

## **§ 8.5 Trust Fund Policy**

### **8.5.1. Water Trust Fund**

#### **8.5.1.A. Purpose**

The purpose of the Water Trust Fund is:

1. to encourage the orderly development of subdivisions within and surrounding the City;
2. to establish a dedicated trust exclusively funded by development-related exactions, excluding tax or utility revenue of the City of Corpus Christi;
3. to establish an equitable system of spreading the cost of water line extensions required for development pursuant to the Water Master Plan;
4. to establish an equitable system that can be effected by the establishment of trust funds to be administered by the City for the purpose of carrying out orderly water line extensions; and
5. to establish a system of credits and reimbursements for developer-installed water line extensions meeting the Water Master Plan when the developer is a non-taxing entity that is contributing acreage or lot fees under this Unified Development Code. Water infrastructure funded by Tax Increment Financing, Special Assessment District, or other public financing is ineligible for reimbursement from the Water Trust Fund, unless approved by the City Council.

#### **8.5.1.B. Payment of Fees**

1. Before any unit of a subdivision or single lot is completed and the final plat is recorded, the developer will be required to pay the City the water lot fee or acreage fee. Acreage fees shall be assessed on multifamily, commercial, and industrial properties. Lot fees shall be assessed on single-family and two-family residential properties.
2. A water surcharge will apply to all property, new or existing, when a service tap or meter set application is made.
3. Separate from the trust fund, water tap or meter fees shall be paid to the City concurrently with any application for a tap or meter set. Corpus Christi Code Sec. 55-70 establishes the applicable water tap fee rates for installing meters on service lines.
4. These fees shall be applicable regardless of whether the property is located inside or outside the City limits.
5. All water lot or acreage fees will be paid into the developer Water Trust Fund prior to the recordation of the subdivision plat.
6. Water lot and acreage fees, and the water surcharge fees shall be deposited into the Water Trust Fund to reimburse developers for constructing arterial transmission mains, grid mains, and distribution mains in accordance with this Section.
7. Prior to the adoption of the City's annual budget, all fees and charges will be indexed to the August Construction Index published in the Engineering News Record and shall automatically

increase on October 1 of each fiscal year by the same quantum as the annual increase in the August Construction Index for the preceding year.

8. The following categories of property are exempt from the water lot or acreage fees of this Section:
- a. Property which is platted and has existing, metered, water service and is being replatted for the purpose of changing a building line, easement line, lot line, subdivision name, or as a result of a street, alley, or easement closure action, or for a similar reason. (If such property has metered service and an additional lot or lots are being created by platting, or if such metered service size is being changed, the provisions of this Section will apply to any such lot or lots created)
  - b. Property being platted within separate or independent water districts where such districts provide water and ensure that fire protection, water extensions, etc., are made to properties within such districts.
  - c. Property for which the lot or acreage fees have previously been paid through platting and such property is replatted, unless, at the time of replatting, the land use or density has changed, requiring a higher lot or acreage fee rate (the developer will then pay the City the difference in such higher and lower fee rate).
  - d. Property which has been contractually annexed prior to June 23, 1982; provided that, such property will not be eligible for reimbursement for water lines constructed or proposed to be constructed.
  - e. Government subdivisions, being defined as federal, state, county, or municipal entities and their subsidiary or affiliate corporations, whose operation is funded by collection of taxes, including sales tax, property tax, income tax, and other forms of taxes as may be established and accessed by such government subdivisions (entities exempt from payment of said fees shall be prohibited from receiving reimbursement from any fund established as a depository of such fees).
  - f. The exemption in this section only applies to water lot or acreage fees. The exemption in this section does not apply to impact fees or any other fee not specifically identified in this subsection.

#### **8.5.1.C. Reimbursements and Credits**

##### **1. Arterial Transmission and Grid Main Extensions**

In the event the arterial transmission and grid main system are not in place when required for development, the developer may install that portion of arterial transmission and grid mains necessary to meet the current City standards and Water Master Plan; provided, however, that the grid system shall be developed as approximate 1-mile grids beyond the existing grid to ensure that sufficient service is available. Such arterial transmission and grid mains installed by the developer will be limited to the maximum of that which is required by current City standards to complete the next grid loop from the grid system in place or under construction prior to the developer's installation, i.e., if any portion of a grid loop is in place or under construction prior to the developer's installation, the developer may be reimbursed for completing that grid loop, plus

up to a maximum of one additional grid loop, if such installation is required by current City standards.

## **2. Distribution Main Extensions**

When a subdivision, single lot, or tract is developed within an existing grid or in the adjacent grid area, but is not adjacent to the grid main, the extension of a water line may be made to serve the property either by the City or the developer if such extension is necessary to meet the current City standards. Maximum developer credit or reimbursement will be limited to one-half mile (2,640 feet) of the installed distribution main. The maximum developer credit or reimbursement will be further limited to 50% of the total cost for the installation of the distribution main. If the fee value of the property does not equal 50% of the off-site extension cost, the extension will not be made unless the developer provides the difference between the fee value and 50% of the off-site extension cost, which difference shall be non-reimbursable.

## **3. Water Trust Fund Reimbursement Agreement**

- a. Developer may request a Water Trust Fund reimbursement agreement for the installation of arterial transmission and grid mains and/or distribution main extensions.
- b. To request reimbursement from the Water Trust Fund, a reimbursement agreement application shall be submitted and include the following:
  - i. a planning commission-approved final plat;
  - ii. approved public improvement plans (design memorandums do not qualify as public improvement plans);
  - iii. cost estimate of arterial transmission and grid mains and/or distribution main extensions; and
  - iv. an application fee.
- c. The developer shall submit an application for reimbursement, including all cost-supporting documentation, to the Director of Development Services prior to the installation of such arterial transmission and grid mains or distribution main extensions. The application must be deemed complete before a date is scheduled for consideration by the City Council.
- d. If the location or size of the developer's proposed arterial transmission grid mains is not consistent with the City's Water Master Plan and Capital Improvement Program, the developer's application for reimbursement may not be considered until an amendment to the current City Water Master Plan standard has been approved by the City Council. The developer shall prepare and submit a draft amendment to the Director of Development Services. The submissions for draft amendments to the Water Master Plan shall address the current availability of related infrastructure (including wastewater service, adequate drainage facilities, and roads constructed to the standards of the Roadway Master Plan and/or Urban Transportation Plan) at the site of the proposed development and all tracts of land along the route of the proposed transmission or grid main extensions. The draft amendment to the Water Master Plan should contain a recommended sequencing of the construction of transmission or grid main extensions.

- e. A reimbursement agreement must be approved by the City Council before the developer starts construction.
- g. The Developer shall be reimbursed by a lump sum upon completion of the water infrastructure.
- f. For each reimbursement request, the Developer shall certify:
  - i. there are no known liens or bond claims outstanding as of the date of the reimbursement request;
  - ii. all due and payable bills with respect to the installed Water Infrastructure have been paid to date or are included in the amount requested in the current reimbursement request;
  - iii. except for such bills not paid but so included, there is no known basis for the filing of any liens or bond claims relating to the installed Water Infrastructure; and
  - iv. releases from all Developer's contractors, subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien or claim under the laws of the State of Texas covering all Water Infrastructure installed; provided if any of the foregoing is not true and cannot be certified, Developer shall revise the certificate as appropriate and identify all exceptions to the requested certifications.
- h. Upon receipt of a reimbursement request pursuant to a reimbursement agreement, the City will evaluate the work for conformance with the City-approved plans and specifications. Where funds are available, payment will be made for work done in conformance with the City-approved plans and specifications. Where funds are not available, City staff will acknowledge conformance with the City-approved plans and eligibility for reimbursement or trust fund credits.
- k. Developer shall complete the Water Improvements, under the City-approved plans and specifications, within 12 months from the date the City Council approved the reimbursement agreement. In the event that the Developer fails to complete the Water improvements in accordance with the plans and specifications approved by the City within 12 months, the Director of Development Services may:
  - i. extend the Reimbursement Agreement once for an additional 12 months (subject to loss of priority for reimbursement);
  - ii. terminate the Reimbursement Agreement;
  - iii. refuse to record a related plat or issue any certificate of occupancy for any structure to be served by the project; and/or
  - iv. any other remedy available under state law.
- j. If because of force majeure the developer is unable to carry out its obligations under the Reimbursement Agreement, the obligations of the Developer, to the extent affected by the force majeure, are suspended during the continuance of the inability claimed, but for no more

extended period than the inability, and the Developer shall endeavor to remove or overcome such inability with all reasonable dispatch.

- k. The City's execution of a Water Trust Fund Reimbursement Agreement is as trustee of the Water Trust Fund. The City acts as a trustee to further its governmental functions of providing water and wastewater service. Texas Constitution Article 11, Section 3 prohibits the City from becoming a subscriber to the capital of any private corporation or association, or making any appropriation or donation to the same, or in any way loaning its credit. As such, the City's participation as Trustee does not create a loan of its credit. Execution of a Water Trust Fund Reimbursement Agreement constitutes a promise to pay only to the extent that the assets and future assets of the trust are sufficient for such purpose, and any judgment can only be satisfied out of the assets of the trust and not out of the City's assets. The City is excluded from personal liability.

#### **4. Payment and Priority of Reimbursements**

- a. If the developer installs such arterial transmission and grid mains or distribution main extensions subject to a reimbursement agreement, the developer shall be reimbursed for the actual installation cost that has been submitted to the Director of Development Services pursuant to the reimbursement agreement.
- b. Such reimbursement shall only be made when monies are available in and appropriated from the Water Trust Fund. The order of reimbursement will be determined according to the date the reimbursement agreement is approved by the City Council. In the event an agreement approved by City Council is extended by the Director of Development Services, the order of reimbursement for the extended contract will be based on the date the agreement extending the reimbursement agreement was fully executed.

#### **5. Credit**

- a. Where monies are not fully available and appropriated from the Water Trust Fund, the Developer may receive trust fund credits in lieu of outstanding reimbursement owed.
- b. Trust fund credits may be used for payment of water and wastewater lot and acreage fees, pro-rata fees, and surcharge fees. Credits for water infrastructure may be used for either water or wastewater lot and acreage fees, pro-rata fees, and surcharge fees.
- c. Trust fund credits are assignable with the written authorization of the Director of Development Services.

#### **6. Residential Subdivisions**

Subdivisions designed for residential use will include individual service to each lot in their water main layouts, which will be installed and tested with the water mains as required to conform to the current City Water Distribution System Standards.

##### **8.5.1.D. Oversight**

- 1. The Director of Development Services may transfer monies from one trust fund to the other in order to better carry out the purposes of this United Development Code. Water trust funds may

be transferred to the wastewater trust fund, and wastewater trust funds can be transferred to the water trust fund.

2. Once every two years, City Council shall review the adequacy of all fees and charges established herein and the sufficiency of the trust funds, and may, after a public hearing, adopt a new schedule of fees and charges.
3. Once every two years or as requested, City staff and the Trust Fund Advisory Group shall brief City Council on the fiscal status of the Trust Funds.

## **8.5.2. Wastewater Trust Fund**

### **8.5.2.A. Purpose**

The purpose of the Wastewater Trust Fund is:

1. to encourage the orderly development of subdivisions within and surrounding the City;
2. to establish a dedicated trust exclusively funded by development-related exactions, excluding tax or utility revenue of the City of Corpus Christi;
3. to establish an equitable system of spreading the cost of wastewater line extensions required for development pursuant to the Wastewater Master Plan;
4. to establish an equitable system that can be effected by the establishment of trust funds to be administered by the City for the purpose of carrying out orderly wastewater line extensions; and
5. to establish a system of credits and reimbursements for developer-installed wastewater line extensions meeting the Wastewater Master Plan when the developer is a non-taxing entity that is contributing acreage or lot fees under this Unified Development Code. Wastewater infrastructure funded by Tax Increment Financing, Special Assessment District, or other public financing is ineligible for reimbursement from the Wastewater Trust Fund, unless approved by the City Council.

### **8.5.2.B. Payment of Fees**

1. Before any unit of a subdivision or single lot is completed and the final plat is recorded, the developer will be required to pay the City the water lot fee or acreage fee. Acreage fees shall be assessed on multifamily, commercial, and industrial properties. Lot fees shall be assessed on single- and two-family residential properties.
2. A wastewater surcharge per lot will be charged in addition to the water tap or meter set fee for service to each lot. The surcharge will apply to all property, new or existing, when an application for a wastewater service tap or meter set is made.
3. Separate from the trust funds, wastewater tap fees shall be paid to the City concurrently with any application for a wastewater tap. Corpus Christi Code Sec. 55-71 establishes the applicable tap fee rates for wastewater tapping. Tap fees will be paid to the City concurrently with the tap or meter set application for wastewater service on individually-platted lots or properties.
4. These fees shall be applicable regardless of whether the property is located inside or outside the City limits.
5. All wastewater lot or acreage fees will be paid into the developer Wastewater Trust Fund prior to the recordation of the subdivision plat.
6. Wastewater Lot and acreage fees, and surcharge fees will be deposited into the Wastewater Trust Fund to reimburse developers for constructing wastewater trunk lines, trunk force main lines, and collection lines in accordance with this Section.

7. Prior to the adoption of the City's annual budget, all fees and charges will be indexed to the August Construction Index published in the Engineering News-Record and shall automatically increase on October 1 of each fiscal year by the same quantum as the annual increase in the August Construction Index for the preceding year.
8. The following categories of property are exempt from the wastewater lot or acreage fees of this Section:
  - a. No Wastewater Trust Fund lot or acreage fee shall be paid if such land for which the fees are paid lies within an area exempted by the Director of Development Services or City Council from the payment of such fees. Such exempted areas shall be those areas determined not to be served by existing improvements, near-term improvements, or improvements to be installed within 10 years, as shown on the Wastewater Capital Improvement Plan.
    - i. The Director of Development Services may make such a determination when the fees of the area being exempted are \$50,000 or less. City Council, with the advice of the Director of Development Services and the Planning Commission, may make such determinations whenever the fees of the area being exempted are more than \$50,000. Any request for a determination of exemption, other than from the Director of Development Services, Planning Commission, or the City Council, shall be submitted in writing to the Director of Development Services, along with the filing fee published in the Development Services Fee Schedule, Chapter 14, Corpus Christi Code.
    - ii. For areas with fees greater than \$50,000, the Director of Development Services shall make its recommendation to the Planning Commission, and such request will be scheduled for a Planning Commission hearing within 60 days after the filing of such request. Thereafter, the Planning Commission shall make its recommendation to the City Council, which shall make the final determination.
    - iii. The City Council may, at any time, cease to exempt any area previously exempted, and thereafter such fees shall apply.
  - b. Government subdivisions, being defined as federal, state, county, or municipal entities and their subsidiary or affiliate corporations, whose operation is funded by collection of taxes, including sales tax, property tax, income tax, and other forms of taxes as may be established and accessed by such government subdivisions, shall be exempt from payment of acreage fees and surcharge fees described herein. Entities exempt from payment of said fees shall be prohibited from receiving reimbursement from any fund established as a depository of such fees.
  - c. The exemption in this section only applies to wastewater lot or acreage fees. The exemption in this section does not apply to impact fees or any other fee not specifically identified in this subsection.
10. Owners of property for which a wastewater lot or acreage fee has been paid under conditions of this section, may receive a refund of their pro-rata portions (based on the total lots or acreage) of the lot or acreage fee paid if, after 15 years, but not more than 20 years from the date of the filing of the plat, the owners of 50% of the property within said final plat petition the City Council



for a hearing to determine whether the fees should be refunded. A refund may be made if the City Council finds:

- a. The petitioners are the property owners of lots for which a wastewater lot or acreage fee has been paid;
- b. No wastewater lines serve the petitioners' property from the City's wastewater system, from another governmental entity, or from existing wastewater control districts, or authorities which provide for the collection or treatment of wastewater; and
- c. The property is not likely to be served with such wastewater lines within five years.
  - i. Any refunds shall only be made when monies are fully available in, and appropriated from, the Wastewater Trust Fund. The order of reimbursement will be determined according to the date the application for refund is approved by the City Council.
  - ii. Governmental entities, wastewater control districts, or authorities other than the City which have provided for the collection or treatment of wastewater to a tract of land for which a lot or acreage fee has been paid to the City may apply to the City for a reimbursement of the lot or acreage fee paid on such tract if such fee has not already been refunded to the lot owners. Any refunds shall only be made when monies are fully available in and appropriated from the Wastewater Trust Fund. The order of reimbursement will be determined according to the date the application for reimbursement is approved by the City Council.
  - iii. The foregoing shall apply with respect to exempting from payment or refunding of lot and acreage fees only and is not intended to exempt or waive any other platting or other requirements.

### **8.5.2.C. Wastewater Reimbursements and Credits**

#### **1. Wastewater Trunk Line Extensions**

In the event the trunk line system is not in place when required for development, the developer may install that portion of the trunk line system necessary to meet the established design standards.

#### **2. Wastewater Trunk Force Main Extensions**

If a trunk force main system is not in place when required for development, the developer may install that portion of the trunk force main system necessary to meet currently adopted Wastewater standards and shall comply with the current adopted Wastewater Master Plan.

#### **3. Collection Line Extensions**

When a subdivision, single lot, or tract is developed within a service area as shown on the Wastewater Master Plan that will serve such area, the developer may extend a collection line to serve such property. Maximum developer credit or reimbursement will be limited to 50% of the off-site extension cost.

#### **4. Wastewater Trust Fund Reimbursement Agreement**

- a. Developer may request a reimbursement agreement for the installation of trunk line, force main, and/or collection line extensions.
- b. To request reimbursement from the Wastewater Trust Fund, a reimbursement agreement application shall be submitted and include the following:
  - i. a planning commission-approved final plat;
  - ii. approved public improvement plans (design memorandums do not qualify as public improvement plans);
  - iii. cost estimate for trunk line, force main, and/or collection line extensions; and
  - iv. an application fee.
- c. The developer shall submit an application for reimbursement, including all cost-supporting documentation, to the Director of Development Services prior to the installation of such trunk line, force main, and collection line extension. The application must be deemed complete before a date is scheduled for consideration by the City Council.
- d. If the location or size of the developer's proposed trunk line, force main, and collection line extension is not consistent with the City's Wastewater Master Plan and Capital Improvement Plan Program, the developer's application for reimbursement may not be considered by City Council until an amendment to the current City Wastewater Master Plan has been approved by the City Council. The developer shall prepare and submit a draft amendment to the Director of Development Services. The submissions for draft amendments to the Wastewater Master Plan shall address the current availability of related infrastructure (including wastewater service, adequate drainage facilities, and roads constructed to the standards of the Roadway Master Plan and/or Urban Transportation Plan) at the site of the proposed development and all tracts of land along the route of the proposed transmission or grid main extensions. The draft amendment to the Wastewater Master Plan should include a recommended sequence of the construction of the wastewater system improvements.
- e. A reimbursement agreement must be approved by the City Council before the developer starts construction of wastewater improvements.
- g. The Developer shall be reimbursed by a lump sum upon completion of the wastewater improvements.
- f. For each reimbursement request, the Developer shall certify:
  - i. there are no known liens or bond claims outstanding as of the date of the reimbursement request;
  - ii. all due and payable bills with respect to the installed Wastewater Infrastructure have been paid to date or are included in the amount requested in the current reimbursement request;
  - iii. except for such bills not paid but so included, there is no known basis for the filing of any liens or bond claims relating to the installed Wastewater Infrastructure; and

- iv. releases from all Developer's contractors, subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien or claim under the laws of the State of Texas covering all Wastewater Infrastructure installed; provided if any of the foregoing is not true and cannot be certified, Developer shall revise the certificate as appropriate and identify all exceptions to the requested certifications.
- i. Upon receipt of a reimbursement request pursuant to a reimbursement agreement, the City will evaluate the work for conformance with the City-approved plans and specifications. Where funds are available, payment will be made for work done in conformance with the City-approved plans and specifications. Where funds are not available, City staff will acknowledge conformance with the City-approved plans and eligibility for reimbursement or trust fund credits.
- k. Developer shall complete the Wastewater Improvements, under the City-approved plans and specifications, within 12 months from the date the City Council approved the reimbursement agreement. In the event that the Developer fails to complete the Wastewater improvements in accordance with the plans and specifications approved by the City within 12 months, the Director of Development Services may:
  - i. extend the Reimbursement Agreement for an additional 12 months (subject to loss of priority for reimbursement);
  - ii. terminate the Reimbursement Agreement;
  - iii. refuse to record a related plat or issue any certificate of occupancy for any structure to be served by the project; and/or
  - IV. any other remedy available under state law.
- j. If because of force majeure the developer is unable to carry out its obligations under the Reimbursement Agreement, the obligations of the Developer, to the extent affected by the force majeure, are suspended during the continuance of the inability claimed, but for no more extended period than the inability, and the Developer shall endeavor to remove or overcome such inability with all reasonable dispatch.
- k. The City's execution of a Wastewater Trust Fund Reimbursement Agreement is as trustee of the Wastewater Trust Fund. The City acts as a trustee to further its governmental functions of providing water and wastewater service. Texas Constitution Article 11, Section 3 prohibits the City from becoming a subscriber to the capital of any private corporation or association, or making any appropriation or donation to the same, or in any way loaning its credit. As such, the City's participation as Trustee does not create a loan of its credit. Execution of a Wastewater Trust Fund Reimbursement Agreement constitutes a promise to pay only to the extent that the assets and future assets of the trust are sufficient for such purpose, and any judgment can only be satisfied out of the assets of the trust and not out of the City's assets. The City is excluded from personal liability.

## **5. Payment and Priority of Reimbursements**

- a. If the developer installs such wastewater trunk line, force main, and collection line extensions subject to a reimbursement agreement, the developer shall be reimbursed from funds available from the Wastewater Trust Fund for that portion of the trunk line, force main, and collection line extension installed by the developer.
- b. Such reimbursement shall only be made when monies are available in and appropriated from the Wastewater Trust Fund. The order of reimbursement will be determined according to the date the reimbursement agreement is approved by the City Council. In the event an agreement approved by City Council is extended by the Director of Development Services, the order of reimbursement for the extended contract will be based on the date the agreement extending the reimbursement agreement was fully executed.

## **6. Credit**

- a. Where monies are not fully available and appropriated from the Wastewater Trust Fund, the Developer may receive trust fund credit for outstanding reimbursement owed.
- b. Trust fund credits may be used for payment of water and wastewater lot and acreage fees, pro-rata fees, and surcharge fees. Credits for wastewater infrastructure may be used for either water or wastewater lot and acreage fees, pro-rata fees, and surcharge fees.
- c. Trust fund credits are fully assignable with the written consent of the Director of Development Services.

## **7. Residential Subdivisions**

Subdivisions designed for residential use shall include collection lines laid out with individual service pre-taps to each lot up to the property line, to be installed in conformity with the currently adopted Wastewater standards.

## **8. Property Outside City Limits**

When property requesting wastewater service in accordance with this policy is located outside the City limits, the property owner shall agree to annex or sign a contract to annex such property to the City prior to wastewater service being made available to the subdivision.

## **9. Properties Within City Limits**

All platted property within the City limits shall be served by a City-approved wastewater treatment system, as per Subsection 8.2.7.

### **8.5.2.D. Oversight**

1. The Director of Development Services may transfer monies from one trust fund to the other to better carry out the purposes of this United Development Code. Wastewater trust funds may be transferred to the water trust fund, and water trust funds can be transferred to the wastewater trust fund.

2. Once every two years, the City Council shall review the adequacy of all fees and charges established herein and the sufficiency of the wastewater trust fund, and may, after a public hearing, adopt a new schedule of fees and charges.
3. Once every two years or as requested, City staff and the Trust Fund Advisory Group shall brief City Council on the fiscal status of the Wastewater Trust Fund.

## **§ 8.4 City Development Agreements.**

### **8.4.1. Streets**

#### **A. All Streets**

1. City participation funds may be used to fund street projects and ROW or other improvements. City participation will be limited to a 30 percent reimbursement rate for the construction improvements. The oversizing of improvements, at the request of the City, may be eligible for a reimbursement rate not exceeding 100 percent of the cost for the required oversizing, as outlined in this section.
2. Participation shall comply with Texas Local Government Code §212.071 et seq.
3. The developer shall submit the Public Improvement Package to Development Services for review and acceptance.
4. The developer shall submit an infrastructure participation application, including all cost-supporting documentation, to Development Services.
5. The infrastructure participation agreement must be approved by the City Council after certification that the necessary reimbursement money is fully available as required by Texas Constitution, Article 11, § 5 and City Charter, Article IV, § 7; before any construction begins.
6. The Developer/Owner shall, before the agreement is executed by the City, furnish a performance bond if the contract is in excess of \$100,000 and a payment bond if the contract is in excess of \$50,000. Bonds furnished must meet the requirements of Texas Insurance Code 3503, Texas Government Code 2253, and all other applicable laws and regulations.

#### **B. Drainage Crossings**

Where crossings over drainage ways are necessary, the developer shall be required to construct the crossings at its expense if the ultimate bottom width of the drainage way does not exceed 15 feet. If two or more developers own property adjacent to the drainage way, they shall deposit an equal share of the estimated cost of the bridge or crossing. The crossing shall be constructed when all developers involved have deposited their share of the money for the construction. The City shall participate in the cost of construction of any drainage way crossing if the ultimate bottom width of the drainage way exceeds 15 feet, the side slope is approved by the Assistant City Manager of Development Services and the following conditions are satisfied:

1. Before construction begins, available funds shall be appropriated and certified and the City Council shall authorize an infrastructure participation agreement.
2. Participation shall comply with Texas Local Government Code §212.071 et seq. The participation shall be an amount determined by multiplying a fraction comprised of the ultimate bottom width less 15 feet divided by the ultimate bottom width and the applicable construction costs. The City shall not under any condition participate in the cost of construction of any drainage way crossing if the ultimate bottom width of the drainage way is 15 feet or less; nor will the City participate in an amount greater than the amount determined by the above formula if the property on one side is an existing street or any other public

property; nor will the City participate if the bridge is located outside the City limits. In estimating the total cost of construction for bridge crossings, the plans shall include the structure, headwalls, retaining walls, embankments, roadways, pavement, curbs and gutter, sidewalk, railing and related drainage structures, testing and engineering and related project expenses within the drainage right-of-way excluding 10 feet of improvements on each outside edge of the right-of-way.

3. All engineering work shall be performed by the developer's Texas-licensed professional engineer and approved by the Assistant City Manager of Development Services. Participation by the City shall be limited to the total costs (inclusive of engineering fees) for the improvements required by the City. Anything in excess or more elaborate than the City's requirements will be at the developer's sole expense.

#### C. Lift Stations

If a wastewater lift station is not in place or if the one that is in place is inadequate when required for development, the developer may be required to install or upgrade the lift station to meet the adopted City wastewater standards and Wastewater Master Plan. The City may participate in the construction or upgrading of a wastewater lift station.

1. Participation shall comply with Texas Local Government Code §212.071 et seq.
2. The developer shall submit an infrastructure participation application, including an approved public improvement plan and all cost-supporting documentation, to Development Services.
3. The infrastructure participation agreement must be approved by the City Council after certification that the necessary reimbursement money is fully available as required by Texas Constitution, Article 11, § 5 and City Charter, Article IV, § 7; before any construction begins.
4. The Developer/Owner shall, before the agreement is executed by the City, furnish a performance bond if the contract is in excess of \$100,000 and a payment bond if the contract is in excess of \$50,000. Bonds furnished must meet the requirements of Texas Insurance Code 3503, Texas Government Code 2253, and all other applicable laws and regulations.

#### D. Other Public Improvements

Other public improvements may be considered for funding if they are consistent with the comprehensive plan or utility master plans and implement city initiatives including but not limited to incentivizing affordable or work force housing, walkable communities, mixed use projects in an area development plan designated for mixed use development, redevelopment of vacant buildings; streetscape enhancements along UTP streets, and rehabilitation of buildings with local, state or national historic designations.