



**AU16-002 Development Services  
Funding for Developer Agreements**

**City Auditor's Office  
Kimberly Houston  
Interim City Auditor**

**April 9, 2018**

## Executive Summary

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In accordance with the FY2016 Annual Audit Plan, we conducted an audit of the Development Services Department of the City of Corpus Christi.

### **Audit Objective**

The objective of this audit is to determine if developer trust funds are appropriated as directed by City Council and if developers are reimbursed according to contract.

The scope of this audit was October 1, 2013 to March 31, 2017.

### **Audit Conclusion**

Development Services has established an adequate system of internal controls; however, there are areas that could be improved in regards to City Council presentations, review of utility trust funds, contract compliance, records management, Unified Development Code's content, and systems controls over Infor – Hansen.

City and Development Services management agree with this report. Management's responses following each issue and can be seen in its entirety in Appendix C.

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## Introduction

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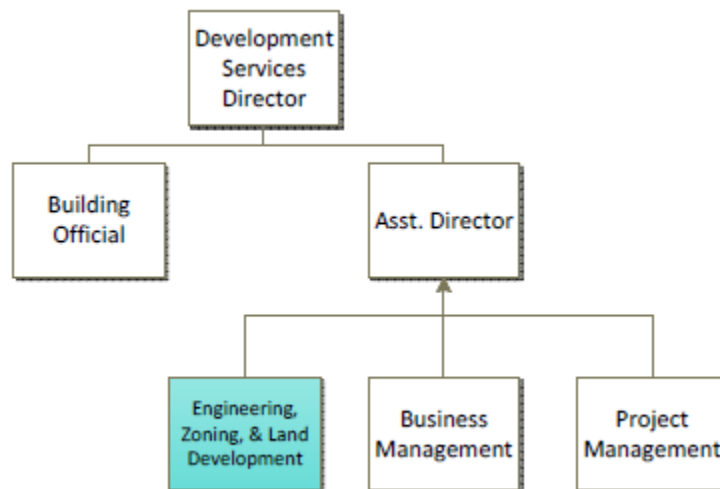
In accordance with the 2016 Annual Audit Plan, we conducted an audit of the activity related to the funding for developer agreements managed by Development Services of the City of Corpus Christi (City).

### Background

Development Services Department is responsible for the planning, development and permitting activities in the City of Corpus Christi. It reviews everything in the development process which includes land use, infrastructure review and vertical construction.

The Development Services project management approach covers all complex project types such as platting, zoning, building permits and commercial projects. This audit will focus on activity related to platting and commercial projects carried out by the Engineering, Zoning, and Land Development functions. Development Services organization chart (Exhibit 1) is shown below with the area being audited color contrasted.

### Exhibit 1 Development Services Organization Chart



This audit will focus on controls related to the utility trust funds activity. This includes determining if City Council is provided with proper information to oversee the fund balance, collection of lot/ acreage fees, processing payments in compliance with reimbursement and deferment agreements, issuing refunds, and records management.

In 1982 and 1984, the City established utility trust funds as a system to equitably spread the cost of water and wastewater line extensions as required for development of subdivisions within and surrounding the City. The utility trust funds reimburse developers for constructing infrastructure where City infrastructure is inadequate or non-existent. This

process is carried out through the use of two utility trust funds, whose revenue collections are split into two special purpose accounting codes, and a special revenue fund. Those funds are:

Water Trust Fund

Fund 4030-21805 Water Arterial Transmission & Grid Main (75%)  
Fund 4030-21806 Water Distribution Main (25%)

Wastewater Trust Fund

Fund 4220-21800 Sanitary Sewer Trunk System (75%)  
Fund 4220-21801 Sanitary Sewer Collection Line (25%)

Special Revenue Fund

Fund 4730 Infrastructure Fund

The Water Trust Fund pays for water line improvements such as arterial transmission mains, distribution mains, and fire hydrants. The Wastewater Trust Fund pays for infrastructure improvements such as trunk lines and lift stations (see exhibit 2).

**Exhibit 2 – Lift Station at Yorktown and South Staples**



These projects are funded through fees collected from developers and property owners for lot/acreage fees, surcharge fees, and pro-rata fees (development fees). The regulations for

collecting development fees, conditions for reimbursement, and rates due are set by the Unified Development Code (UDC) and City Ordinance. City Council is required to review the adequacy of the fees and sufficiency of the trust funds once every two years.

The Infrastructure Fund was established to collect and retain guaranteed funding (letters of credit or cash) for future infrastructure projects. This fund provides for an alternative method for platting land by requiring developers to pre-pay 110% of the estimated costs of future public improvements.

### **Audit Objective and Conclusions**

The objectives for this audit are listed below.

*Are developer trust funds appropriated as directed by City Council?  
Are developers reimbursed according to contracts?*

We found developer trust funds are appropriated as directed by City Council and developers are being reimbursed in accordance to contracts. From our observations and testing, we noted procedures need to be developed and documented to ensure: presentations to City Council contain content that is consistent and informative, management over developer records needs to be more strategic and streamlined, contract terms are enforced and terms equitable for all developers, and trust funds are regularly reviewed and presented to City Council for sustainability. Infor – Hansen system controls need to be strengthened in regards to system access and user rights. Lastly, the Unified Development Code needs to be reviewed for better clarity and future sustainability.

### **Management and Auditor Responsibility**

City management is responsible for establishing and maintaining a system of internal controls to ensure assets are safeguarded, financial (and non-financial) activity is accurately reported and reliable, and management and employees are in compliance with laws, regulations, and agreements with other entities.

This audit report provides independent, objective analysis, recommendations, and information concerning the activities reviewed. The report is a tool to help management discern and implement specific improvements. The report is not an appraisal or rating of management.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit steps were developed to provide sufficient evidence to answer the objectives of this audit. Our methodology can be found in Appendix A - Audit Scope and Methodology.

## Audit Results and Recommendations

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### A. City Council Presentations

Condition: Presentations to City Council requesting approval of reimbursement agreements and refund requests for lot/acreage fees are not including all required documentations. Additionally, the items loaded into Legistar do not allow for efficient retrieval of approved agreements.

#### *Reimbursement Agreements*

We judgmentally selected 13 reimbursement agreements that received payments during the audit scope and reviewed all presentations to City Council for consistency and completeness, using the Legistar system and assistance from the City Secretary's Office. We noted that none included all required documents from the department's check list. None included proof of property ownership and five did not included the agreement for which staff were requesting approval on.

#### *Refund Requests for Lot and Acreage Fees*

For two refund requests reviewed, no record included evidence that lot and acreage fees, for which the refund request was for, were paid. Instead of proof of original payment, one requestor presented a check copy without markings showing the check had cleared their bank account. Useful information such as developer refund eligibility under the Unified Development Code (UDC) and interest calculations, are not components of presentations either.

### Exhibit 3 – Refunded Lot and Acreage Fees Plus Interests

Sample	Application Fee	Lot & Acreage Fee	Interest	Total Refund Amount
#1	\$341	\$2,316	\$1,640	\$3,956
#2	\$792	\$3,471	\$2,458	\$5,929

We also noted interest paid on lot and acreage fees is three times the amount the City earns in its TexPool investments (1.63% interest as of 04/01/2018). The City pays interest of 5.5% on refunds of lot/acreage fees. We reached out to other municipal utility systems (Arlington, El Paso, San Antonio Water System - SAWS) and learned they do not refund fees paid for platting land due to their strategic development plan. For instance, payment of platting fees are required for current projects and not long-term (i.e. five years or more) planned development. This is similar to the City's exemption program.

#### *Loading Documents in Legistar*

Documents for ordinances and agreements are loaded into Legistar as a single document resulting in the record being filed as a single record. After agreements are fully executed, the agreement is filed again resulting in multiple versions of the same document.



Criteria: Development Services' process for reimbursement payments specifies five documents should be presented to City Council for them to make an informed decision when approving new reimbursement agreements. Those items are: copy of plat, proof of land ownership, cost estimate of the project, liability insurance, reimbursement agreement, and fund certification.

The refund process for lot and acreage fees requires four documents in presentations to City Council. Those are: refund requests, copy of plat, interest calculations, and an internal memo approving of the refund request.

Financial Policies, Section 20, states refunds should not be processed until determination has been made on the status of the payment received (i.e. proof of original payment, clear check, and register receipt).

The UDC allows property owners who paid water and wastewater lot or acreage fees to receive refunds of their pro rata portions if after 10 years, but no longer than 20 years from the date of the filing of the plat when no water or wastewater lines serve their area. Interest is paid on refunds at 5.5% per annum from the date of the filing of the final plat.

Per the City Secretary's Office, the ordinance requesting approval for reimbursement agreements should reference the developer's reimbursement agreement as an exhibit or be presented as a separate document in the Legistar System.

Cause: There are no procedures in place to ensure presentations to City Council for reimbursements and refund requests are consistent and contain key information. Current department refund processes do not require evidence showing the lot/acreage fees had been paid or proof of original payment.

**Recommendation(s):** City Management should review UDC provisions related to refunding lot/acreage fees, paying interest, and interest rate. Present to City Council for consideration, as alternative options, practices that promote minimizing the need to refund and pay interests as other municipalities have done. Obtain City Council input and direction in this regard.

**City Management Response:**

<i>Agree/Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Nina Nixon-Mendez, Director with Bill Green, Assistant Director of Program Management	December 1, 2018
<i>Action Plan:</i> Review provisions of Unified Development Code as related to Trust Fund accounts reimbursement and lot acreage fee refunds. Present to City Council to seek direction on refunds, interest rates, interest payment, and fee waiver considerations.		

**Recommendation(s):** Management should:

- 1) Develop and document policies and procedures to ensure documents in City Council presentations are consistent and complete. For refund requests, incorporate developer eligibility under the UDC plus interest calculations in presentations.
- 2) Reach out to the City Secretary’s Office to obtain guidance on the best method to load records into the Legistar System.
- 3) Comply with Financial Policies and ensure all refund requests include proof of original payment and evidence the lot/acreage fees were paid.

**Management Response:**

<i>Agree/ Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Revise current procedures to ensure required documents are provided as part of presentation to City Council. Documents provided to City Council shall incorporate developer eligibility and interest calculations for refunds in presentations.	Bill Green, Assistant Director of Program Management	May 1, 2018
Agree	2) Modify current procedures to comply with Legistar records administration working with City Attorney’s office to modify ordinance language referencing agreement. Will reach out to City Secretary’s Office. Met with City Attorney’s Office to modify ordinance language.	Bill Green, Assistant Director of Program Management	May 1, 2018
Agree	3) Modify current procedures to comply with City Financial Policy. Reclassify vacant position for Contract Administrator, and fill position to improve contract management, fiscal accountability and implement procedures related to refunds and reimbursements. Include as part of procedures proof of original payment and evidence lot/acreage fees were paid prior to refunds.	Margaret Castaneda, Finance and Resource Management Superintendent	December 1, 2018

**B. Unified Development Code Clarity**

Condition: There is limited awareness and understanding of the UDC and its processes. The UDC needs revisions to simplify regulatory information and present content written in a manner that users can easily read, understand, and interpret. Current content includes duplicative language, unclear requirements, and disconnected interrelated regulatory content.

During interviews with staff, auditors were provided conflicting information in regards to interpreting provisions in the UDC. For example, Development Services staff did not know why some properties have both deferment and reimbursement agreements, only that it

was "allowed" but had no knowledge as to what authority allowed it. Also, auditors were told the infrastructure funds were only for street projects.

To get clarity on specific content, auditors were regularly referred to multiple staff members at Development Services and often took extended periods to get clear answers. We also reached out to Finance and a former Utility Accountant to better understand the usage of the funds and purpose of the infrastructure fund.

Financial Services generally manages the infrastructure fund and tracks agreements, expirations, and financial commitments. Transactions are heavily reviewed by Finance to ensure contract stipulations are followed in lieu of the department. Staff rely on monthly spreadsheets to track funding. Further, staff primarily responsible for managing developer agreements are not aware of financial reports generated out of Infor – Financials.

**Recommendation(s):** City Management should consider:

- 1) Either revising the current UDC language or replacing it with content that is easily readable, understandable, and interpretable. Present these options to City Council and request direction.
- 2) Utilizing a technical writer to update or rewrite the UDC

**Management Response:**

<i>Agree/ Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Seek direction from City Council regarding need to revise UDC, possibly during city budget process.	Nina Nixon-Mendez, Director of Development Services with Gene Delauro, Assistant Director for Building Division	September 1, 2018
	2) Should City Council direct staff to amend the UDC, submit decision package for FY 18-19 to retain consultant to review and make recommendations for UDC revision.	Gene Delauro, Assistant Director for Building Division	Upon approval of decision package

**C. Biennial Review of Trust Funds**

Condition: Required biennial City Council review of the Water Supply Main Trust Fund (Water Trust Fund) and Sanitary Sewer Line Trust Fund (Wastewater Trust Fund) balance is not being performed.

We reviewed presentations to City Council through the City’s Legistar system and made inquiries with staff to identify instances where a review of the developer funding for water

and wastewater reimbursements is being performed. We reviewed these presentations to determine if any were for actionable Council items that would meet UDC requirements and noted there were only two briefings.

In May and September of 2013, staff presented to City Council a briefing on the Wastewater Trust Funds. We reviewed these presentations to determine if any were for *actionable* Council items that would meet UDC requirements and found the presentations were only briefings and partially met UDC stipulations.

Current language in the UDC generally allows any eligible developer, who qualifies, to request reimbursement for most, if not all, costs related to infrastructure improvements they construct in accordance with the City’s Master Plan. Whereas, other municipalities (Arlington, Austin, El Paso, Houston, and San Antonio Water System<sup>1</sup>), partially reimburse for utility improvements. Their reimbursement rates fall in between 30-83% depending on the size of the municipality or type of project.

Criteria: The UDC requires a review by City Council, every two years, of the developer trust funds. The review includes a consideration of all fees and charges, sufficiency of the trust funds balance, and possible adoption of new schedule of fees and charges. This requirement has been in place since the establishment of these funds in 1982.

Texas Local Government Code, Section 212.072 states that in developer participation contracts where developers construct improvements, municipalities, whose population is less than 1.8 million, must establish a limit of participation to not exceed 30%. Although the City utilizes reimbursement agreements instead of participation agreements, the UDC could be revised to adopt similar terms and greater preserve the financial stability the Utility Trust Funds. Exhibit 4 below displays reimbursement rates under this statute.

**Exhibit 4 – Municipal Contribution Limits for Participation Agreements**

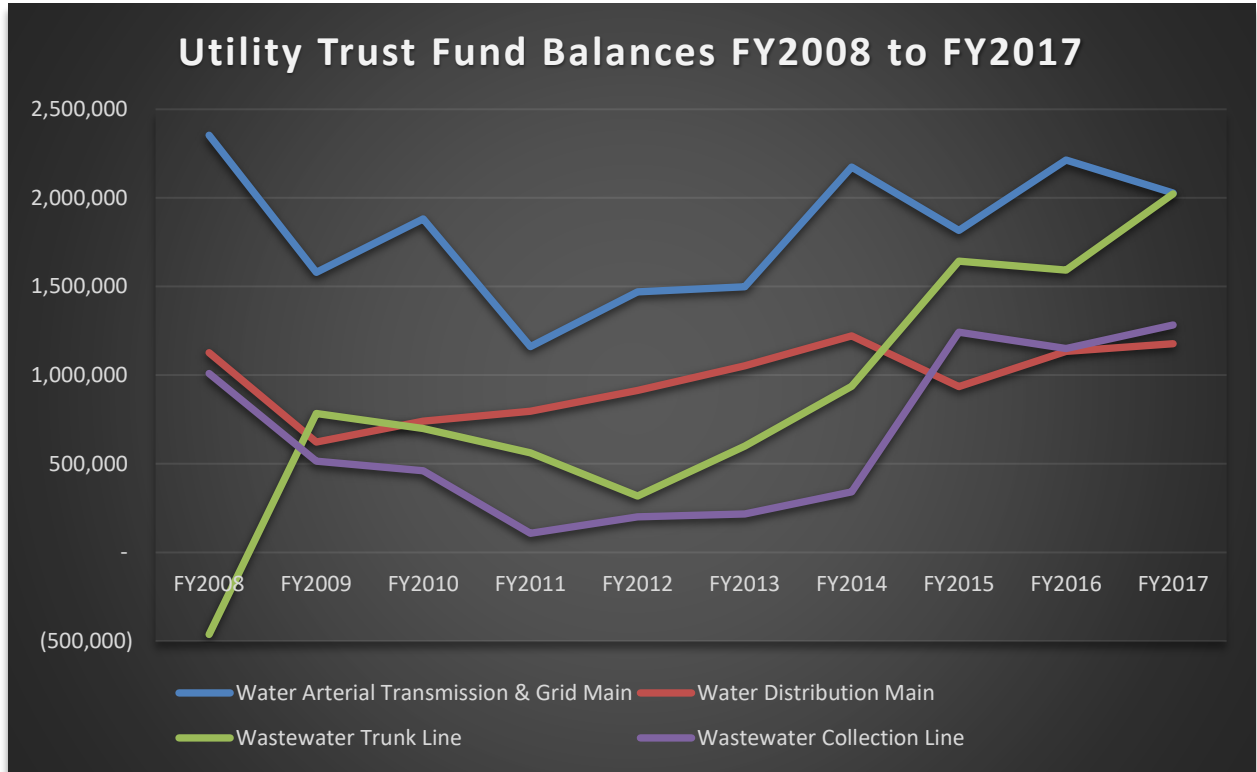
City Participation	City Population Limit
Up to 30 %	less than 1.8 million
Up to 70%	1.8 million or more
Up to 100% (affordable housing)	1.8 million or more
Up to 100% (for over-sizing of improvements)	No limit

Effect: Without periodic review of developer trust fund balances, the funds are at risk of over commitment, funding shortage, and City Council is not regularly informed of the fiscal health of the utility trust funds and its activities. Information is not provided as to whether the current fee structure sufficiently meets current and future demands nor consideration if existing UDC language related to the percentage reimbursable should be revised. We

<sup>1 1</sup> These Cities collect impact fees as authorized by Chapter 395 of the Texas Local Government Code.

found two instances over a thirteen year period where the funds experienced significant shortfalls.

**Exhibit 5 – Utility Trust Fund Balances**



Source: CAFR spreadsheets prepared by Finance – Accounting Division

The first shortfall occurred in April 2005 when the Wastewater Trust Fund was suspended due to over commitment and lack of funding (\$2.9 million short). To meet financial obligations, City Council approved a \$3.5 million loan plus interest payable to the Wastewater Capital Improvement Fund. However, the shortage was funded by direct transfers from the Wastewater Capital Improvement Fund (\$1.3 million), Water Arterial Transmission and Grid Main Fund (\$700,000), and unreserved fund balance of the Water Distribution Main Fund (\$600,000). The suspension was lifted October 2006.

Post suspension, there has been one transfer (\$1.1 million in FY2015) from the Water Trust Fund to the Wastewater Trust Fund to meet funding obligations. Exhibit 5 depicts the fund balance of the Utility Trust Funds for the 10 – year period between FY2008 and FY2017.

Fees collected in the Water Trust Funds are split into organization codes for Water Arterial Transmission and Grid Mains (75%) and Water Distribution Mains (25%). Wastewater

Trust System Funds contributions are split between the Wastewater Trunk Line (75%) and Wastewater Collection Line (25%) organization codes. The splits in the funding reimburse specific construction projects dictated by the UDC. More detailed charts can be found in Appendix B.

**Recommendation(s):** Management should comply with the UDC and present to City Council, every two years, a review of the Utility Trust Funds. The review should include an evaluation of the sufficiency of the fund balance, adequacy of the fees and charges, and terms surrounding application and payment of reimbursement agreements.

**Management Response:**

<i>Agree/Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Nina Nixon-Mendez, Director with Bill Green, Assistant Director of Program Management	July 1, 2019
<p><i>Action Plan</i> Requirements of the Unified Development Code that the utility trust funds be reviewed every two years for adequacy and sufficiency by City Council will be reinstated. In 2019, the analysis and review of fund sufficiency will be aligned with a cost of services study for the Development Services Department. Beginning in 2021, and thereafter, review by City Council will occur in odd numbered years.</p>		

**D. Contractual Terms and Compliance**

Condition: Increased oversight is needed to ensure developers are compliant with contract terms related to meeting construction deadlines. Internal processes need strengthening to ensure invoices for reimbursement agreements and release of financial security instrument for deferment agreements are timely handled. Also, contract language regarding release of financial security needs to be reviewed to ensure equitable treatment to all developers.

*Construction Deadlines*

We reviewed reimbursement and deferment agreement contract terms for compliance regarding meeting construction deadlines. We noted 11 of 24 projects reviewed were completed by the contract deadline. For the remaining thirteen (13) construction projects, there was no documentation explaining why the project did not meet the deadline specified in the agreements. Per contract stipulations, incomplete construction projects are considered in default.

*Timely Payments*

Of the 15 invoices reviewed requesting payment on improvement work, we noted 8 (53%) were paid within the contract's specified 30-day deadline. The average refunding period was 40 days. The two longest refunds took 135 and 87 days to process. No explanation was available as to why there were delays.

*Deferment Agreements: Letters of Credit v. Full Payment*

Agreements for deferred improvements must submit either a secured letter of credit or full payment equivalent to 110% of the estimated construction costs. Upon acceptance of completed projects, letters of credit are immediately released whereas those who paid the City full construction costs are released within 60 days.

*Deferment Agreements: Developers Entitlement to Others' Financial Securities*

Funds and interest from two previous deferment agreements were appropriated, transferred, and awarded to another developer for completing the required public improvement. UDC Section 8.1.10 does not allow for developers to receive other developers' financial security. The UDC states two options: to release a developer's security back to them or the City can redeem the financial security and apply it to the construction of the improvements.

Criteria: UDC Section 3.8.5.F allows construction-in-progress improvements with substantial progress to retain a final plat; however, justification of the delay must be submitted and, where applicable, the developer must request an extension and pay an extension fee. Otherwise, the final plat will expire and unless the planning commission permits otherwise, the developer must begin the platting process over.

Purchase orders allow departments to encumber funds for a specific vendor, automate payment through the City's financial system, Infor, and ensures departments stay within their budget. Financial Services Policy - P7 Decentralized Purchase Orders and Procurement Methods provide instructions and guidance on procuring services for departments.

Deferment contracts state the financial security will be released to the developer upon completion and inspection of public improvements or the City may redeem (in the case of a letter of credit), transfer the funds to the appropriate City account, and begin construction of the public improvements. For a developer to receive another developers' financial security for completing the public improvements is a violation of the UDC and contractual stipulations. Per discussion with Legal, the funds from one developer cannot go to another developer for completing the previously deferred public improvements.

Cause: Developer contracts state requests for reimbursement will be paid once the City accepts the improvements. However, developer records do not show this as the reason for untimely payments.

Request for payment on reimbursement agreements undergo three levels of screening. Initially, it begins at the department level followed by reviews by Accounting and Accounts Payable. These screening levels exist because payment requests are submitted using direct pay memos instead of using purchase orders. If purchase orders were utilized, this process would increase efficiency and expedite payments.

**Recommendation(s):** Management should:

- 1) Increase oversight over contracts to ensure construction deadlines are being met or adequately document in agreement records the reason why compliance did not occur. Where applicable, obtain extension applications and fees from developers or planning commission exception.
- 2) Ensure developers are paid timely by considering utilizing purchase orders to automate and expedite payments instead of direct pay memos. Meet with Financial Services to determine methods by which payment review and approval can be more efficient.
- 3) Consider revising contract language regarding release of financial security instruments to more equitable treatment of developers.
- 4) Consider revising contract language to allow for the transferability of financial security (i.e. letter of credit, cash) submitted by original developer to the party that ultimately constructs the public improvement or cease the practice. For existing deferment agreements, seek legal assistance on determining if transferring committed funds to another party can be accomplished through alternative means, such as supplement agreements.

**Management Response:**

<i>Agree/ Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Review and modify current procedures that track construction and agreement deadlines. Procedures will be established to address non-compliance of construction timelines. Coordination with City Construction Engineer and Engineering Services Construction Inspector is on-going.	Bill Green, Assistant Director for Program Management	September 1, 2018
Agree	2) Use of purchase order for prompt payment is method used for financial transaction with developers. Meet with Finance Department to coordinate payment process to ensure timeliness of payment.	Margaret Castaneda, Finance and Resource Management Superintendent	October 2017 (current practice)
Agree	3) Developer agreement contract revisions are underway to address financial security requirements. Coordinating with Assistant City Attorney to Development Services.	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018



Agree	4) Developer agreement contract revisions are underway to address contract language. Coordinating with Assistant City Attorney to Development Services.	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018
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### E. Developer Records Management

Condition: Records for developers are not centrally stored, strategically organized, processed with standardized forms and maintained intact. Auditor observed files with names that did not correspond with documents, multiple copies of the same document filed under different names and in multiple stages (draft, executed, unexecuted), and saved in various locations across the department’s network folders.

#### *Need for Standardized Forms*

To process applications for developer reimbursement agreements, deferment agreements, refund requests, or reimbursement payments, developers must create and submit their own documents. Other than the warranty letter, there are no standardized forms for developer agreement records.

#### *Record Storage and Organization*

To obtain the complete record for a developer project, information is stored in an access database, HTE, their legacy system, department shared drive, and Infor – Hansen/Community Development and Regulation (CDR) module. Although each system stores current and historical data on developer projects, staff responsible for managing developer agreements do not have access to all systems. The contract for their legacy system, HTE, is scheduled to expire in March 2019 and historical data is not in Infor - Hansen.

#### *Incomplete Records*

We reviewed reimbursement and deferment agreements for completeness in the areas listed below.

##### Reimbursement agreements

- Application requesting reimbursement for water or wastewater infrastructure improvement
- Reimbursement payment requests

##### Deferment agreements

- Application for deferment agreement
- Request for releasing financial securities
- Financial securities agreement
- Release of financial securities packets

None of the records, with exception to the financial securities agreement, contained all required documentation. No reimbursement packet contained evidence that proper liability insurance was obtained. Others were missing copies of corporate resolutions or evidence showing all required fees were paid.

For deferment agreements reviewed, we noted records were missing evidence that all required fees were paid and some were missing Form W-9 (request for taxpayer identification and certification). Other records were missing the City's acceptance letters, warranty letters, corporate resolutions, and developer request to release financial securities (bank letters of credit).

Since the City's Engineering – Support Services Division performs similar work, auditors obtained an overview of Engineering's procedures and found standardization in forms for application of payment, tracking progress payments, project closeout checklists, and project acceptance memos. We also learned Engineering utilizes Purchasing Division's contract management module to oversee engineering projects. The system allows document storage related to a contract, links payments to the City's financial system, and aids in compliance with contract terms.

Criteria: The Texas State Library retention schedule for records of public works state documents brought before planning commissions must be retained for five years after the disposition of the case files. Reimbursement and deferment agreements must all gain approval from the City's Planning Commission prior to obtaining an approval.

Cause: In absence of policies and procedures, staff developed punchlists to help correlate required documentation for reimbursement and deferment agreements. There are no standardized forms to ensure all required information is collected from each applicant. Punchlists do not address records retention, storage, or filing formats. There is no practice in place, other than rubber stamps, to ensure adequate levels of review for records.

**Recommendation(s):** To ensure records are maintained in a manner that supports efficiency and completeness of records retention, management should:

- 1) Develop and document policies and procedures over records management for developer records. Those procedures should include provisions to standardized forms, incorporate methods to systematically organize them to enable easy retrieval, and adopt a naming convention to identify the record.
- 2) Meet with Engineering Services – Support Services Division to obtain ideas on how to better manage agreements and consider adopting similar policies and procedures and standardized forms.
- 3) Meet with Finance Services – Purchasing Division to obtain an overview of their contract management system and consider incorporating it as a contract management tool.

**Management Response:**

<i>Agree/ Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Records management file hierarchy in place for electronic retrieval and records retention purposes in accordance with the Texas State Library and Archives Commission. Develop additional procedures for records and file management to establish naming conventions, and to create standardized documents including forms for invoicing, tracking expenditures, and project status towards completion.	Bill Green, Assistant Director for Program Management	September 1, 2018
Agree	2) Meet with Engineering Support Services Division's for review of similar policies and procedures.	Bill Green, Assistant Director for Program Management	June 1, 2018
Agree	3) Meet with Finance Services' Purchasing Division for overview of their contract management system.	Margaret Castaneda, Finance and Resource Management Superintendent	June 1, 2018

**F. Other Matters**

**F.01 General Applications Controls – Infor Hansen/CDR**

Condition: There is no process in place to monitor the activity to ensure only valid transactions are being performed. One of the three Infor Hansen users have proper system access user rights and two of three have adequate restrictions from overriding and modifying fees.

Criteria: The City has not adopted a set of information system standards; therefore, we provide guidance from the Government Accountability Office. The Federal Information System Controls Audit Manual (FISCAM) includes the following related to access controls and segregation of duties.

- AC-3.1 Authorized users have been identified.
- AC3.1.5 Authorized users have only the access needed to perform their duties
- AC-3.1.6 Access controls should be limited to ensure unauthorized access is not allowed.
- AC-4.1 Administrator access should be routinely reviewed by management.
- SD-1 Segregate incompatible duties and establish related policies.

- SD-2.2 Routinely review activity logs for incompatible actions and investigate abnormalities.

Cause: Management has not developed procedures for information system controls to grant and manage user access, permissions, and activity.

Effect: Without proper controls, unauthorized individuals could gain access to sensitive information; incompatible functions such as accepting payments or waiving fees could be performed by one individual, and individuals could change system settings or data whether inadvertently or intentionally.

**Recommendation(s):** Management should strengthen internal controls over the Infor - Hansen system by developing procedures for:

- 1) Adding and removing user access in Infor.
- 2) Incorporating user group definitions that highlight significant functions the user groups can perform and will assist in identifying incompatible duties in the system.
- 3) Segregating user access to prevent users from performing transactions that are incompatible. When segregating user access is not possible, management should implement measures to monitor user transactions where incompatible roles conflict.
- 4) Monitoring activity for users with administrative rights access.

**Management Response:**

<i>Agree/ Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Current procedures require written authorization for all user access. Create internal process to ensure all users are authorized.	Gene Delauro, Assistant Director for Building Division	October 1, 2016 (currently practiced)
Agree	2) Formalize current group roles and responsibilities.	Gene Delauro, Assistant Director for Building Division	July 1, 2018
Agree	3) Management to implement measures to monitor user groups to ensure no incompatible roles.	Gene Delauro, Assistant Director for Building Division	July 1, 2018
Agree	4) Management to monitor activity of administrator transactions.	Gene Delauro, Assistant Director for Building Division	July 1, 2018

**F.02 Retainage without Contract Stipulation**

Condition: Development Services inconsistently withholds 10% from reimbursement payments for retainage for partial payments with no authority in the form of contractual terms or the UDC.

Effect: When retainage is withheld, payments to developers are processed incorrectly and all developers are not treated equitably.

**Recommendation(s):** If management chooses to continue to hold retainage from developer payments, these terms should be incorporated into developer contracts. For existing contracts where language on retainage is not included and currently being withheld, management should consult with the Legal Department on the City’s right to do so.

**Management Response:**

<i>Agree/ Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018
<p><i>Action Plan:</i>                      1) Review benefit of current retainage practice and if determined beneficial, incorporate into contract language in coordination with Assistant City Attorney to Development Services. If not, discontinue practice.</p>		

## Appendix A – Audit Scope and Methodology

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The audit scope was for the period of October 1, 2016 to March 31, 2017 and expanded where needed. The scope included a review of developer records related to reimbursement and deferment agreements plus limited general and applications controls of the Infor – Hansen system.

Our methodology included, inquiry, observation and tests of transactions for reimbursement and deferment agreement payments and refunds. The audit program included detailed steps to obtain sufficient understanding of each internal control designed to provide assurance that controls over developer trust fund appropriations and reimbursements are appropriate.

General and application controls were reviewed for adequate system access, reporting capabilities, segregation of duties, and coded court costs and fees. We relied on Infor – Hansen data files provided by IT for conducting testwork.

During the audit scope, auditors judgmentally selected 17 of 40 disbursements made from the utility trust funds for testing. These sample transactions were utilized throughout the audit review.

### *City Council Presentations*

To determine if presentations to City Council were consistent and comprehensive, we reviewed departmental practices for City Council presentations against records in the Legistar System and maintained by the City Secretary’s office. We considered provisions in the Unified Development Code (UDC) for inclusion in presentations for refund requests and reevaluation. We also reviewed refund payments for compliance with City Financial Policies.

### *Biennial Review of Trust Funds*

To determine if utility trust funds were reviewed every two years as required by the UDC, we obtained presentations from department staff and reviewed presentation to City Council.

### *Contractual Terms and Compliance*

To determine if contractual terms in reimbursement and deferment agreements were being followed, we compared amounts approved by Council to payments made to developers. We reviewed developer invoices against the City’s check register to determine if they were paid according to contract deadlines. We reviewed warranty letters to determine if construction for public improvements were completed by contract deadlines.

### *Developer Records Management*

To determine completeness of developer records, we used department punchlists and reviewed documents on hand at the department for required documentation.

### *Unified Development Code Clarity*

To determine if the current UDC is written in a manner that is easily understood, we considered process and standards from other Texas municipalities plus made inquiries with staff members from various City departments.

We relied on the following authoritative guidelines to serve as criteria for the audit:

- Local Government Code
- City Ordinance
- Unified Development Code
- City Financial Policies
- Developer Reimbursement and Deferment Agreements

Additional records considered relevant to conducting this audit were:

- Interviews with department personnel from Development Services, Financial Services, Engineering, Legal and Human Resources
- Department Business Plan
- Department presentations to City Council
- Comprehensive Annual Financial Reports (CAFR)

We believe this testwork provides sufficient and appropriate evidence for our audit conclusion and finding.

### **Staff Acknowledgement**

Kimberly Houston, Interim City Auditor

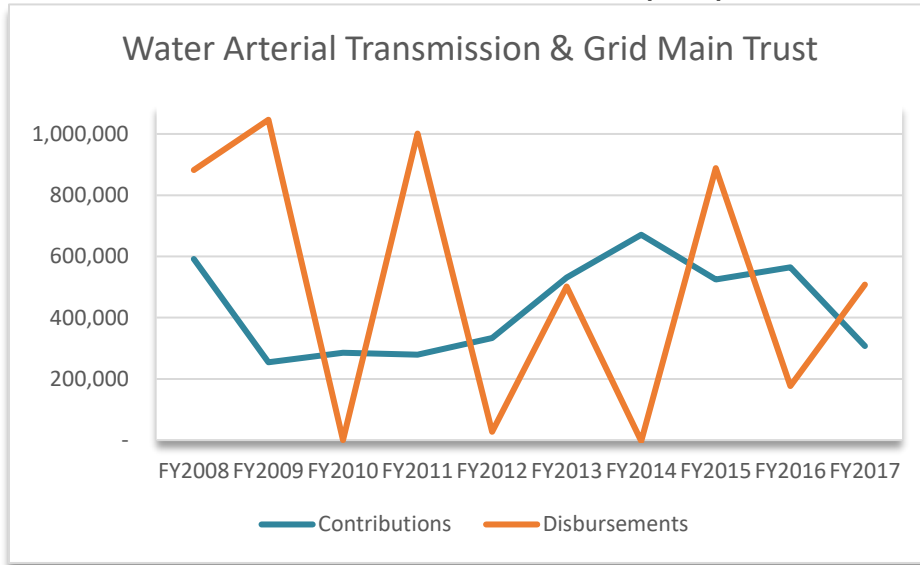
Lauren Campos, Auditor

Sarah Arroyo, Assistant Auditor

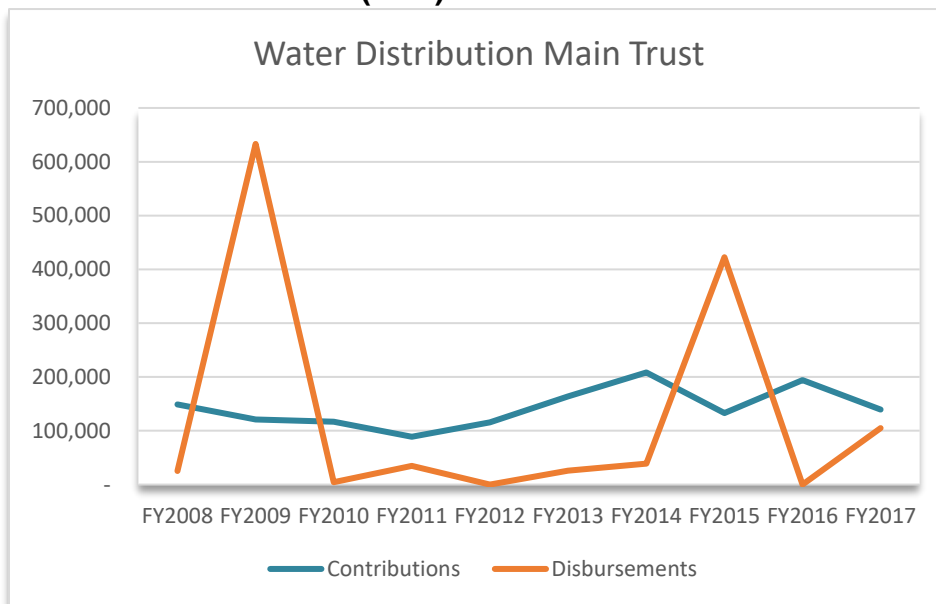
## Appendix B – Utility Trust Fund Activity

The charts below displays 10-year trending of contributions and disbursements for the Water and Wastewater Trust Funds. Spikes in FY2009 and FY2015 are related to transfers from the Water Capital Improvement Program Fund and Water Utility Funds to the Wastewater Utility Funds to meet funding obligations. Data was obtained from spreadsheets used to prepare CAFRs.

**Chart 1 Water Arterial Transmission and Grid Mains (75%)**

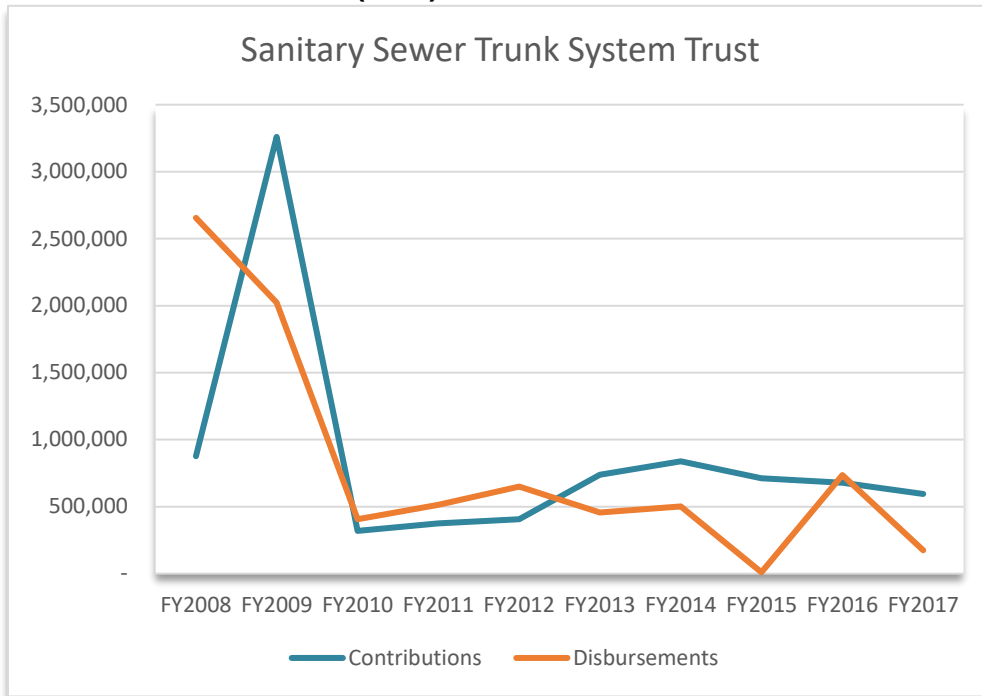


**Chart 2 Water Distribution Mains (25%)**

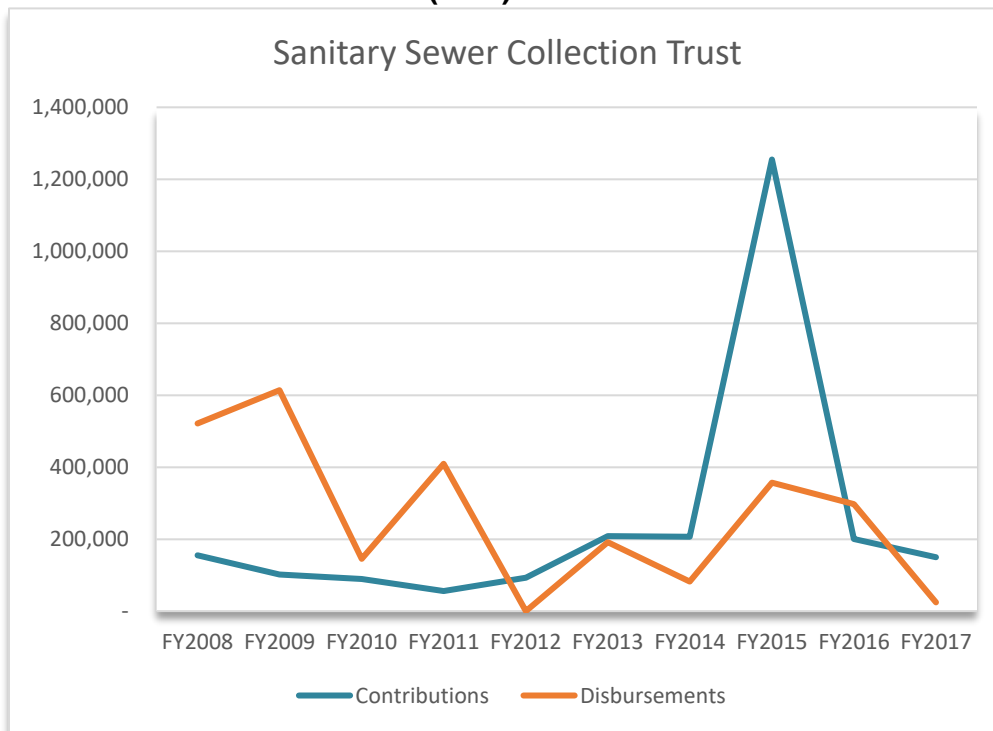




**Chart 3 Wastewater Trunk Line (75%)**



**Chart 4 Wastewater Collection Line (25%)**



The tables below show annual balances (Table 1), annual contributions (Table 2), and annual disbursements to developers (Table 3) for the Water and Wastewater Trust Funds for the 10- year period of FY2008 to FY2017. This data was obtained from accounting workpapers used to prepare the Comprehensive Annual Financial Reports.

<b>Table 1: Trust Fund Balances</b>					
	FY2008	FY2009	FY2010	FY2011	FY2012
<b>Water</b>	2,353,821	1,580,770	1,881,846	1,161,309	1,469,218
	1,127,632	622,826	741,479	797,287	913,676
<b>Waste water</b>	(462,613)	783,583	699,596	561,318	318,356
	1,009,585	515,489	461,382	108,225	201,025

<b>Table 1: Trust Fund Balances</b>					
	FY2013	FY2014	FY2015	FY2016	FY2017
<b>Water</b>	1,499,517	2,174,111	1,816,682	2,213,723	2,027,312
	1,052,322	1,221,897	935,730	1,134,727	1,177,470
<b>Waste water</b>	599,612	938,289	1,642,784	1,592,033	2,023,034
	217,671	341,990	1,242,087	1,150,712	1,283,437

<b>Table 2: Trust Fund Contributions</b>					
	FY2008	FY2009	FY2010	FY2011	FY2012
<b>Water</b>	\$ 591,574	\$ 254,183	\$ 285,318	\$ 278,662	\$ 333,440
	148,866	120,776	116,667	88,858	115,602
<b>Waste water</b>	876,817	3,259,481	318,722	374,890	406,876
	155,105	101,437	88,923	55,799	92,697

<b>Table 2: Trust Fund Contributions</b>					
	FY2013	FY2014	FY2015	FY2016	FY2017
<b>Water</b>	\$ 531,000	\$ 670,721	\$ 524,519	\$ 564,681	\$ 307,114
	163,825	208,376	133,018	194,262	139,373
<b>Waste water</b>	737,146	839,287	711,726	677,108	594,042
	208,207	206,764	1,254,965	200,280	149,598

<b>Table 3: Trust Fund Expenditures</b>					
	FY2008	FY2009	FY2010	FY2011	FY2012
<b>Water</b>	\$ 882,638	\$ 1,046,392	\$ -	\$ 1,001,774	\$ 26,797
	25,255	633,129	4,224	34,817	-
<b>Waste water</b>	2,655,460	2,023,381	405,966	514,000	650,000
	521,138	613,868	145,179	409,116	-

<b>Table 3: Trust Fund Expenditures</b>					
	FY2013	FY2014	FY2015	FY2016	FY2017
<b>Water</b>	\$ 501,945	\$ (3,144)	\$ 888,755	\$ 176,877	\$ 507,659
	26,052	39,211	422,691	-	104,839
<b>Waste water</b>	456,020	500,774	9,885	736,121	175,221
	191,608	82,505	356,876	297,624	24,602

## Appendix C – Management Response

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April 6, 2018

Kimberly Houston  
Interim City Auditor  
Corpus Christi, Texas

Re: AU16-002 Development Services, Funding for Developer Agreements

We have carefully reviewed the issues presented in the audit report referenced above, and our plans to correct the issues are described on the following pages.

We are committed to correcting the issues in the audit report by implementing the action plans in a timely fashion.

Sincerely,

  
Nina Nixon – Mendez, FAICP      Date 4/6/2018  
Director of Development Services

  
Keith Selman      Date 4/6/18  
Assistant City Manager

  
Margie C. Rose      Date 4.6.18  
City Manager

**A. Presentation to City Council**

**Recommendation(s):**

Management should:

- 1) Develop and document policies and procedures to ensure documents in City Council presentations are consistent and complete. For refund requests, incorporate developer eligibility under the UDC plus interest calculations in presentations.
- 2) Reach out to the City Secretary's Office to obtain guidance on the best method to load records into the Legistar System.
- 3) Comply with Financial Policies and ensure all refund requests include proof of original payment and evidence lot/acreage fees were paid.

**Management Response:**

<i>Agree/Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Revise current procedures to ensure required documents are provided as part of presentation to City Council. Documents provided to City Council shall incorporate developer eligibility and interest calculations for refunds in presentations.	Bill Green, Assistant Director of Program Management	May 1, 2018
Agree	2) Modify current procedures to comply with Legistar records administration working with City Attorney's office to modify ordinance language referencing agreement. Will reach out to City Secretary's Office. Met with City Attorney's office to modify ordinance language.	Bill Green, Assistant Director of Program Management	May 1, 2018
Agree	3) Modify current procedures to comply with City Financial Policy. Reclassify vacant position for Contract Administrator,	Margaret Castaneda, Finance and Resource Management Superintendent	December 1, 2018

	<p>and fill position to improve contract management, fiscal accountability and implement procedures related to refunds and reimbursements. Include as part of procedures proof of original payment and evidence lot/acreage fees were paid prior to refunds.</p>	
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**Recommendation(s):**

City Management should:

- 1) Review UDC provisions related to refunding lot/acreage fees, paying interest, and interest rate. Present to City Council for consideration, as alternative options, practices that promote minimizing the need to refund and pay interests as other municipalities have done. Obtain City Council input and direction in this regards.

**City Management Response:**

<i>Agree/Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Nina Nixon-Mendez, Director with Bill Green, Assistant Director of Program Management	December 1, 2018
<p><i>Action Plan:</i> Review provisions of Unified Development Code as related to Trust Fund accounts reimbursement and lot acreage fee refunds. Present to City Council to seek direction on refunds, interest rates, interest payment, and fee waiver considerations.</p>		

**B. Funding Review**

**Recommendation(s):**

Management should comply with the UDC and present to City Council, every two years, a review of the Utility trust funds. The review should include an evaluation of the sufficiency of the funds balance, adequacy of the fees and charges, and terms surrounding application and payment of reimbursement agreements.

**Management Response:**

<i>Agree/Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Nina Nixon-Mendez, Director with Bill Green, Assistant Director of Program Management	July 1, 2019
<i>Action Plan</i> Requirements of the Unified Development Code that the utility trust funds be reviewed every two years for adequacy and sufficiency by City Council will be reinstated. In 2019, the analysis and review of fund sufficiency will be aligned with a cost of services study for the Development Services Department. Beginning in 2021, and thereafter, review by City Council will occur in odd numbered years.		

**C. Contract Compliance**

**Recommendation(s):**

Management should:

- 1) Increase oversight over contracts to ensure construction deadlines are being met or adequately documented in agreement records the reason why compliance did not occur. Where applicable, obtain extension applications and fees from developers or planning commission exception.
- 2) Ensure developers are timely paid by considering utilizing purchase orders to automate and expedite payments instead of direct pay memos. Meet with Financial Services to determine methods by which payments review and approval can be more efficient.
- 3) Consider revising contract language regarding release of financial security instruments to more equitable treatment of developers.
- 4) Consider revising contract language to allow for the transferability of financial security (i.e. letter of credit, cash) submitted by original developer to the party that ultimately constructs the public improvement or cease the practice. For existing deferment agreements, seek legal assistance on determining if transferring committed funds to another party can be accomplished through alternative means, such as supplement agreements.

**Management Response:**

<i>Agree/Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Review and modify current procedures that track construction and agreement deadlines. Procedures will be established to address non-compliance of construction timelines. Coordination with City Construction Engineer and Engineering Services Construction Inspector is on-going.	Bill Green, Assistant Director for Program Management	September 1, 2018
Agree	2) Use of purchase order for prompt payment is method used for financial transaction with developers. Meet with Finance Department to coordinate payment process to ensure timeliness of payment.	Margaret Castaneda, Finance and Resource Management Superintendent	October 2017 (current practice)
Agree	3) Developer agreement contract revisions are underway to address financial security requirements. Coordinating with Assistant City Attorney to Development Services.	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018
Agree	4) Developer agreement contract revisions are underway to address contract language. Coordinating with Assistant City Attorney to Development Services.	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018

**D. Developer Records**

**Recommendation(s):**

To ensure records are adequately maintained in a manner that supports efficiency and completeness of records retention, management should:

- 1) Develop and document policies and procedures over records management for developer records. Those procedures should include provisions to standardized forms, incorporate methods to systematically organize them to enable easy retrieval, and contain a naming convention to identify the record.
- 2) Meet with Engineering Services' Support Services Division to obtain ideas on how to better manage agreements and consider adopting similar policies and procedures.
- 3) Meet with Finance Services' Purchasing Division to obtain an overview of their contract management system and consider incorporating it as a contract management tool.

**Management Response:**

<i>Agree/Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Records management file hierarchy in place for electronic retrieval and records retention purposes in accordance with the Texas State Library and Archives Commission. Develop additional procedures for records and file management to establish naming conventions, and to create standardized documents including forms for invoicing, tracking expenditures, and project status towards completion.	Bill Green, Assistant Director for Program Management	September 1, 2018
Agree	2) Meet with Engineering Support Services Division's for review of similar policies and procedures.	Bill Green, Assistant Director for Program Management	June 1, 2018
Agree	3) Meet with Finance Services' Purchasing Division for overview of their contract management system.	Margaret Castaneda, Finance and Resource Management Superintendent	June 1, 2018



**E. Uniform Development Code (UDC)**

**Recommendation(s):**

City Management should consider:

- 1) Either revising the current UDC language or replacing it with content that is easily readable, understandable, and interpretable. Present these options to City Council and request direction.
- 2) Utilizing a technical writer to update or rewrite the UDC

**Management Response:**

<i>Agree/Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Seek direction from City Council regarding need to revise UDC, possibly during city budget process.	Nina Nixon-Mendez, Director of Development Services with Gene Delauro, Assistant Director for Building Division	September 1, 2018
	2) Should City Council direct staff to amend the UDC, submit decision package for FY 18-19 to retain consultant to review and make recommendations for UDC revision.	Gene Delauro, Assistant Director for Building Division	Upon approval of decision package

**F. Other Matters**

**F.01 General Applications Controls- CDR/ Hansen**

**Recommendation(s):**

Management should strengthen internal controls over the Infor -Hansen system by developing procedures for:

- 1) Adding and removing user access in Infor.
- 2) Incorporating user group definitions that highlight significant functions the user groups can perform and will assist in identifying incompatible duties in the system.

- 3) Segregating user access to prevent users from performing transactions that are incompatible. When segregating user access is not possible, management should implement measures to monitor user transactions where incompatible roles conflict.
- 4) Monitoring activity for users with administrative rights access.

**Management Response:**

<i>Agree/Disagree</i>	<i>Action Plan:</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	1) Current procedures require written authorization for all user access. Create internal process to ensure all users are authorized.	Gene Delauro, Assistant Director for Building Division	October 1, 2016 (currently practiced)
Agree	2) Formalize current group roles and responsibilities.	Gene Delauro, Assistant Director for Building Division	July 1, 2018
Agree	3) Management to implement measures to monitor user groups to ensure no incompatible roles.	Gene Delauro, Assistant Director for Building Division	July 1, 2018
Agree	4) Management to monitor activity of administrator transactions.	Gene Delauro, Assistant Director for Building Division	July 1, 2018

**F.02 Retainage without Contract Stipulation**

**Recommendation(s):**

If management chooses to continue to hold retainage from developer payments, these terms should be incorporated into developer contracts. For existing contracts where language on retainage is not included and currently being withheld, management should consult with the Legal Department on the City's right to do so.

**Management Response:**

<i>Agree/Disagree</i>	<i>Responsible Party, Title</i>	<i>Completion Date</i>
Agree	Margaret Castaneda, Finance and Resource Management Superintendent	September 1, 2018
<i>Action Plan:</i> 1) Review benefit of current retainage practice and if determined beneficial, incorporate into contract language in coordination with Assistant City Attorney to Development Services. If not, discontinue practice.		