

- a. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on city council, including but not limited to Representative Romero, pertaining to issuing an RFQ for a new financial advisor (the FA-RFQ) before or after the July 22, 2014 budget hearing? If so, please describe in detail those communications.*
- Since my arrival in El Paso, at individual meetings with council members, I did hear a consistent message that the Council members were not pleased with the advice from the financial advisor. They conveyed concern regarding how the bond sale was handled and were displeased with the advice they were receiving internally from staff.
 - I heard from the following Council members:
 - Representative Lily
 - Representative Romero
 - Representative Acosta
 - Representative Robinson
 - Representative Noe
 - Representative Holguin
 - Representative Limon
 - Representative Niland
 - I did inform First Southwest and they asked for permission to meet with council. They proceeded to meet with the City Council
 - Still after those meetings I was told by Representative Niland “Yes bring that back all day long so we can vote on it.”
- b. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on your senior staff, to discuss issuing an FA-RFQ before or after the July 2014 budget hearing? If so, please describe in detail those communications*
- I did ask for updates via email from Dr. Mark Sutter, our Chief Financial Officer
 - I also made a comment about the length of the RFQ
(Please see exhibit 1)
- c. *What gave you the impression that either you or Representative Romero had the “concurrence by majority of council” (as opposed to solely Rep. Romero) to issue the FA-RFQ? Did you re-listen to that portion of the city council meeting where proposed issuing a FA-RFQ to determine whether his remarks were generally approved by City Council?*
- d. *Was it your impression and/or belief that you could/can proceed to issue a request for qualifications at the request of a single representative?*
- The information below is the response for questions (c,d)
 - The very first task I had to tackle when I arrived in June 2014 was to address the budget that needed to be filed by June 30, 2014.
 - The City was faced with a \$7.9M deficit at the time
 - The July 22, 2014 meeting where Representative Romero requests from staff to look at putting out an RFQ for a new financial advisor is a 2014 Budget Meeting (*meetings are available on City’s homepage*)
 - From July 21-July 24, 2014 departments presented their budgets to Mayor and City Council (*meetings are available on City’s homepage*)
 - After each presentation, Mayor and City Council would discuss the budgets and make requests of the City Manager and departments
 - All of these requests were placed on a master list that was shared with City Council on August 4, 2014 to allow Mayor and City Council time to review the list and have the opportunity to make additions/changes/voice concerns before the budget was finalized (*Please see exhibit 2*)
 - The Budget Request list was sent to Mayor and City Council a second time on August 11, 2014 (*Please see exhibit 3*)
 - The Budget Request was again sent to Mayor and Council a third time on August 12, 2014 (*Please see exhibit 4*)

- The only items on the budget request list that are voted on are the items that have a budgetary impact *(Please see exhibit 5)*
 - The creation of this list is part of the budget process
 - When the request was made by Representative Romero at the July 22, 2014 meeting, Mayor and City Council did not comment
 - The Council did not vote on the requests because the list was a part of the follow-up items to the budget process
 - Mayor Leaser and City Attorney, Sylvia Firth were both present at the July 22, 2014 meeting and did not mention the Norton Rose Fulbright report nor the email from previous City Manager
 - Since I had already received negative comments regarding the bond sale and the performance of First Southwest, I did not question Council's concurrence
 - When the issue about the FA-RFQ came up and I had to present my report to Mayor and City Council on December 7, 2015 my staff passed out the Budget Request lists to Mayor and City Council to remind them once again about the process
- e. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Estrada Hinojosa, including but not limited to Noe Hinojosa (hereinafter collectively "Hinojosa") pertaining to issuing an RFQ for a new financial advisor (the "FA-RFQ")? If so, please describe in detail those communications.*
- No I did not have communication with Estrada Hinojosa pertaining to issuing the RFQ for a new financial advisor
- f. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Hinojosa pertaining to the language or terminology to be included in the FA-RFQ? If so, please describe in detail those communications*
- No I did not have any communication with Hinojosa pertaining to the language or terminology included in the FA-RFQ
- g. *What authority do you believe you had to issue the FA-RFQ without full City Council authorization?*
- I was not directly involved with the issuance or the process used to issue the FA-RFQ, however as part of the process to create the report requested by Mayor Oscar Leaser on November 25, 2015 I requested the information pertaining to this issue
 - As detailed in the report submitted to Mayor Leaser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see explanation below pulled from the report pg.3

Why didn't staff go to Council for approval prior to issuing the RFQ?

- Staff followed the regular process in place to go out for an RFQ.
- The task of releasing an RFQ is an operational function that falls under the direction of the City Manager. For clarification purpose, it is important to note that the City's financial adviser answers to the Chief Financial Officer.
- As part of the regular process all RFQs/RFPs/Bids over \$50,000 must go to Council for final approval. Staff was in the process of preparing the necessary documents to go to Council on the financial adviser RFQ.
- A self-imposed City resolution requires Council approval prior to issuance of RFQs only when the City is going to request a Construction Manager at Risk or Design Build project. *(please see exhibit 6)*
- This year City staff has gone before Council prior to issuance for the following four projects:
 - o CMAR: Chihuahuan Desert Zoo Project
 - o CMAR: Multi-Purpose Cultural and Performing Arts Center (Arena)

- o Design Build: Spray Parks (citywide)
- o Design Build: Eastside Regional Sports Complex
- Examples of staff going out for RFQs prior to Council approval include:
 - o Lobbyist for legislative priorities: \$98,000
 - o Third Party Administrator: \$45,149,599
 - o Supplemental Benefits: \$652,000
 - o Articulated Buses: \$217,441,184
 - o 311 Call Center: \$5.4 million

- Additionally, I believe the explanation in questions a,c,d help clarify why I believed we had authorization to go forward with the FA-RFQ

h. Is it your understanding or belief that the FA-RFQ required City Attorney's Review before issuance? If so, why was this not done?

- I was not directly involved with the issuance or the process used to issue the FA-RFQ, however as part of the process to create the report requested by Mayor Oscar Leeser on November 25, 2015 I requested the information pertaining to this issue
- As detailed in the report submitted to Mayor Leeser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see explanation below pulled from the report pg.4

Why didn't staff include the City Attorney's Office prior to issuance of the Financial Adviser RFQ?

- Staff followed the regular process in place for the issuance of a RFQ.
- When staff seeks out *routine* services such as financial adviser, accounting services, third-party administrators; the City Attorney's Office is included at the end of the process to assist with the contract and necessary documents needed to go to Council for approval.
- When staff elects to *outsource* a certain operational function, such as CMAR construction projects, Sun Metro/LIFT Administration (First Transit and MV Transportation), the City Attorney's Office is part of the process from the very beginning. (Please see exhibit 7)

i. When did you first become aware that the contract with First Southwest would have to be terminated in order to retain services of another financial advisor?

1. *Did you believe that such termination would be for convenience or cause?*
2. *What led you to reaching such a belief?*
3. *When did you become aware of the applicable notice requirement for terminating First Southwest's contract?*

- As I have mentioned I was not directly involved with the issuance or the process used to issue the FA-RFQ and was not familiar or involved with the details regarding the termination of the contract
- However, when the FA-RFQ became an issue and City Attorney, Sylvia Firth told me about the Joyce Wilson email and the Norton Fulbright Report I immediately directed staff to cancel the FA-RFQ
- After the RFQ was cancelled on October 13, 2015, it was explained to me that the termination was part of the process and that Council authorizes the termination not staff.
- Staff was simply handling the administrative work for the actual vote by Council

- j. *Why did you direct the Chief Financial Officer to utilize a three-week response period when the City's procurement policy requires a minimum of four weeks to respond to an RFQ?*

Were you familiar with the procurement policy before you directed staff to require a three-week response period?

- To clarify the comments being referenced in this question was NOT a directive, it was merely me sharing my thoughts
- On a regular basis, the CFO receives information from various financial advisors wanting to do business with the City, because of that, in my opinion, companies are interested in responding to an RFQ
- I was NOT aware that the policy required four weeks, I do rely on staff to follow policy and bring items to my attention that are not consistent with policies in place
- In this case, staff did not clarify the policy with me after my email but they did follow the policy.
- As detailed in the report submitted to Mayor Leeson on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see timeline below pulled from the report pg.5
 - FA-RFQ released 4-28-15
 - Proposals due 5-27-15

- k. *Why the City Attorney's Office was ultimately consulted with respect to the FA-RFQ? Whose idea was it to involve them?*

- As I responded in question (h), I was not directly involved with the issuance or the process used to issue the FA-RFQ, however as part of the process to create the report requested by Mayor Oscar Leeson on November 25, 2015 I requested the information pertaining to this issue
- As detailed in the report submitted to Mayor Leeson on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see explanation below pulled from the report pg.4

Why didn't staff include the City Attorney's Office prior to issuance of the Financial Adviser RFQ?

- Staff followed the regular process in place for the issuance of a RFQ.
- When staff seeks out *routine* services such as financial adviser, accounting services, third-party administrators; the City Attorney's Office is included at the end of the process to assist with the contract and necessary documents needed to go to Council for approval.
- When staff elects to *outsource* a certain operational function, such as CMAR construction projects, Sun Metro/LIFT Administration (First Transit and MV Transportation), the City Attorney's Office is part of the process from the very beginning. *(Please see exhibit 7)*
- As part of the regular process in place for RFQs, the City Attorney's Office is included at the end of the process when staff seeks out routine services such as a financial advisor.
- Staff had completed the process and was ready to place the item on the City Council agenda, so the CFO and the Purchasing department went to the City Attorney's Office to prepare the contract and the necessary paperwork.
- It was then that Sol Cortez the City Attorney that handles purchasing items shared the item with City Attorney, Sylvia Firth

- At that time, Sylvia Firth emailed the CFO to alert him that she had concerns with the solicitation
- As detailed in the report submitted to Mayor Leeser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see timeline below pulled from the report pgs.5,6 &7

Why was the decision made to stop the Financial Adviser RFQ process?

As previously mentioned, part of the RFQ process requires staff work with the City Attorneys' office to create the contracts and necessary documents to take to Council for approval. Below is a timeline of the flow of information that lead to the City Manager directing staff to terminate the Financial Adviser RFQ process:

- September 1, 2015 Staff informed Assistant City Attorney Sol Cortez about the need to create the necessary documents to take the action to Council for approval.
- September 3, 2015 City Attorney Firth reached out to Chief Financial Officer Mark Sutter to inform him that she had concerns. City Attorney Firth's concerns are related to Financial Advisers (FA) Estrada and Hinojosa.
- September 21, 2015 Chief Financial Officer Sutter asked Internal Auditor Edmundo Calderon to assess FA Estrada and Hinojosa and report back any concerns. Internal Auditor Calderon reports that he did not find any concerns.
- September 25, 2015 Chief Financial Officer Sutter follows up with City Attorney Firth and she again said she was concerned about the intent to terminate the contract with First Southwest. They discuss scheduling a meeting about contract issues.
- September 27-28, 2015 Chief Financial Officer Sutter and City Attorney Firth discuss scheduling a meeting about contract issues. Chief Financial Officer Sutter also tells City Attorney Firth that he has spoken to City Manager Gonzalez about the City Attorney's concerns.
- October 1, 2015 Chief Financial Officer Sutter place Financial Adviser RFQ on hold.
- October 8, 2015 Chief Financial Officer Sutter and City Attorney Firth discuss the City Attorney's concerns a second time. The concerns are related to Financial Advisers First Southwest.
- October 12, 2015 City Attorney Firth sends Norton Rose Fulbright report to Chief Financial Officer.
- October 13, 2015 Chief Financial Officer Sutter responds to City Attorney Firth regarding Norton Rose Fulbright report.
- October 13, 2015 City Manager verbally directs Chief Financial Officer Sutter to halt the solicitation for requests for qualifications for a financial adviser after receiving information from City Attorney Firth and Chief Financial Officer Sutter.
- October 19, 2015 Purchasing Department sends Notice to Expire letters to the four Financial Advisor vendors.
- November 17, 2015 City Manager Gonzalez receives the Joyce Wilson email from City Attorney Firth.
- December 1, 2015 Norton Rose Fulbright report released to allow City Manager and the public to review the information pertaining to the financing of the ballpark. This is the first time City Manager Gonzalez has access to the report.

(please see exhibit 8)

- It is important to note that I have created a team called the Legal Implementation Team (LIT) to address legal issues that have been lingering for a while and to discuss major legal issues ahead of time. The team includes the City Attorney and several of her staff and members of the City Manager's staff.
- When I questioned the CFO on the fact that the FA-RFQ had not been included in any of the LIT meetings, he responded that he did not include the item because it seemed routine and was not a major issue.

l. When did you first become aware of any prior relationship between Representative Romero and Estrada Hinojosa? How did you learn of the prior relationship?

- I don't recall hearing about the relationship from anyone
- The relationship came up with media
- Prior to that I was not aware that actual employment ever took place

m. By proceeding to issue an RFQ for financial advisor, is it reasonable for one to reach the impression that Representative Romero could improperly influence you in the performance of your official duties? If not, please state in detail why it is not.

- No it is not reasonable for one to reach that impression
- I believe I clearly shared in my response in questions (a) that Representative Romero was not the only member of City Council that had concerns about the performance of First Southwest in its handling of the ballpark bond sale
- In my response to question (c) I have shared that during the July 22, 2014 Budget meeting, Mayor and City Council members all made requests during those sessions
- Representative Romero's request is #45 out of 147 requests
- Additionally, in my response in question (k) I have shared in the timeline that I was not made aware of the Joyce Wilson email and the Norton Rose Fulbright report until September and October 2015
- These two documents clearly state that First Southwest was directed to hold off on the bond sale, until after the mayoral election
- This information proved that First Southwest had not mishandled the ballpark bond sale, they were following the directive that they were given
- This information led me to immediately stop the RFQ from going forward
- It is important to note that I received the Joyce Wilson email from the City Attorney on November 17, 2015
- I received the Norton Rose Fulbright report on December 1, 2015 at the same time that the City Council and the public received the report
- To make sound decisions it is important to have all of the facts, the two documents that I referenced above should have been shared with me when I arrived in June 2014 or at the minimum at the July 22, 2014 budget meeting, when Representative Romero made his request
- I firmly believe if the City Council members had received the two documents that I referenced above, they would not have made the comments they shared with me
- As a point of clarification, I still believe it was First Southwest fiduciary responsibility to have said something in public to City Council

n. By proceeding to issue an RFQ for financial advisor, is it reasonable for one to reach the impression that Estrada Hinojosa could improperly influence you in the performance of your official duties? If not, please state in detail why it is not.

- No it is not reasonable for one to reach that impression

o. By proceeding to issue the RFQ for financial advisor, is it reasonable for one to reach the impression that you were unduly influenced by kinship, rank, position or influence of Representative Romero? If not, please state why it is not

- No it is not reasonable for one to reach that impression
- It is an everyday occurrence to have Mayor and Council make requests

- I have instituted a new process for all council requests
- As detailed in the report submitted to Mayor Leeser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see information below pulled from the report pg.7&8

How are Council Requests handled by the City Manager and City staff?

October 4, 2015 City Manager Gonzalez implements a “Council Request” process in order to address:

1. Council concerns that staff does not follow through on Council requests
2. Public perception that the City Manager and City staff respond to Council requests without following processes.

This allows the assigned staff in the City Manager’s Office to send the request to the appropriate department and receive a response and track all requests.

In the first month, October 4-November 4, 2015, staff received 497 inquiries/requests and addressed 432 of those requests
(Please see exhibit 9)

p. By proceeding to issue the RFQ for financial advisor, is it reasonable for one to reach the impression that you were unduly influenced by kinship, rank, position or influence of Estrada Hinojosa? If not, please state why it is not

- No it is not reasonable for one to reach that impression

q. By proceeding to issue an RFQ for financial advisor, is it reasonable for one to reach the impression that Representative Romero could unduly enjoy your favor in the performance of your official duties? If not, please state why it is not.

- No it is not reasonable for one to reach that impression
- As mentioned in my response in question (o) Mayor and Council make requests everyday
- I have worked towards instituting a customer focus to address the requests and concerns of the community as well as Mayor and Council
- I firmly believe that the Mayor and Council requests come from their constituents and the needs of their districts, so I work to address their requests when possible
- As you see in the “Council Requests” documents staff and I strive to address the requests big and small
- Some examples include:
District #1-expediting and starting the process for Robinson Street
District #2-basketball court resurfacing
District #3-bulb outs on Manor Place to reduce speeding
District #4-Securing funding for Futureland Park
District #5-legal implementation process guided the pace and helped to implement annexation in the Far East for the long awaited Eastside Regional Park
District #6-Pavo Real facility improvements
District #7-basketball court resurfacing
District #8-bulb outs at El Barrio Park to address speeding and excessive traffic
Mayor-Requests for department support on various community initiatives

r. By proceeding to issue an RFQ for financial advisor, is it reasonable for one to reach the impression that Estrada Hinojosa could unduly enjoy your favor in the performance of your official duties? If not, please state why it is not.

- No it is not reasonable for one to reach that impression
- Throughout my career, I have worked with various companies in different cities and I hold them all to the same standards, no matter the situation

- As detailed in the report submitted to Mayor Leeser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see information below pulled from the report pg.7

What is the City Manager's affiliation with First Southwest? Estrada and Hinojosa?

While I was City Manager in Irving, the firm of Estrada and Hinojosa was representing a private developer proposing an entertainment project to the city that could have had a major financial impact on the city. The interaction was not a positive one, because I insisted that it was Mr. Hinojosa's fiduciary responsibility to advise the Irving council of potential financial risks.

(Note: During that same time First Southwest was the City of Irving's financial advisor)

- s. *Is there any basis for concluding that you recklessly disregarded an applicable policy or procedure by initiating the FA-RFQ without explicit City Council approval? If not please state in detail why there is not*
- No there is no basis for concluding such an assertion
 - Despite the fact that I was not directly involved in the issuance of the FA-RFQ, I have stated that I rely on staff to follow policy. As City Manager, however, I am ultimately responsible for any and all actions of my staff. I firmly believe that staff followed the process and policies in place
 - The report submitted to Mayor Leeser on Dec. 2, 2015 outlines in great detail all off the actions taken by me and my staff
 - My responses in questions (a) share in detail that Council shared concerns with me about the ballpark bond sale and were not happy with First Southwest
 - In questions (c,d) I shared in detail that the request made in open session during a budget meeting by Representative Romero was part of the budget process and the council request master list was shared with Mayor and Council three times before the budget was adopted and there were no concerns raised
 - I have also shared in question (g) that only Design Build and Construction Management at Risk RFQ's have to go to Council for approval before issuing an RFQ
- t. *Is there any basis for concluding that you recklessly disregarded an applicable policy or procedure by ordering that the response time for the FA-RFQ be reduced to three weeks, when the City's procurement policy requires a minimum of four weeks to respond to an RFQ? If not, please state in detail why there is not*
- No there is no basis for coming to such a conclusion
 - My response to question (j) fully explains what my intent was, please see response below
 - To clarify the comments being referenced in this question was NOT a directive, it was merely me sharing my thoughts.
 - On a regular basis, the CFO receives information from various financial advisors wanting to do business with the City, because of that, in my opinion, companies are interested and are ready to respond to an RFQ
 - I was NOT aware that the policy required four weeks, I do rely on staff to follow policy and bring items to my attention that may not be following policy
 - In this case, staff did not clarify the policy with me after my email but they did follow the policy.
 - As detailed in the report submitted to Mayor Leeser on Dec. 2, 2015 and presented to Mayor and City Council on Dec. 7, 2015, please see timeline below pulled from the report pg.5
 - FA-RFQ released 4-28-15
 - Proposals due 5-27-15

2. Resurfacing Streets in District Two:

- a. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on City Council, including but not limited to Representative Romero, pertaining to any modifications of the City of El Paso Street Infrastructure Capital Plan of 2013 (the "Resurfacing Plan")? If so, please describe in detail those communications*
- I need to clarify an important point. In January of 2016 I was given a complete copy of the 2012 Street Infrastructure Capital Plan and it is important to point out that it is not merely a "Resurfacing Plan" as stated in the question, it includes 1) Synchronization of signal network 2) Resurfacing/microsurfacing 3) Reconstruction 4) Unpaved Right of ways/Alleys 5) Street median/ parkway landscaping 6) Neighborhood Traffic Management Program and 7) Pedestrian, sidewalk & parkway improvements
 - When I first arrived in June 2014, City Council shared various concerns with me. As I mentioned earlier, they were concerned with the ballpark bond sale but they were also dissatisfied with the 2012 Street Infrastructure Capital Plan.
 - I toured their districts with them and they shared many street infrastructure issues that were of concern to them. Many felt several streets that were in dire need of attention were left off the list in 2012.
 - Additionally, they were all concerned with the 2008 Pavement Condition Index Study
 - Council was not pleased with a report they repeatedly stated did not take into account their true needs
 - The 2008 PCI study did not take into account traffic volume, which is a best practice in the industry
- b. *Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on your senior staff, to discuss any modifications of the Resurfacing Plan? If so, please describe in details those communications*
- Yes I met with the City Engineer and her staff
 - I had asked them to tour each district with the representatives and take notes on the various street infrastructure issues
 - These lists were to then be used to make adjustments to the 2012 plan and present it to Council once the realigned plan was ready
(please see exhibit 10)
- c. *Why did you permit Representative Romero to modify the Resurfacing plan?*
- As I mentioned above in question (b) I had asked staff to tour each district with the representatives and take notes on the various street infrastructure issues
 - These lists were to then be used to make adjustments to the 2012 plan and present it to Council once the realigned plan was ready
- d. *Did you believe that you were obligated to return to City Council for approval of modifications to the Resurfacing Plan? If not, please explain why not*
- e. *Why did you choose not to obtain City Council approval to the modifications to the Resurfacing plan prior to the commencement of work?*
- The information below is in response to questions (d,e)
 - As I mentioned above in questions (b,c) the lists generated by staff when touring with each representative were to be used to make adjustments to the 2012 plan and present it to Council once the realigned plan was ready
 - There was never a direction from me to not obtain City Council approval
However, when reviewing the video from June 26, 2012 city council meeting, when City Council approved the Streets Infrastructure Plan, it was clear that council members were concerned that many streets were left off and asked for flexibility in the plan and asked to receive an update every three years

- Additionally, at the January 25, 2016 City Council meeting, Representative Carl Robinson asked the City Attorney if she could share the policy regarding changes to the Street Infrastructure Plan needing to come to Council for approval, City Attorney Sylvia Firth stated there was not a policy in place

f. Did you personally observe the modifications made to the Resurfacing Plan by Representative Romero?

- No I did not personally observe the modifications made to the Resurfacing Plan by Representative Romero or any other representatives
- Staff in the Capital Improvement Department (CID) and streets coordinated all efforts regarding the resurfacing of streets

g. Did you consult with anyone, including but not restricted to Representative Romero, about the Resurfacing Plan and his proposed changes to the Resurfacing Plan?

- I did ask staff several times, when were they going to complete the tours with each district and when was the plan going to be ready
- Fred Lopez did send me an email with a list of priority projects that he was going to handle for various districts, I acknowledged by saying "thank you"
- In that email there is no mention that the streets in District Two were not on the original list
- I firmly believe that staff did not see an issue with incorporating the requested changes to District Two because of 2 reasons
 1. District 2 was scheduled to be next to get resurfacing work done
 2. The Budget Resolution allows for the City Manager or his designee to add to an existing Capital Improvement Program (please see exhibit 11& 12)

h. Were there communications between yourself and Representative Romero or his staff regarding the modifications to the resurfacing plan?

- CID staff worked directly with all representatives
- I toured each district with each representative, then I asked staff to follow up and complete the more detailed tour and receive feedback on the resurfacing list as well as the reconstruction list
- However, it is not uncommon for representatives or their staff to copy me on emails to departments regarding their requests

i. Did you take into consideration that, by adding unlisted streets to the Resurfacing Plan for District Two, streets for which the Pavement Condition Index rating indicated a greater need would not be resurfaced for lack of funding? Do you believe that the Resurfacing Plan allows Plan funds to be spent on re-paving an already paved alleyway?

- As a point of clarification, I did not direct changes to the Resurfacing Plan. CID and streets staff handle the coordination and implementation of the resurfacing contract
- In December 2015 and January 2016, CID has taken the updated Streets Infrastructure Capital Plan to Council. At the January 25, 2016 City Council meeting the 2016 list was approved (please see exhibit 13)
- Staff is currently meeting with each representative to review the additions and the streets that were removed from the plan
- I believe the response shared with El Paso Times reporter Cindy Ramirez on September 30, 2015 will assist in further clarifying the resurfacing issue.

Street resurfacing

As I mentioned to Cindy Ramirez, street resurfacing in all my years has always been a maintenance issue, meaning when a street is in need of work it is handled expeditiously through the department.

However, in May 2012, City Council passed a \$200M street plan and that plan included resurfacing. A Pavement Condition Index (PCI) study that was done in 2008 was used to

select the streets that were included in that 2012 plan. The strategy used was to address the worst streets first, beginning in the Northeast and then work was scheduled East to West. This year District 3 was next in line, however, staff was asked to wait until after the updated plan was brought forward. Therefore, District 2 was next in line for the work to be done, which is why the work is being done presently in that district.

After reviewing the video of that meeting, it was clear that council members were concerned that many streets were left off and asked for flexibility in the plan. They also asked for an update every three years, which is what we are currently working to bring to Council next month.

Fast forward to 2014, when I arrived all of the council members brought many issues to my attention including street infrastructure and resurfacing concerns throughout their districts. It would be irresponsible of anyone to believe that a study done in 2008 on the conditions of city streets is still valid. The most traveled streets were not taken into account in the planning and over the years, there have been extreme weather conditions that also erode the streets.

As I have stated, I gave general direction to staff to tour each district with the council representative to document their concerns and bring them back in an updated plan.

My response does not change, an email stating "thank you" does not constitute giving direction. The city has several street infrastructure contracts with ZTEX and JAR and I rely on staff to use them appropriately.

- **In January 2016, I received the complete 2012 Street Infrastructure Capital Plan and it does include alleys**
- j. If you perceived that you and your senior staff had the authority to modify the Resurfacing Plan by adding streets, please identify the source of that perception and describe in details the basis for the same*
- **As I stated in questions (d,e) there was never a direction from me to not obtain City Council approval**
- **However, when reviewing the video from June 26, 2012 city council meeting, when City Council approved the 2012 Streets Infrastructure Capital Plan, it was clear that council members were concerned that many streets were left off and asked for flexibility in the plan. They also asked for an update every three years**
- **Additionally, at the January 25, 2016 City Council meeting, Representative Carl Robinson asked the City Attorney if she could share the policy regarding changes to the Street Infrastructure Plan needing to come to Council for approval, City Attorney Sylvia Firth stated there was not a policy in place**
- **Last but not least, the Budget Resolution allows for the City Manager or his designee to add to an existing Capital Improvement Program**
- k. By expending Plan funds on streets not within the Resurfacing Plan, is it reasonable for one to reach the impression that Representative Romero could improperly influence you in the performance of your official duties? If not, please state in detail why it is not.*
- **No it is not reasonable for one to reach such an impression**
- **As I have stated when I arrived in June 2014 all Council members expressed dissatisfaction with the streets included in the 2012 Street Infrastructure Capital Plan and all representatives went on tours with CID staff to share their street infrastructure issues**
- **Additionally, in 2012 when the plan was approved, council members also shared concerns about the plan at that time**

- l. By expending Plan funds on streets not within the Resurfacing Plan, is it reasonable for one to reach the impression that Representative Romero could unduly enjoy your favor in the performance of your official duties? If not, please state in detail why it is not.*
- No it is not reasonable
 - As stated District Two was next in line to have work done in that district and staff made the decision to address some of the changes requested with authority granted by the Budget resolution
 - Additionally, staff also completed some streets in District 4 & 7 that have not been reported
- m. Is there any basis for concluding that you deliberately thwarted the execution of a city ordinance, rule, regulation or official city program with respect to expend Plan funds on streets not listed within the Resurfacing Plan? If not, please state in detail why it is not.*
- No there is no basis for such an assertion
 - The Budget Resolution allows for the City Manager or his designee to make additions to the Capital Improvement Plan
 - The City Attorney at the December 7, 2015 and January 25, 2016 City Council Meeting clarified that there was not a policy in place and my staff and I had authority to make the changes
- n. Is there any basis for concluding that you recklessly disregarded an applicable policy or procedure by expending Plan funds on streets not listed within the Resurfacing Plan? If not, please state in detail why it is not.*
- No there is no basis to conclude or make such an assertion
 - It was not the original intent to make changes to the plan, I gave general direction to staff to go on tours with every council member to receive their feedback on their district street infrastructure needs
 - There is not a policy in place, the Budget Resolution grants authority for additions to the plan and in 2012 City Council asked for updates every three years, which is what staff was working towards and has ultimately done as of January 25, 2016

Additional Comments:

- At the January 25, 2016 City Council meeting Ted Marquez, Director of Streets and Maintenance pointed out to Mayor and City Council that the estimates for the streets are off target because staff had approximately 2 weeks to prepare the estimates for the lists of streets included in the 2012 Street Infrastructure Capital Plan
- Approximately 2/3's of all the street reconstruction budgets did not calculate enough funding to properly execute the streets for reconstruction included in the plan as originally scoped
- Regarding the resurfacing program, the PCI was four years old when the streets plan was being considered by City Council in 2012
- Traffic volumes were not taken into consideration when putting the resurfacing projects on the "to do" list
- Last but not least, in my experience, streets that are rated lower should be reconstructed and streets that are rated higher should be resurfaced in order to extend the life of the street and put off the very expensive reconstruction costs

3. Installation of the Stanton Street Speed Cushions

a. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on City Council, including but not limited to Rep. Romero, pertaining to the installation of the Stanton Street Speed Cushions (the "Speed Cushions")? If so, please describe in detail those communications.

b. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with any member of the public pertaining to the installation of Speed Cushions? If so, please describe in detail those communications.

c. When and how did you first become aware of a request for the installation of the Speed Cushions? Please state in detail what action you took upon becoming aware of the request?

d. Describe in detail the process undertaken by the City before the decision was made to install the Speed Cushions.

- **The information below is in response for questions (a-d)**
- **I attended a community meeting, at Cathedral High School with the Alumni Association, where the traffic safety issue on Stanton Street in front of the school was first brought to my attention. Subsequently, at a second event, the issue came up again.**
- **Since Representative Romero was at the community meeting, I did email him to update him on the issue**
- **I firmly believe that safety issues are a priority and I did direct staff to install speed humps on Stanton Street, which is a very heavily traveled street and poses major concerns**
- **I was told that staff was meeting with school officials to coordinate the installation (please see exhibit 14)**

e. Who directed that the Speed Cushions be paid for with NTMP funds?

f. Did the Neighborhood Traffic Management Program ("NTMP") permit the installation of the Speed Cushions on the relevant section of Stanton Street?

g. As it pertains to the Speed Cushions, were there any steps undertaken to fulfill the obligation in the NTMP, including compliance with what is identified therein as the "NTMP Process" and/or the "NTMP Implementation?" Please state in detail why or why not.

h. Were you aware prior to the installation of the Speed Cushions of any engineering criteria established by the NTMP that would permit the installation of the Speed Cushions? If so, please state how you were aware?

i. When and how did you first become aware that the installation of the Speed Cushions on an arterial street such as Stanton Street was not permitted by the terms of the NTMP? Did Fred Lopez and/or Irene Ramirez review a memorandum drafted by Ted Marquez with you? Please state in detail what action you took once you became aware of the limitations imposed by the NTMP?

j. Once you became aware that the terms of the NTMP did not permit the installation of the Speed Cushions on Stanton Street, did you nevertheless direct that the project proceed and that they be installed? To whom was that direction given?

k. If you believed that the Speed Cushions were not paid for with NTMP funds, with whom did you consult and what documentation did you review to reach that conclusion?

l. Once you became aware that the Speed Cushions were paid for with NTMP funds, please state in detail what action you took.

m. Upon whose direction was there a reallocation of the expenditure from NTMP funding to the general fund?

- The information below is in response to questions (e-m)
- When I directed to staff to install the speed humps on Stanton, I was not made aware of the Neighborhood Traffic Management Program (NTMP) and the requirements
- Prior to the installation of the speed humps, the only issue that was brought to my attention was the Street Car project, which we were not aware of the construction timeline
- CID staff told me they would work with the CRRMA to install speed humps that were compatible with the street cars
- After the installation, I was told about a slide event that was also scheduled to be held on Stanton Street, to which I replied that we should have waited until after the event
- Fred Lopez was the staff member overseeing the project and previously oversaw the NTMP, I firmly believe that if there were issues regarding the NTMP he would have brought them to my attention
- I was not involved in the details of the project and was not aware of the funding situation
- However, it is not uncommon to reimburse funding sources after the fact
- I became aware of the details of the project, when I read it in the El Paso Times
- CID staff never shared the memo from Ted Marquez with me, Bob Moore from the El Paso Times sent it to me, asking if I had ever seen the memo, to which I replied No I had not seen it *(please see exhibit 14)*

n. By directing the installation of the Street Cushions, is it reasonable for one to reach the impression that Rep. Romero could improperly influence you in the performance of your official duties? If not, state in detail why it is not.

o. By permitting the installation of the Street Cushions, is it reasonable for one to reach the impression that Rep. Romero could unduly enjoy your favor in the performance of your official duties? If not, state in detail why it is not.

p. By permitting the installation of the Street Cushions, is it reasonable for one to reach the impression that you were unduly influenced to permit the installation of the Street Cushions by kinship, rank, position or influence of Rep. Romero? If not, state in detail why it is not.

- The information below is in response to questions (n-p)
- No it is not reasonable for one to reach that conclusion
- No it is not reasonable for one to reach that impression
- No it is not reasonable for one to reach that impression
- Representative Romero did not make the initial request that I install speed humps on Stanton, the request came from the community at two different events at Cathedral High School
- It was brought to my attention that there were safety concerns with cars speeding through Stanton and not obeying the school zone signage
- It is the City's obligation to the community to address safety concerns when they are brought to our attention
- Additionally, staff did inform me that Representative Niland's office had also requested the speed humps *(please see exhibit 14& 15)*

q. By permitting the installation of the Street Cushions, is it reasonable to conclude that you knowingly and deliberately thwarted the execution of the achievement of official city programs, to wit: the "NTMP and the resolution of March 23, 2008 adopting the NTMP"? If not, please state in detail why it is not.

r. By permitting the installation of the Street Cushions, is it reasonable to conclude that you knowingly performed an act in order to deliberately thwart the execution of the one or more City rules and regulations and/or achievement of official city programs? If not, please state in detail why it is not.

s. By permitting the installation of the Street Cushions, is there any basis for concluding that you recklessly disregarded established practices or policies, more particularly the Neighborhood Traffic Management Program ("NTMP" and the resolution of March 23, 2008 adopting the NTMP"), relating to your duties? If not, please state in detail why there is not.

- **The information below is in response to questions (q-s)**
- **No it is not reasonable to conclude such an assertion**
- **No it is not reasonable to conclude such a claim**
- **No there is no basis for concluding such an assertion**
- **I was not aware of the NTMP and the requirements surrounding the program**
- **I addressed a long standing safety concern that the community brought to my attention**

Additional Comments:

- **Since this issue has risen to the level it has, I requested a copy of the Neighborhood Traffic Management Program guidelines**
- **I was given a copy of the program guidelines and the Citizen Guidebook**
- **Stanton Street is designated as a minor arterial, in both documents it states that the program is for local and collector streets and arterial streets do not qualify for the NTMP**
- **In my opinion, that highlights that the program does not apply to Stanton Street at all**
- **Having said that, it is important to keep in mind that the City cannot simply just ignore the fact that there is a safety concern, just because a street is an arterial street and does not qualify for the NTMP**
- **It is our responsibility to address safety concerns at all times**
(Please see exhibit 16 & 17)