

August 1, 2006

Internal Audit Report 2006-13
Developer Deposits
Project Management and Engineering

Introduction. Project Management and Engineering's Private Development Division (Division) provides assurance that new subdivision improvements comply with applicable standards established by Municipal codes and platting and zoning actions. If public improvements are required when a subdivision is developed, the developer must enter into a Subdivision Agreement with Project Management and Engineering. The agreement describes the improvements required and outlines in detail the roles of the Division and the developer in the process. The Division provides surveillance inspections, monitors test procedures and results, performs pre-final and final inspections and generates punch lists where applicable. A developer shall pay the Municipality's actual cost associated with the work a developer performs in a public place under a development or subdivision agreement. The collection and maintenance of these developer deposits are governed by Anchorage Municipal Code (AMC) Chapter 24.20.040, *Payment of fees; deposits*.

Objective and Scope. The objective of this audit was to determine whether developer deposits were properly collected and maintained in compliance with AMC 24.20.040. Specifically, we reviewed the pertinent sections in the code. We also determined the process for collecting and maintaining developer deposits through interviews with appropriate staff and through review of project files. Finally, we evaluated whether the Division's internal policies and procedures, that recently became effective, adequately addressed developer deposits.

The audit was conducted in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review, and accordingly, included tests of accounting records and such other auditing procedures as we considered necessary in the

circumstances. The audit was performed during the period of April through June 2006. The audit was requested by the Administration.

Overall Evaluation. Overall, developer deposits were properly collected in accordance with AMC 24.20.040. However, AMC 24.20.040 does not clearly state how developer deposits should be used.

FINDING AND RECOMMENDATION

1. Intent of AMC 24.20.040 Not Clear.

- a. Finding.** AMC 24.20.040 does not clearly state how developer deposits should be used. AMC 24.20.040.C states, “If at any time the municipality finds its costs exceed the total deposit received, the municipality may periodically bill and receive payment from the developer for those actual incurred costs in excess of the amount of deposit.” This code further states, “At the end of the warranty period, the municipality shall determine its costs during that period. If the costs exceed the deposit, the developer shall pay the balance to the municipality. If the deposit exceeds the costs, the municipality shall refund the balance to the developer.” The code can be interpreted to allow for developer deposits to be drawn down as costs are incurred. At the same time, the code can be interpreted such that developer deposits should remain intact to act as a security deposit in case of nonpayment. The current practice is to use the deposits as a pre-payment account by applying Project Management and Engineering costs to the deposit. If costs exceed the deposit, the developer is billed for the excess costs. If costs do not exceed the deposit, the excess deposit is refunded to the developer when the project is completed.
- b. Recommendation.** The Municipal Engineer should revise AMC 24.20.040 to clearly state whether or not developer deposits can be drawn down as costs are incurred or act as a security deposit in case of nonpayment.

- c. **Management Comments.** Management stated, “Agree. However, we are evaluating a flat fee structure that would eliminate the requirements for a deposit or the need for the implementation of this recommendation.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

Discussion With Responsible Officials. The results of this audit were discussed with appropriate Municipal officials on July 26, 2006.

Audit Staff:
Birgit Arroyo