the current management agreement's language prohibiting Hilton from voluntarily allowing a union to organize hotel workers will be deleted from the new management agreement. Of course, the final management agreement including these provisions will need to be finalized through

negotiations with Hilton and then adopted in accordance with the approval procedures contained in the Trust Indenture governing ACE's relationship with the bondholders, but at this juncture we are optimistic about that process.

This update has so far ignored the 800 pound elephant in the room, which is that due to the pandemic, the hotel has been operating at historically low occupancy rates and is losing significant revenue. ACE's bond ratings have been downgraded as a result. The board is proactively examining options, and I expect we may have to have direct discussions with you in the future regarding possible options unless the hospitality market dramatically turns around in the near future.

Proposed New Bylaws

While the changes discussed above provide ACE with more institutional presence, we still feel that ACE lacks sufficient organizational heft. ACE owns a hotel worth, at least pre-COVID, several hundred million dollars, but is operated by three volunteer board members, a part time executive director earning \$11,000 per month, and its lawyer. The proposed bylaws would allow ACE to hire a President and compensate that individual. That individual would not be one of the volunteer board members and would presumably bring executive experience to the job. There are several reasons we believe this change would benefit ACE and the City of Austin:

1. The voluntary board members have been required to serve not only as board members, but as officers of ACE, including President and Treasurer. That means we have volunteer board members authorizing cash transfers (often in excess of \$100,000) and signing checks for ACE. We do not think this is the proper role for voluntary board members and this situation should be upgraded for audit/compliance purposes.
2. ACE board members also need to serve on the board of the Austin Convention Condominium Association ("ACCA") that governs the residential, commercial and hotel units of the building. ACCA's residential unit and ACE have a long history of acrimonious relationships and are currently involved in litigation regarding who ACE may appoint to the ACCA board. None of the volunteer board members even knew about ACCA before they were appointed to the ACE Board, but they are spending an inordinate amount of time addressing its persistent issues, which would be better handled by an employee that could give these knotty issues the attention they need.
3. ACCA is also currently addressing issues relating to underground voids in and around the building discovered during construction of the 4th street Capital Metro light rail station. Those voids could potentially cause hazardous or unsafe conditions for the building and thus needs the prompt attention of more than a volunteer board.
4. The City has historically appointed city staff to serve on the ACE board to avoid having an all volunteer board. However, there is currently litigation questioning whether that practice may continue and, even if it can, we understand that in the past some city employees appointed to the ACE board felt that they were essentially being asked to perform two jobs for one salary.
5. Without an executive at the helm of the organization, ACE often relies on its attorney, David Dawson of Winstead, to perform certain administrative tasks. For example, it was David who reached out to us as new board members and provided our orientation. While David does a great job, and has been careful to not overstep his role as legal counsel and supplant the

duties of the ACE board, we would prefer to limit his role to purely legal advice and reduce his more administrative tasks and hopefully, as a result, reap savings in legal fees.

6. Other cities have successfully utilized such an executive arrangement. The City of Denver, Colorado, which used a legal and financing structure similar to ACE for its 1100 room Hyatt convention center hotel, has retained a chief executive officer from the private sector with significant experience in hospitality real estate to manage their hotel entity.

We have no candidate yet, but in my view we will want to find someone not only with executive experience, but someone who shares our board's values regarding the hotel as a valuable public asset. The job would probably be part time and would be filled through a public process. Based on other provisions in the Bylaws, the Council would be free to terminate a compensated role for a President. With a new management agreement to enter into (or an RFP process if not successful) and the need to plan in relation to the pandemic, I believe that the sooner we bring someone on in this role the better, and I urge you to approve the proposed revisions to the bylaws at the next available City Council meeting.

Additional Board Members

We also recommend that the City Council appoint two additional members to the ACE board, as contemplated by its articles of incorporation and bylaws. ACE has traditionally operated with five members, but has had at least two vacancies for several years. As mentioned above, given restrictions under the Open Meeting Act, it is difficult to conduct day-to-day business with only three directors.

Please feel free to contact me via email or by phone [REDACTED] if you have any questions.

Sincerely,

Phillip Schmandt
President of ACE



Council Question and Answer

Related To	Item #90	Meeting Date	July 29, 2020
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Additional Answer Information

Item #90: Approve a resolution directing the City Manager to enhance funding for displacement mitigation and provide options for implementing and funding active transportation.

COUNCIL MEMBER ALTER’S OFFICE

1. What is our financial policy around bond elections?

Timing of general obligation bond elections shall be determined by the inventory of current authorized unissued bonds remaining to be sold. An estimated two years of authorized unissued bonds shall remain before an election will be held. (General Obligation Debt Financial Policy #7)

2. When is our next anticipated bond election?

Given the financial policy mentioned above, the next General Obligation bond election would not be anticipated to take place until 2024 at the earliest.

3. How many remaining bonds do we still need to sell from our existing bonds?

Per the “Authorized but unissued GO Bonds” table within the FY2021 Proposed Budget (page 605), the City has \$1.419 billion in remaining bonds to issue. It is currently anticipated that the City will be issuing \$58.6 million of the remaining authority this fall



Council Question and Answer

Related To	Item #90	Meeting Date	July 29, 2020
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Additional Answer Information

Item #90: Approve a resolution directing the City Manager to enhance funding for displacement mitigation and provide options for implementing and funding active transportation.

COUNCIL MEMBER POOL’S OFFICE

Please provide the remaining, unspent amounts from the 2016 and 2018 bonds for Vision Zero/Transportation Safety, Urban Trails, Sidewalks and Safe Routes to School, and Bikeways or other relevant Active Transportation infrastructure?

The Austin Transportation Department and Public Works Department continue to advance projects funded by the 2016 and 2018 Bond programs; the 2016 Mobility Bond is on an eight-year spend plan, and the 2018 Bond is on a six-year spend plan. Program teams continue to deliver projects on time and on budget, providing needed safety and mobility improvements to the City’s transportation network and our community. Construction spending on many of these projects accelerates towards the end of the 8- and 6-year deployment targets.

The table below highlights the balance of 2016 and 2018 Bonds specific to the programs inquired about (*as of July 16, 2020, via the City’s Controller website*). Staff also recently presented information regarding progress on bonds to the Bond Oversight Commission. The presentation is available on ATXN, [online here](#) (see item 2a).

	Included in Proposition	Sum of Expenses (expenditures & encumbrances)	"Unspent"	Percent Unspent	Percent Spent
2016 Bond (Local Mobility only)					
Bikeways	\$20,000,000	\$4,455,866	\$15,544,134	77.70%	22.30%
Sidewalks (<i>new sidewalks</i>)	\$32,000,000	\$20,751,470	\$11,248,530	35.20%	64.80%
Urban Trails	\$24,700,120	\$5,112,644	\$19,587,476	79.30%	20.70%
V0/Intersection Safety	\$15,000,000	\$5,625,714	\$9,374,286	62.50%	37.50%
Safe Routes to School	\$27,500,000	\$4,871,473	\$22,628,527	82.30%	17.70%
2016 total from selected programs	\$119,200,120	\$40,817,167	\$78,382,953	65.76%	34.24%
2018 Bond (Proposition G - select programs only)					
Urban Trails	\$3,000,000	\$0	\$3,000,000	100.00%	0.00%
Sidewalk (<i>rehab</i>)	\$20,000,000	\$867,949	\$19,132,051	95.70%	4.30%
V0/Intersection Safety	\$15,000,000	\$193,456	\$14,806,544	98.70%	1.30%
2018 total from selected programs	\$38,000,000	\$1,061,405	\$36,938,595	97.2%	2.8%

Please note, in addition to the programs above, the 2016 Mobility Bond Program also included funding for Corridor Mobility and Regional Mobility projects that include significant investment in active transportation elements, such as new and repaired sidewalks, bike facilities, ADA-curb ramps and infrastructure, shared use paths and more. For example, the Corridor Program's Corridor Construction Program *alone* is estimated to include approximately \$40 million in behind-the-curb bike and pedestrian improvements along the corridors. Similarly, there are also projects in the 2018 Bond program – such as the replacement of the Red Bud Trail Bridge – that include improvements to bicycle and pedestrian facilities, in addition to the program-specific spending above. These dollars are not as easy to extrapolate from the overall projects. Because of the required design phases for these larger bond elements, these projects are now initiating construction and will further accelerate bond expenditures over the remaining program term.