April 18, 2024

Questions and Answers Report

Mayor Kirk Watson
Council Member Natasha Harper-Madison, District 1
Council Member Vanessa Fuentes, District 2
Council Member José Velásquez, District 3
Council Member Josè "Chito" Vela, District 4
Council Member Ryan Alter, District 5
Council Member Mackenzie Kelly, District 6
Mayor Pro Tem Leslie Pool, District 7
Council Member Paige Ellis, District 8
Council Member Zohaib "Zo" Qadri, 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 3:

Approve an ordinance accepting Federal Emergency Management Public Assistance grant funds from the Texas Department of Emergency Management and amending the Fiscal Year 2023-2024 Operating Budget Special Revenue Fund (Ordinance No. 20230816-008) to appropriate funding in the amount of $28,334 for Winter Storm Mara expenses.

COUNCIL MEMBER A. ALTER'S OFFICE

1. For which expenditures related to Storm Mara and what amounts does the City of Austin intend to apply for FEMA reimbursement? And when do we anticipate receiving the funds if awarded? What FEMA reimbursements have we received to date for this Storm?

The Estimated Expenditures that have been submitted to FEMA for reimbursements are listed in the table below and total $44,016,158.89 in damages. The Small Projects (less than $1M) which have been obligated may be funded in FY24. However, the Large Project currently obligated is anticipated to fund no sooner than FY25. The remaining project disbursements are dependent on FEMA's process. We have not received any reimbursements to date for this Storm.

Winter Storm Mara Expenditures submitted to FEMA for Cost Recovery are:	**Estimated Total**	**Fed Cost Share**	**Notes:**
• Austin Energy Debris Removal	$5,848,194.04	$4,386,145.53	
• Austin Energy Emergency Protective Measures	$1,165,520.74	$874,140.56	
• Austin Energy Electric System	$14,172,179.05	$10,629,134.29	
• Austin Resource Recovery Debris Removal	$19,094,085.86	$14,320,564.40	*Obligated-Large Project
• Austin Resource Recovery Emergency Protective Measures	$28,333.85	$21,250.39	*Obligated-Small Project
• CTM Wireless Tower	$18,787.62	$14,090.72	
• HSEM/PARD/TPW Emergency Protective Measures	$1,276,700.82	$957,525.62	
• PARD Buildings & Building Electrical	$24,677.28	$18,507.96	$5,404.92 * Obligated-Small Project
• HSEM supported APL/TPW/PARD Debris Removal	$2,387,679.63	$1,790,759.72	
Total	**$44,016,158.89**	**$33,012,119.17**	

**Obligated- means that FEMA has committed to funding the project. The next step is Texas Department of Emergency Management (TDEM) Review prior to disbursement of funds. TDEM may amend FEMA obligation amounts.*

Item 31

Authorize negotiation and execution of a contract for family stabilization grant program services with FII-National d/b/a Family Independence Initiative, in an amount not to exceed $1,336,000.

COUNCIL MEMBER MACKENZIE KELLY'S OFFICE

1) Harris County was recently sued by the State of Texas over their newly implemented Universal Basic Income program. Considering the family stabilization grant program is similar in practice, would this contract put us in any legal jeopardy?

Law is providing a response directly to Council.

Item 33

Approve an ordinance accepting Federal Emergency Management Agency Public Assistance grant funds from the Texas Department of Emergency Management and amending the Fiscal Year 2023-2024 Operating Budget Special Revenue Fund (Ordinance No. 20230816-008) to appropriate funding in the amount of $90,123 for Winter Storm Uri expenses.

COUNCIL MEMBER ALISON ALTER'S OFFICE

1) For which expenditures related to Winter Storm Uri and what amounts does COA intend to apply for FEMA reimbursement? And when do we anticipate receiving the funds if awarded? What FEMA reimbursements for this storm have we received to date?

For Winter Storm Uri we submitted a total of $4,677,080.89 in damages. Of that amount, $1,802,442.85 in damages and $90,123 for Indirect and Direct Administrative expenses have been awarded to date, and will be processed through the State for reimbursement. The receipt of funds may be as late as FY25. We have not received any funds yet. The remaining $2,874,638.04 has initially been denied by FEMA and is under appeal.

Item 34

Authorize negotiation and execution of Amendment No. 2 to the agreement with Family Endeavors, Inc. d/b/a Endeavors to operate a temporary emergency homeless shelter located at a City-owned facility to add one eight-month extension option in an amount not to exceed $1,000,000, for a revised total agreement amount not to exceed $10,140,000.

COUNCIL MEMBER R. ALTER'S OFFICE

1) Can you please provide the most up to date outcomes data for residents at the Marshalling Yard, similar to what was provided at the February 7, 2024 Public Health Committee?

Compared to the data shared during the February 7, 2024 Public Health Committee meeting, (which displayed outcomes up to January 15, 2024), as of March 27, 2024:

- Positive exits are up 10 percentage points to 20% (13% completed program + 7% left for housing).
- Negative exits are down 2 percentage points to 17% negative exits (7% criminal acts/violence, 2% death/needs cannot be met, 8% non-compliance with rules),

- Unknown exits are down 6 percentage points to and 63%.

2) To date, how much of the original $9.14 million allocation has been spent for the operation of the Marshalling Yard?

$3,658,279.94

3) How much of the original $9.14 million allocation for the operation of the Marshalling Yard is expected to be spent by July 31, 2024?

HSO anticipates $5,000,000 to $6,000,000 spent by July 31, 2024.

4) If item 34 was not passed, what is HSO's recommendation on the $1 million in ARPA funding would be spent?

Presently, HSO believes using this $1M to continue emergency shelter operations at Marshalling Yard is the best use for these funds. This recommendation aligns with Council's approved ARPA spending framework, and ensures clients have a safe place to temporarily reside until permanent housing comes online.

5) What is the current census for the 8th street shelter (former Salvation Army shelter)?

As of Thursday, April 11, 2024, the 8th St. census was 118.

COUNCIL MEMBER VANESSA FUENTES' OFFICE

1) What were these ARPA funds previously designated for?

These ARPA funds were already approved by the City Council for Emergency Shelters and Crisis Services, which is the category of ARPA funds used for emergency shelter services.

2) What is the status of remaining ARPA funds?

This amendment utilizes all remaining unallocated funds from this ARPA category. HSO plans to expend all ARPA funds using Council's most recent spending framework.

3) What other locations/real estate have been assessed to take on the functions as an emergency shelter?

HSO and Urban Alchemy are finalizing bed installations to maximize capacity at the 8th St. Shelter, and HSO is supporting The Other Ones Foundation's efforts to add additional emergency shelter beds at Camp Esperanza.

Item 36

Authorize a fee in-lieu of on-site affordable housing for a proposed mixed-use development subject to the Plaza Saltillo Transit Oriented Development Regulating Plan located at or near 1501 E. 6th Street, Austin, Texas 78702.

COUNCIL MEMBER ALISON ALTER'S OFFICE

1) The Regulating Plan states that a fee in-lieu is appropriate if a development demonstrates a compelling reason not to provide housing on-site. The City Code sets the current fee in-lieu amount at $13 per square foot of bonus area. Please provide additional information regarding the "compelling reason" not to meet the requirement to provide housing on-site within this proposed development. Please also provide details on when the $13 fee was set and the analysis that was done to set the fee.

A Memo to Mayor and Council is attached which further explains the request, the applicant's stated compelling reasons, and staff's recommendation.

The $13/square foot fee-in-lieu rate was adopted in FY2021, an increase from the previous rate of $12/square foot, based on market analysis and community engagement that took into account market conditions and development costs for affordable housing. Fee rates are published in the annual fee schedule.

Item 37

Authorize negotiation and execution of an agreement with Helping the Aging, Needy, and Disabled, Inc. d/b/a Meals on Wheels Central Texas In-Home Care to provide personal attendant services to housebound clients in an amount not to exceed $385,000 for the nine-month period beginning May 1, 2024, for a total agreement amount not to exceed $385,000.

COUNCIL MEMBER VANESSA FUENTES' OFFICE

1) When is this program anticipated to begin?

The contract will begin May 1, 2024 with a 30 day ramp up period to identify any additional clients and the attendants participating. The program services are expected to begin June 1, 2024.

Item 38

Authorize negotiation and execution of interlocal agreements with four local school districts for the provision of startup costs for eight new pre-kindergarten classrooms for three-year-olds to expand access to affordable, high-quality early care and education, for an initial five-month term through September 30, 2024, with four 12-month extension options, each in an amount not to exceed $128,000 for each district, for a total agreement amount not to exceed $640,000 for each district.

COUNCIL MEMBER VANESSA FUENTES' OFFICE

1) Does this include dual-language Pre-K programming?

It varies by school district. Historically, Del Valle ISD has opened dual language classrooms with this funding. APH is currently negotiating number of classrooms, location and type (i.e. dual-language) with each school district.

MEMORANDUM

TO: Mayor and Council Members

FROM: Mandy DeMayo, Interim Director, Housing Department

DATE: April 11, 2024

SUBJECT: **April 18, 2024 Council Agenda Item 36 - Authorize a fee-in-lieu of affordable housing for 1501 E. 6th Street**

The Housing Department (Housing) has reviewed the request to provide a fee-in-lieu for a residential mixed-use development located at 1501 East 6th Street, Austin, TX 78702, also known as Centro East. A request to provide a fee-in-lieu payment is permitted as part of the density bonus section of the Plaza Saltillo TOD Regulating Plan, specifically Section 4.3.3(D), and requires the approval of the City Council.

The proposed development is in City Council District 3 and the TOD Mixed Use subdistrict. The applicant is proposing a 341,408 square foot development with 260 proposed multifamily units ranging from studios to 3-bedroom units with ground-floor commercial space. The proposal is for new development on a site with no existing structures. The proposed development seeks a density bonus, as described in the Regulating Plan, in the form of waivers of Site Development Standards, including maximum FAR, maximum density, and compatibility standards.

To receive the density bonus, the Regulating Plan requires on-site affordable housing or, if approved by Council, a fee-in-lieu payment. The Plaza Saltillo TOD Regulating Plan permits the donation of a fee-in-lieu of on-site affordable housing under Section 4.3.3(D) if the property owner/developer can demonstrate a compelling reason not to provide the required on-site housing.

The TOD regulating plan establishes a fee-in-lieu of $13 per square foot of bonus area. The fee-in-lieu shall be calculated in accordance with the Plaza Saltillo Regulating Plan, Section 4.3.3(D)(2). The pending application for the site estimates a bonus area of 222,750 square feet, resulting in a potential fee of $2,895,570 if approved. These are estimates based on initial project designs.

Applicant Justification

The applicant has provided a letter, attached as Exhibit A, with justifications for providing a fee-in-lieu rather than the onsite affordable units. Those justifications, as described by the applicant, are:

- Current macroeconomic realities, including high interest rates and high development costs, prevent feasibility of development.
- Affordability requirements of the Plaza Saltillo TOD Density Bonus are uniquely challenging.

Staff Recommendation

Housing staff do not recommend approval of the request to provide a fee in lieu of the on-site affordable units. Challenging market factors, whether site-specific or macroeconomic, are not uncommon in affordable housing development. Staff do not consider these challenging market factors to be a compelling reason to recommend approval of a fee-in-lieu of on-site affordable units.

Staff from the Housing and Planning Departments are currently engaged in efforts to evaluate the effectiveness and feasibility of existing density bonus programs. If staff find that recalibration of this bonus program is needed, we hope these efforts at calibration and stakeholder engagement will yield meaningful improvements that allow our density bonus programs to continue producing on-site affordable housing.

Should you have any questions, please contact me at 512-974-1091 or via email at MandyDeMayo@austintexas.gov or Brendan Kennedy, Housing Department, Program Manager II, at 512-978-1594 or via email at Brendan.Kennedy@austintexas.gov.

cc: Jesús Garza, Interim City Manager
Veronica Briseño, Assistant City Manager

Attachment: Exhibit A, 1501 E. 6th St. Request for Fee-In-Lieu

Exhibit A

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

April 5, 2024

Via email

Mandy DeMayo, Interim Director
Housing Department
City of Austin
1000 E. 11th St.
Austin, Texas 78704

Subject: Density bonus application for 1501 E. 6th St. (the project known as "Centro East")

Dear Ms. DeMayo,

On behalf of 6th & Onion East, LP (the "Applicant"), please accept this follow-up to our letter dated October 27, 2023, in which the Applicant requested to pay a fee in lieu of on-site affordable units under the Plaza Saltillo Transit-Oriented Development ("TOD") Regulating Plan (the "Regulating Plan") for the Centro East project.

Pursuant to feedback from City legal, the Regulating Plan currently precludes the city from accepting a proposal for partial on-site affordability and partial fee payment. As a result, the Applicant is requesting the ability to pay the full fee in lieu of on-site affordable housing, estimated at approximately $2.9 million.

'Compelling Reason' for Fee-in-Lieu Approval

Section 4.3.2.D. of the Regulating Plan allows an applicant to request the ability to pay a fee in lieu of providing on-site affordable units if they can "demonstrate a compelling reason."

In this case, the compelling reason is existential: this single request will ultimately determine whether the Centro East project is able to move forward and provide much-needed housing and commercial amenities directly adjacent to a rail station.

Simply put, the current macroeconomic environment and the need to recalibrate the current Plaza Saltillo TOD bonus program have already prevented this project from moving forward – and are threatening to derail it entirely. This fee-in-lieu request is the applicant's last remaining option to achieve financial feasibility for the Centro East project in this challenging environment.

These macroeconomic challenges are affecting projects across the entire region and are not specific to this Applicant or to the Centro East project. KUT summarized these dynamics in a February 2024 article:

> *"In the middle of 2022, interest rates began to rise. Buying land and paying for construction became more expensive.*
>
> *Some developers sold off projects. Others held onto developments, but adjusted their plans, no longer guaranteed easy cash by building apartments.*
>
> *…*
>
> *'If everybody stopped building because things are more expensive, you could end up in a situation where you are back in the undersupply situation again and rents start rising,' Julia Coronado, a professor of finance at UT Austin, said. It's the way a capitalist market works — if there is no money to be made, no one will build. 'That is the name of the game.'*
>
> *Economists and real estate experts argue now is the time for the government or philanthropic institutions to find ways to make building cheaper — ensuring a profit for developers and continued falling rents.*
>
> *'I really don't like this analogy because I don't like cars. But this is kind of that place where we have to make sure that we keep our foot on the gas pedal,' [Awais Azhar, deputy director of HousingWorks Austin] said."*

These challenges are compounded by the need to recalibrate the Plaza Saltillo TOD Regulating Plan's bonus provisions. As discussed in our October 27, 2023 letter, this Regulating Plan establishes one of the highest thresholds for participation in the city, calculating affordability set-asides based on *total square footage* but then requiring an Applicant to provide that space in *net rentable square feet*.

The city has also recognized this issue: the Housing Department indicated in its November 14, 2023 presentation to the Council's Housing and Planning Committee that "Calibration [is] needed to increase participation" for the Plaza Saltillo TOD bonus program. By our count, only about 37 percent of completed and under-construction site plans for private projects developing in the Plaza Saltillo TOD actually included on-site affordable housing.

Without the ability to pay a fee in lieu of on-site units, the Centro East project will not be feasible, leading to the following outcomes:

- **Loss of 260 housing units**, contributing to a widening deficit in the housing pipeline.
- **Loss of affordable housing**, including losing the $2.9 million the Applicant would otherwise have paid to the city's Housing Trust Fund.

- **Loss of a mixed-use, transit-supportive project** with active ground-floor uses directly adjacent to the Plaza Satillo rail station.

The Applicant has not arrived at this request lightly. We understand that the city strongly prefers that applicants provide on-site affordable units – and have only brought this request forward due to the dangers that the current macroeconomic environment and the current program requirements pose to the overall project's feasibility.

We believe that this information constitutes a "compelling reason" to approve paying a fee in lieu under the Regulating Plan. Thank you for your consideration – and I am available to discuss this request and answer questions.

Sincerely,

Michael J. Whellan

Attachment A – Plaza Saltillo TOD Calibration Discussion

Currently, the Plaza Saltillo TOD calculates affordability based on *total* square footage – including commercial space, amenity areas, and other space not used for residential units – while simultaneously requiring that affordable space be based on *net rentable* residential square footage. In this case, that calculation would effectively require the Applicant to provide over 14 percent of their net rental residential area as affordable housing.

In contrast, other density bonus programs calculate affordability either based on *incremental* bonus area (Downtown Density Bonus, East Riverside Corridor, North Burnet/Gateway, and Planned Unit Developments) or on residential uses alone (Vertical Mixed Use) (Figure 1).

The Plaza Saltillo TOD's 'hard-trigger, all-uses-included' design – in which *any* amount of bonus area triggers a commitment based on *total* square footage owed as *net rentable* space – makes it particularly sensitive to feasibility issues. While a strong economy may have temporarily boosted feasibility for projects in this area over the past several years, the current macroeconomic headwinds threaten to tip more projects into infeasibility. By our count, only about 37 percent of completed and under-construction site plans for private projects developing in the Plaza Saltillo TOD actually included on-site affordable housing – despite having several years with a strong economy.

In this case, it is not financially feasible to provide the full amount of on-site affordable housing. Instead, the Applicant is requesting to meet their affordability commitment by paying a fee in lieu of on-site housing, up to a maximum of $2.9 million, based on the fee-in-lieu rate of $13 per bonus square foot. This payment represents a meaningful commitment to affordable housing in Austin: the fee-in-lieu rate for the Plaza Saltillo area is higher than that of any other density bonus program in the entire city – greater even than the fees required in Downtown Austin.

Figure 1. Density Bonus Program Fee-in-Lieu Rate Comparison

Density Bonus Program	Calculation Basis	Uses Considered
Downtown Density Bonus	Incremental	Nonresidential and Residential
Planned Unit Development	Incremental	Nonresidential and Residential
North Burnet/Gateway	Incremental	Nonresidential and Residential
East Riverside Corridor	Incremental	Nonresidential and Residential
Vertical Mixed-Use	Total	Residential Only
Transit-Oriented Development	**Total**	**Nonresidential and Residential**

Figure 2. Density Bonus Program Fee-in-Lieu Rate Comparison

Density Bonus Program	Fee Per Bonus Square Foot
Downtown Density Bonus	$3 to $12
Planned Unit Development	$8
North Burnet/Gateway	$8
East Riverside Corridor	$1
Martin Luther King Jr. TOD	$12
Plaza Saltillo TOD (and Lamar/Justin TOD)	**$13**

Attachment B – Housing Department Briefing Slide on Plaza Saltillo Bonus

CITY OF AUSTIN: GEOGRAPHICALLY SPECIFIC DENSITY BONUS PROGRAMS

PLAZA SALTILLO TOD, Est. 2009

A Transit Oriented Development (TOD) Regulating Plan next to the Plaza Saltillo Commuter Rail station that incorporates an optional affordable housing bonus.

Policy Considerations

- Calibration needed to increase participation
- Zoning cases for additional entitlements instead of utilizing the density bonus program
- More consideration needed for non-residential community benefits