

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
April 7, 2026

APPROVED Minutes

4:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. CLOSED MEETING: (As Needed) - 4:00 P.M.

Mayor Franco called the meeting to order at 4:00 p.m. and welcomed everyone present.

Motion: Council Member Ostergaard moved to enter Closed Meeting for the purpose of discussing the character, professional competence, or physical or mental health of an individual.

Second: Council Member Murdock made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

The Heber City Council entered a Closed Meeting at 4:02 p.m.

City Council Present:

Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Morgan Murdock
Council Member Sid Ostergaard

Staff Present:

City Attorney Jeremy Cook

1. Discuss the character, professional competence, or physical or mental health of an individual ()

Motion: Council Member Barney moved to end the Closed Meeting and proceed to the Work Meeting.

Second: Council Member Ostergaard made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

The Heber City Council adjourned the Closed Meeting at 4:48 p.m.

II. WORK MEETING - 5:00 P.M.

Mayor Franco called the meeting to order at 5:52 p.m. and welcomed everyone present.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Morgan Murdock
Council Member Sid Ostergaard

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
Planning Manager Jamie Baron
City Engineer Russ Funk
Finance Manager Sara Jane Nagel
City Attorney Jeremy Cook
City Recorder Trina Cooke
Chief of Police Parker Sever
Public Works Director Matthew Kennard
Public Works Foreman Rance Echols
Fleet Manager Preston Hicken
Human Resources Manager Cherie Ashe

Staff Participating Remotely: IT Director Anthon Beales, Public Works Foreman Chris Pederson, Human Resources Manager Cherie Ashe, Assistant City Manager J. Mark Smedley, Engineer Kyle Turnbow, Public Works Director Matthew Kennard, City Engineer Russ Funk, and Accounting Tech Wendy Anderson.

Also Present: Jay Townsend, Jeanne Henry, Tom Horch, Mason Conley, Travis Clemens, Barry Milkovich, Bridget Whiting, Tori Broughton, John Taylor, Josh Becker, Brent Haight, Rance Echols, Phil Jordan, Lindy Reioux, Andrew Dedrickson, Blake Walton, Jenna Strom, Jami Hewlett, Alexandra Folmer, Corey Noyes, Jen Ostergaard, Linda Middleton, Dallin Koecher, Scott Phillips, Sandra Brower, Jessica Broadhead, Cannon Taylor, Nick Lopez, Joshua Jewkes, Lori Rutland, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (names are shown as signed-in online) Marissa, A, ATC, B, Bill, Bryanna, Cannon Taylor, CM, CP, DK, Elizabeth, Eric Bunker, Grace Doerfler KPCW, Jami Hewlett, Jen, Jessica Shepherd, Jm, JS, Keri Smith, KJB, Laurel P, M Neuhas, Michael, Missy Maughan, MTN, Nick Lopez, S, Shorty5, TK, and TMT.

1. Hwy 189 Properties (Jamie Baron, Planning Manager) - 10 min

Heber City Planning Manager Jamie provided an outline for the applicant's wish to annex into Heber City in order to receive utility services.

Josh Becker, applicant, clarified that their project had never gone through the annexation process with Charleston, as Charleston had decided to not provide utility services. The applicant wished to build a commercial project along Highway 189. They hoped to work with the Heber City Council to bring a project forward that they could collaborate on with the City.

It was noted that the proposed annexation area did not lie within the City's established Annexation Policy Plan. Consensus of Council majority indicated a lack of support for the proposed annexation at that time.

2. Old Mill Village Town Home Restrictions (Jamie Baron, Planning Manager) - *20 min*

Planning Manager Jamie Baron explained that the property owners were concerned the owner-occupied restriction for the development would hinder their ability to sell. The owners were seeking a Development Agreement amendment from Council to remove some, if not all, of the owner-occupied restrictions.

Tom Hales and Mason Conley were present to represent the affordable housing project development. They provided background of the project's progress to date and the concerns faced moving forward. The group was asking council to make exceptions for the "owner occupied" restriction on their development. Council discussed possible concessions. The purpose of the owner-occupied designation was to help create affordable housing for the community and prevent the affordable housing from being bought-up by investors.

Mr. Baron reviewed Council's general direction to permit the sale of a small percentage of the homes within the development to be sold at market value. He would return to Council with proposed amendment language as directed.

3. Discussion and Direction on Language Proposed for Inclusion in the Heber City Expansion Area Memorandum of Understanding (MOU) with Wasatch County (Matt Brower, City Manager) - *20 min*

Discussion for Work Meeting agenda item three was postponed until the General Business agenda, where it was repeated.

III. BREAK - 10 MIN

IV. REGULAR MEETING - 6:00 P.M.

1. Call to Order

Mayor Franco called the meeting to order at 6:38 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Sid Ostergaard, Council Member)

Council Member Ostergaard led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Yvonne Barney, Council Member)

Council Member Barney recalled her experiences serving on the City Council over the past four-plus years, collaborating with the other Council Members and the community. She recognized that each individual had opinions but asked that they be shared in a positive and thoughtful manner. Council Member Barney then shared a prayer.

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Proclamation of 2026 Public Works Week

Mayor Franco read the Proclamation of Public Works Week from May 17 through May 23, 2026, as included in the meeting materials. She thanked the Public Works Department for the services they provided to the community and invited everyone to participate in the planned activities.

VI. CONFLICT OF INTEREST DISCLOSURE:

VII. PUBLIC HEARINGS: (Council May Take Action Following Public Comment and Upon Conclusion of the Public Hearing)

1. Public Hearing and Possible Adoption of the Second Budget Amendment for Fiscal Year 2026 Resolution 2026-06 (Sara Nagel, Finance Manager) -

Finance Director Sara Nagel provided a presentation that showed each budget amendment request by department as included in the meeting materials.

Mayor Franco opened the Public Hearing at 6:50 p.m. With no one coming forward from the public to comment, the Public Hearing was closed at 6:51 p.m.

Council Member Cheatwood expressed appreciation for the ingenuity of Public Works and the Engineering Departments for recognizing that a box culvert could be rerouted in conjunction with an existing project to save funds.

Motion: Council Member Cheatwood moved to approve Resolution 2026-06, the second budget amendment for Fiscal Year 2026, as presented.

Second: Council Member Barney made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

Mayor Franco moved the meeting forward to Action Agenda item five to discuss the renewal of the City Manager's contract.

VIII. CONSENT AGENDA:

Community Development Director Tony Kohler asked Council to remove item 2 from the Consent Agenda as it needed a Public Hearing before the Planning Commission prior to Council approval.

Motion: Council Member Cheatwood to approve the Consent Agenda as outlined with the exception of Consent Agenda item two.

Second: Council Member Johnston made the second.

Discussion: Council Member Johnston asked the Fire District representative and the Community Development Director Tony Kohler to present information regarding what the increased costs and regulations would be for the homes that we're included in the wildland urban interface zone, particularly between Highway 40 and the Wasatch Canal. He was concerned about unintended consequences for trying to do something good. Fire Marshal Clint Neerings explained the requirement to follow the Urban Wildlife Interface for new and existing homes. Fire Marshal Troy Morgan added that, with the amount of density being allowed in Heber City, the landscaping would need to be controlled in order to prevent a continuous fuel loads for wildfires. The Fire District hoped to prevent catastrophic wildfires like experienced in California in the last 10 years. Council further discussed the proposed Urban Wildland Interface map.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

1. March 3, 2026, City Council Meeting Minutes and the March 17, 2026, City Council Work Meeting Minutes (Trina Cooke, City Recorder)
2. Ordinance 2026-05 Updating Wildland Urban Interface Map (Tony Kohler, Community Development Director)

Agenda item two was removed from the Consent Agenda.

3. Request for Sponsorship Funding in the Amount of \$5,000.00 for the Wasatch County Tourism and Economic Summit (Matt Brower, City Manager)
4. Ordinance 2026-04: Amending the Height of Flagpoles in the Institutional & Public Facilities Zone (Jacob Roberts, Planner)
5. Resolution 2026-05 finding hazardous environmental conditions and restriction of fireworks within designated portions of Heber City (Tony Kohler, Community Development Director)

6. Liquidation of Fleet Equipment (Preston Hicken, Fleet Manager)

IX. PUBLIC COMMENTS: (3 min per person/20 min max)

Ken Knight said he did not want the development and said the North Fields was the only thing he had to look at anymore. He felt the City should return all the land north of the City to the County. He said we did not want any of the development and the City should leave some open space for the kids and everybody else.

Linda Middleton had gone to the Department of Natural Resources because she felt that Heber city was the Golden Goose of the state. She had obtained a map of the water basin in an effort to learn where the water for the valley was coming from and how we would survive this. She was thankful for everyone that lived and served in the Valley. She wanted to show the Council how beautiful the area that they lived was. The map showed all the natural resources across the state and she noted how colorful Heber City was. She said there was not enough water and the ski industry had suffered, and the Valley felt the constant pressure of construction and development. She said nobody went faster than the tanker trucks and the community had asked for less trucks, less hazardous materials going near the schools and residents, and less high-density, sprawl, and uninhabited homes on the edges of the wildland interface. She felt that the community was not getting less, as asked for, but more. She said the bypass would not keep the trucks from coming into the community to deliver things on Main street. She felt it was counterproductive to build I-15 through the North Fields if the trucks still needed to come in to the community for deliveries. She had learned a lesson from a golf course in Nebraska that had to pump the water uphill and highways were constructed where the water should be. The result was a bankrupt golf course and failed community. She would appreciate the Council giving the people of the community more of what they asked for.

Jami Hewlett referred to the Wildland Urban Interface and asked why the City would continue to extend development into fire danger zones. She said that if she had moved to the city in 2008, she would have noticed that it was in a valley and there couldn't be any more people in the Valley. She said that we aren't Orem or Nephi and there was one place to put a road. She had been to the Four Corners New Mexico for spring break and Highway 40 was there because they had moved the highway. She said that could not be done here. She felt that when Council Members pushed development, it could not be done, because there was one road in and one road out and Heber was in a valley. She said it was not the City's obligation to allow more development. She said there were zoning laws to control the growth to allow the City to keep up with the infrastructure. She noted the drought conditions and said we had no water.

Blake Walton expressed appreciation for the Council and recognized the difficulty of their job. He felt there were unfounded accusations about Matt Brower and that he was being judged for decisions made by the Council. Mr. Walton had nearly lost his life in the service of the City and said both the Mayor and Mr. Brower had come to see him. He hoped the community would grow together rather than divide.

Council Member Barney, speaking as a Heber City resident, shared the conflicts faced by the Council. She felt the beauty of the valley had diminished but still existed. She thought the only way to get through these moments was to make sure that everyone was respectful, considerate, and most importantly, to stand for our civil rights and our civic duties. She recognized it might be uncomfortable for those who were on the opposite side to go through a process, but felt the process had to be respected as well as respecting concerns that citizens continued to share with Council. She said that whether Council agreed with them, it was misinformation, or whether it was downright stupid, the Council still should listen. She hoped, that in some way, the gap could be bridged, the negative could be shut down, the Council could listen, and still do their job the way that they were supposed to.

Mayor Franco read the following comment from Lindy Reioux:

"Heber City cannot afford Mr. Brower. Not only is his salary outrageous, his spending is totally out of control and doesn't align with the desires of residents, his vision for Heber doesn't align with the wants and needs of the current residents. We love our small, rural town feel and want to keep it that way. We don't want a fancy, expensive park, the bypass going through the North Fields, expansion of the airport or the entire C street project and out of control developments. Besides the fact that the residents don't want these projects, they primarily benefit residents of the entire county, but are being paid for by a much smaller group of taxpayers. Our cost of living in Heber city is out of control. Not only property taxes, but water, power, special districts, and many proposed projects are pricing our residents out of the city. Because of this, the airport expansion should not be moved forward. The spending needs to stop and let the citizens. Period. If Mr. Brower was an elected official he would have been voted out long ago. I ask the Council to listen to their constituents and not renew Mr. Brower's contract or move the airport construction forward."

Jenna Strom lived on 200 south and had lived in the valley for 28 years. She said she loved it in Heber City but she did not want to get another job. She observed the hardships that people had. She had grown up here and felt it was a crime. She asked what it was all for. She was not going to plant a garden that year because she couldn't afford the water. She felt it would be nice for everyone to have grass. She used to go to the park and swing her kid at the park. It was no longer the same. She used to ride her bike at the Coyote trails. She said everyone's got stuff but she was maxed. She wished she could have a jet to fly in and out. She commuted every day.

The Public Comment period was closed at 8:09 p.m.

X. GENERAL BUSINESS ITEMS:

1. Review City Policy Pertaining to Burial of above Ground Utilities (Tony Kohler, Community Development Director) - *30 min*

Community Development Director Tony Kohler explained that the City Code currently required power lines to be buried in new development. The applicant, Jeremy Smith, owned a vacant lot that he wished to develop and he had been informed by Heber Light and Power that he would need to bury multiple power lines and poles, along multiple property lines in addition to the lines in on his property line. The cost would be prohibitive for him to proceed.

Council Member Johnston recognized the Council's decision to require new development to bury any above-ground power-lines. He recalled the City's decision to not bury lines on 100 west due to the cost that would fall on the City. He proposed that the City not require new development's to bury existing power lines, but all newly installed lines should be installed underground. Council Member Ostergaard proposed using CRA (Community Reinvestment Agency) funds for projects such as burying the existing power lines. Council Member Barney recalled the Council decision to set the requirement for new development. She felt the burden should not be placed on this development to bury additional lines but she did not want the CRA to pay for Mr. Smith's portion of line burial. Mr. Smith agreed.

City Engineer Russ Funk clarified that no-one from staff had dropped the ball at any point. There had been unintended consequences caused by the existing policy. He suggested better communication with Heber Light and Power for future developments.

Council discussion regarding the policy continued, determining to rewrite policy language to prevent similar situations going forward. Mr. Kohler explained the process would consist of a legislative land-use amendment, and therefore, needed to return to the Planning Commission for a Public Hearing. Council directed Staff to address parking and work with Heber Light and Power more closely. Consensus of Council majority was that Mr. Smith should not be required to shoulder the burden of burying the power lines that were not along his property line.

2. Discussion and Direction on Language in the North Fields Memorandum of Understanding (MOU) with Wasatch County (Matt Brower, City Manager) - 20 min

City Manager Matt Brower recalled the request of the City and County Councils to amend the North Fields MOU (Memorandum of Understanding) language to include protections for the North Fields. He read the updated language proposed in the attached Staff Report. Staff and Council discussed solution options for continued and cooperative protection of the North Fields with Wasatch County. Mr. Brower read back the following requests from Council:

1. The County would match the City, dollar for dollar
2. Preserve everything east of the corridor, wherever it was built, and north along Highway 40
3. Not to promote residences in the area

4. Not to include the North Fields in the City's Annexation Policy Plan

XI. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Ordinance 2026-05: Repeal of 18.122 Fee Schedule and to amend 18.52.040 Area, Width, Height, and Setback Requirements to adopt Residential Rear Yard Setback Exemptions (Jamie Baron, Planning Manager) - *15 min*

Mayor Franco advised that the incorrect ordinance number was listed on the agenda and the correct number should be 2026-07.

Planning Manager Jamie Baron explained the proposed repeal and amendment to the code as outlined in the attached Staff Report. The current setback requirement was prohibitive for many homeowners that wished to add a covered patio or deck in the rear of their homes. The repeal portion was to remove section 18.122 that was no longer used. A public hearing had been held before the Planning Commission and the Commission had forwarded a positive recommendation to Council.

Jordan Moss had purchased an odd-sized lot in the Orchards Development. He had discovered that the required setbacks would prevent him from building the home he wanted. He was in favor of the proposed 10-foot setback.

Motion: Council Member Johnston made the motion to adopt Ord 2026-07 as presented with the following two minor changes: 1. to allow up to 10-foot encroachment into public utility easements in rear yards, and 2. state that the length of the house allowed to extend beyond the encroachment would not be more than 50% of the overall rear length of the lot.

Second: Council Member Barney

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

2. Authorization to 1) Utilize a ModTruss System to Create a Backdrop-wall for the Main Stage and 2) Purchase the System (Matt Brower, City Manager) - *20 min*

City Manager Matt Brower described the construction setbacks that had delayed the completion of the City's Main Stage at the park that was used for the Summer Concert series. The delays had caused the City to postpone the installation of a desired backdrop. The City now sought to have the previously planned back-drop installed. Phil Jordan described the Mod-Truss backdrop product and installation process and the benefit it would provide for performances at the Main Stage. Mr. Brower explained that he was asking for the Council to approve the concept, allow staff to proceed with obtaining the two additional bids required, and to trust staff to complete the process.

Council discussed the product, benefits of ownership over renting, and the bidding process to comply with the City's procurement policy.

Motion: Council Member Barney moved to extend the meeting to 10:30 p.m.

Second: Council Member Cheatwood made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

Motion: Council Member Johnston moved to authorize the City Manager to follow the procurement policy to purchase a Mod-Truss system and create a backdrop wall for the Main Stage. To follow option one which would be structural support design and support anchor install. Option one was the Mod-Truss beam and backdrop. In addition to that, to get the costs for the structural engineer to review the building integrity, and also to get the design for the backdrop in an amount not to exceed \$49,000 dollars total and to be funded by TAP (Trails, Arts, and Parks) Tax.

Second: Council Member Ostergaard made the second.

Discussion: Council discussed the life-expectancy of the product. Council Member Cheatwood felt that if CAMS (Community Alliance for Main Street) wanted the backdrop, they should be the one to fund it.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

3. Request for TAP Tax Funding for Bronze Plaque and Park Sign for the Private Kay Pete Murdock Jones Park (POSTT) - *10 min*

Nick Lopez, POSTT (Parks, Open Space, Trails, Trees) committee member, described the proposed monument plaque for the only Vietnam Vet from Wasatch County that had been killed in action, Lance Corporal Blaine Welsh. Refer to attached meeting materials for design details. There was also a sign proposed for Kay Pete Murdock Jones Park, who had been killed in the battle at Iwo Jima during WWII. Mr. Lopez shared the story of the two Murdock brothers that served in World War II and only one of them surviving.

Council Member Barney asked that all the POSTT committee members be notified when items recommended by POSTT were going to be on the City Council Meeting agenda. Council Member Johnston asked whether there were not more veterans in the County that needed to be honored. Mr. Lopez explained that he would continue to do what he could to recognize veterans from Wasatch County, but he was only one person. POSTT Committee Co-chair Marissa Stanger expressed the committee's support of the proposed monuments.

Motion: Council Member Cheatwood made the motion to approve the TAP tax funding for the bronze plaque and park sign for private Kaye Pete Murdock Jones Park as outlined in the Staff Report.

Second: Council Member Barney made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

4. Establish Dates for FY '27 Budget Workshops (Sara Nagel, Finance Manager, Matt Brower, City Manager) - *15 min*

Budget Workshops dates were established for Wednesday, May 6 and Friday, May 8, from 6:00-8:00 p.m.

5. Consider Renewal of City Manager Employment Agreement (Jeremy Cook, City Attorney, Sid Ostergaard, Council Member, Aaron Cheatwood, Council Member) - *5 min*

City Attorney Jeremy Cook explained that the City Manager's contract was up for renewal every three years. He recommended that Council renew the existing contract for Matt Brower for another three years.

Motion: Council Member Cheatwood moved to limit the public comment time allowed by individual to 1 1/2 minutes in order to hear as many people as possible.

Alternate Motion: Council Member Ostergaard made a motion to limit the time to a minute and a half but if the comment had previously been stated, it could not, or should not be repeated.

Discussion: Council Member Cheatwood felt the language was fringing on inhibiting free speech. He proposed keeping the first motion and felt the Council could ask the public to be considerate of time.

Motion withdrawn.

Second to the first motion: Council Member Ostergaard made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

Scott Phillips, former City Council Member, said he had the great opportunity to work with the current Heber City Manager Matt Brower over the previous four years. Mr. Brower had always been the consummate professional. Mr. Phillips believed that Mr. Brower had elevated the professionalism of the City Council in his time in Heber.

Mr. Phillips knew that everything Mr. Brower did was the wish of the Council and said that Mr. Brower was not a rogue City Manager. Mr. Brower had provided great guidance, and great counsel to the City Council. Mr. Phillips saw no reason to withhold renewing Mr. Brower's contract. Mr. Phillips had seen stories and other things emerge at the last minute, which seemed to be on par with other important decisions Council had made. He felt it was like a last-minute red herring effect that had come into play the last couple of years and he didn't understand it. He liked to know the truth, and sought the truth, and felt there was lacking truth in some of the accusations. Mr. Phillips said that Mr. Brower was a good man, a good manager, a great manager. Mr. Phillips shared that most of his life he had the opportunity to see city managers at work because his dad had been one, and he felt that Mr. Brower was the best of the best. Mr. Phillips said he was sure if Heber lost Mr. Brower, there were 20 other cities nearby that would love to have him. Mr. Phillips asked Council to please make the decision to renew Mr. Brower's contract.

Kathy Carr was representing herself as a longtime resident of Heber City. She said that beside the fact that the City Manager was willing to dress up like George Washington, there were other traits that she wanted to talk about as a city resident. She felt that what stood out most in the City Manager's position was his commitment to providing and putting the City first. She said that through his work in responsible budgeting, improving services, supporting local businesses, increasing transparency, and building community, he had shown steady and thoughtful leadership that was focused on benefiting the community as a whole. Ms. Carr asked whether Mr. Brower had served the City well and acted in the best interest of the community? She said that based on what she had seen from the many years that she had lived in this valley, the answer was yes. A solid yes. She said that Matt Brower had brought to Heber an energy and enthusiasm to build community, whether it was being George Washington, setting up policies, giving advice to the Council, or setting up a leadership academy. These were things the City never had before, were it not for Matt Brower. She said that, in all fairness, she saw how the City Council and the Mayor relied on Mr. Brower's expertise and advice as the Council determined the path forward for the City. She was surprised that it had even come to the point where the people had to give public comment. She said the Council not only represented the negative voices, but they represented her, and she asked that the Council retain the contract for the city manager.

Jessica Broadhead said she was present to express her support for City Manager Matt Brower. She had the opportunity to work alongside Mr. Brower for several years, most notably through the Red, White, and Blue Festival Committee, where she had seen his leadership and execution. What stood out to her was how Mr. Brower led. He brought vision and humility. He listened, collaborated, and didn't shy away from difficult decisions. He approached necessary decisions with a focus on long-term outcomes and what was best for the city as a whole. Ms. Broadhead felt that in Mr. Brower's relatively short tenure, there had been measurable progress in the downtown. She thought that what was once underutilized was becoming a more active and viable destination.

Ms. Broadhead worked in the community and had observed an increase in events, greater foot traffic, and more consistent use of public spaces by both residents and visitors. She said that it mattered because Heber City served as an economic Hub for Wasatch County. A strong, vibrant downtown supported not just the city, but the broader county economy. It encouraged investment, strengthened the visitor experience, and signaled long-term viability. She said that kind of progress and direction didn't happen by accident, it reflected intentional leadership. In a role where continuity and trust were critical, She believed that leadership was both valuable and difficult to replace. She thanked the Council for their time and service.

Adam Thompson, resident and healthcare professional, agreed with the previous comments in support of Matt Brower. He was raising his family in Heber City and was very invested in the future of the City. He was concerned about the precedent Council would set if they did not renew Mr. Brower's contract. He hoped the Council would not succumb to the online slander and toxic culture. He felt that Mr. Brower was a great man and asked the Council to stand up for what was right, even if it meant standing alone.

Bridget Whiting, Wasatch County resident, presented a petition asking the Council to not renew Matt Brower's contract. She presented a State Auditor's Report from Lincoln, California, where Mr. Brower had previously been the City Manager. The report outlined questionable handling of City funds.

Jay Townsend, Airport Advisory Board Member, informed Council of a recent meeting between the FAA (Federal Aviation Administration) and Matt Brower. He asked if the Council had been aware of the meeting. His opinion was that the City Manager should carry out the wishes of the City Council and the Mayor, not embark on things on his own. He asked if the Council was aware of the Ascension Group partners being taken on as a consultant for the lease agreement. He felt it had to do with the potential lease agreement between the hangar owners and the City. He said the AAB (Airport Advisory Board) had done a lot of work on the lease agreement and the Council had pretty much stamped the proposal given to them. There were a couple of I's to be dotted and T's to be crossed, but the Ascension group proposal was four pages and Mr. Townsend felt it was over the top. He reiterated that he felt like the City Manager had gone outside of the realm of what he believed should be in his actions relative to his employment agreement. Mr. Townsend said he didn't have any problem with Mr. Brower but it was about the employment agreement.

Alexandra Folmer, resident of Heber Valley, felt it was rude of the Council to cut the time for individual comments in half. She said that everyone showed up expecting to get three minutes and she thought they should all be allowed their time. She was opposed to renewing the City Manager's employment agreement in its current form and urged the Council to table it that night. She thought the contract created an excessively high bar for termination for cause. It required an independent investigation, multiple closed session votes, a 10-day response period, and then allowed the manager to appeal in Wasatch County District Court, where the review would be de novo written in

the agreement. Ms. Folmer explained that the term de novo was a legal phrase that meant the court reviewed the case from the very beginning with no deference to the City Council's decision or the investigator's findings. In other words, the judge got to decide the entire matter anew as if the City's process never happened. She felt it had become incredibly clear that Mr. Brower's leadership did not align with residents' vision for the valley. Ms. Folmer said that given his past record in Ocala and Lincoln where his contract was not renewed and a state auditor criticized financial mismanagement, locking in these ironclad protections in Mr. Brower's contract was not in Heber's best interest. She said that compounding the problem, the contract paired the extremely high bar for firing with nine months of generous severance of over \$160,000 if terminated without cause. She claimed that according to ICMA (International City Managers Association), the average severance was only six months. She felt the combination meant the Council was left with two bad choices, go through a long expensive and uncertain for-cause profit or simply pay a large severance to taxpayers. She felt that, either way, real accountability was severely weakened.

Jami Hewlett thanked everyone for being present to voice their opinion. She said that we lived in America where we should be able to have a transparent government. She had been involved in the government for the last three years and had not been a political person before that. She felt the City was not transparent and that it was difficult to get information and difficult to understand the budget. She felt the Council should not be holding a meeting on the same night as the Republican Convention. She said the Council worked for the voters, and the voters wanted to elect people who would voice what they wanted. She felt it was a shame that the Council was there that night. She said she would like to move to dismiss this meeting. It was past seven o'clock and she suggested to move the Council Meeting to another day, where they could go and voice their opinions on people that they were electing.

Michelle Mounter, had lived in the community a long time with her husband. They were local business owners and had held many meetings with Matt Brower. They found him to be ethical and professional. She felt that Mr. Brower ate, breathed, and slept Heber City and the community could not ask for more from him. She urged the Council to renew Mr. Brower's contract as she felt the people of Heber City deserved someone like him.

Jeremy Smith, Wasatch County resident, Heber City business owner, and developer, said he had worked with Matt Brower on several occasions. He had found Mr. Brower to be nothing but honest, generous, and probably most importantly, excited about Heber City. He felt that Matt cared deeply for the community, for the City, for the wellbeing of the citizens. His experience talking to Mr. Brower directly and working through different challenges, was that Mr. Brower had always had the citizens in his heart, and he wanted the best for the citizens of Heber City. Mr. Smith echoed the other comments about supporting Mr. Brower and extending his contract.

Lori Rutland lived in Heber and owned a business in Midway. She expressed her support for Mr. Brower. He had become an acquaintance and friend of hers through business and the Heber Leadership Academy. She said that all of her interactions with Mr. Brower had been professional. Ms. Rutland felt that Mr. Brower was above board, always willing to help, and excited about Heber. She encouraged the Council to extend his contract and said that Heber needed Matt Brower.

Tori Broughton, Heber City resident, was present to support Matt Brower. She said she had googled Matt Brower approximately three years ago and found the news stories referenced in previous comments. She had found no evidence of wrongdoing in his previous City Manager roles, or that affected his role in Heber City. She had read his employment agreement and felt that he was living up to everything in his job description. Ms. Broughton reminded everyone that it was the Council that made the decisions and Mr. Brower worked at the will of the Council. She commended all of the City Staff for the work they did. She said she saw Mr. and Mrs. Brower around town often, participating in community events and supporting the community. She thought they loved it here and it showed. She hoped the Council would extend his contract.

Ken Knight said he was present to check that the Council was present. He hated what the Council was doing to Heber City. He hated all the people, hated the park, and everything else. He was born and raised in Heber City and used to go hunting at the cemetery. He asked Council to search their hearts to find out what they should do.

Joshua Jewkes, County resident and Heber City business owner, felt there was no question that Mr. Brower was qualified for his job. He said that Mr. Brower had the skills, the experience, was honest, and acted with integrity. Mr. Jewkes wanted to point out that Mr. Brower was underpaid. He said the data showed his comparators along the Wasatch Back earned a lot more money than Mr. Brower did, and they had assistants. He wanted to emphasize to the Council that if it chose not to renew the contract, there would be a lot of costs associated with that decision, specifically nine months of severance that would be upwards of \$160,000. At the same time, the City would have to search for and pay a new city manager. He did not see any return that the City was going to get in exchange for the money that it was going to cost. Lastly, he wanted to address the issue of the state auditor's report and ask the Council to consider the dangerous precedent that that would set if they declined to renew his contract on that basis. The complaint was anonymous and included no supporting evidence. He acknowledged that Mr. Brower sat on the CAMS (Community Alliance for Main Street) board, but said that proved nothing. He felt the anonymous complaint was frivolous and the City's own attorney had written as much to the State Auditor. He asked Council to consider the message that would be sent when a tenured city employee could be ousted by an anonymous complaint that the complainant did not even have the courage to bring to the City itself. He asked the Council to take care to set the precedent it wanted to set.

Corey Noyes, City resident and business owner, said his wife was a business owner as well. He said he had interacted with Mr. Brower many times and had found what many others had said that night. Mr. Brower was a consummate professional and exuded enthusiasm for Heber City. He addressed other comments made about Matt. He expressed his support for City Manager and urged Council to not only renew Matt's contract but to give him a raise. It had been said that evening that Mr. Brower could overstep and take meetings without the Council knowing, and Mr. Noyes contended that that was literally why the City had hired Mr. Brower. Because his job was to be the full-time employee running the City, and sometimes that meant he needed to take initiative to do what needed to be done. He did not feel that it would be practical for Mr. Brower to always reach out to the Council first. Mr. Noyes said that not only was Mr. Brower fantastic at his job, but he felt that Mr. Brower was underpaid. Mr. Noyes felt that Mr. Brower was someone who did more with less and got paid less. He thought the Council needed to renew Mr. Brower's contract because there was nothing to stop him from taking a more lucrative position elsewhere. Then the City would be stuck paying more for someone who was not as good of a City Manager. Mr. Noyes urged the Council to not only retain Mr. Brower and renew his contract but consider giving him a raise to compensate him accordingly for all he did for the City.

Bart Munteer had lived in Heber City for 36-years with his wife and the two of them owned multiple businesses. He appreciated that Mr. Brower's door was always open and supported renewing his contract. He said that Mr. Brower was an amazing man, and he hoped the Council would follow their hearts and listen, because he felt the Council would regret if they voted negatively.

Jennifer Ostergaard felt Mr. Brower was upright and the Community needed honest men like him to serve the City. She recognized he held a thankless job and asked the Council to please renew his contract.

Mayor Franco reviewed sections of the proposed contract and questioned the protections of employment that did not align with the definition of an "at-will" employee. She did not believe the state offered such protections to at-will employees. She asked Mr. Brower if he had given Council written notice of breach of contract. Mr. Brower said no, he had not.

Motion: Council Member Johnston moved to renew the current employee agreement for the City Manager as written, and to add an annual merit increase.

Second: Council Member Ostergaard made the second.

Voting Yes: Council Members Johnston, Ostergaard, and Cheatwood.

Voting No: Council Members Barney and Murdock, and Mayor Franco

Motion Failed 3-3.

Motion: Council Member Cheatwood moved to continue the item to a Special City Council Meeting the following Tuesday, April 14, 2026, to begin at 6:00 p.m. for a Closed Meeting, followed by an open meeting at 7:30 p.m. to give the Council additional opportunity to review additional questions in the contract.

Second: Council Member Murdock made the second.
Voting Yes: Council Members Barney, Cheatwood, Murdock, and Mayor Franco.
Voting No: Council Members Johnston and Ostergaard.
The **Motion Passed 4-2.**

6. Ordinance 2026-06: Prohibiting Virtual Currency Kiosks (Parker Sever, Chief of Police) - *15 min*

Motion: Council Member Johnston moved to adopt Ordinance 2026-06, prohibiting virtual currency kiosks.

Second: Council Member Ostergaard made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

XII. COMMUNICATION:

Finance Director Sara Nagel explained there was a new law that required the City to declare the intention to go through the Truth in Taxation process by the first meeting in May. The statement needed to include the amount of tax increase and the percentage that tax-payers would be affected.

XIII. ADJOURNMENT:

Motion: Council Member Barney made the motion to adjourn.

Second: Council Member Ostergaard made the second.

Voting Yes: Council Members Ostergaard, Johnston, Barney, Cheatwood, and Murdock.

Voting No: None.

The **Motion Passed Unanimously, 5-0.**

The meeting adjourned at 10:45 p.m.




Trina Cooke, City Recorder

PUBLIC COMMENTS RECEIVED BY EMAIL:

From: Gaylyn Latimer >
Sent: Saturday, April 4, 2026 6:10 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Postpone contract

As a citizen of Heber City and a county delegate that has to attend the caucus convention on April 7th, I'm asking that the voting on Matt Brower's contract be postponed till the next city council meeting on April 21st or postponed for 90 days so the contract can be reviewed and discussed in public. Also, is there a performance review? And what is the application process for a new manager? Once again, please postpone the voting of Matt Brower's contract as City Manager. We need to make sure all city council members and the mayor are present as well as the public without the conflict of the caucus convention being on the same day.
Sincerely, Gaylyn Latimer

From: Cherie Reed
Sent: Saturday, April 4, 2026 6:59 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Postpone City Manager vote

I think the vote for Matt Brower should be postponed because the republican caucus is that same night. It affects many of us, both are important and we can't be in two places at once. Thank you.
Cherie Reed

From: Ken McConnell
Sent: Saturday, April 4, 2026 7:12 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Contract vote for Matt Brower

I'm a Wasatch County delegate and I understand you will be voting on a new contract for the city manager, Matt Bower.
That vote is taking place on April 7th when several delegates and city leaders will be at the caucus convention. This does not allow for a review of the contract. I'm requesting that the vote be delayed until the next City Council meeting on April 21st.
Scheduling a crucial vote on this contract when many of the city officials are unable to see its content seems suspicious and I, as a taxpayer, would like a review before the city is committed to a lengthy financial obligation.

I ask that the contract to retain Matt Brower as city manager be postponed until at least the following council meeting or postponed for a period of 90 days to better acquaint the council and the taxpayers on its content.

Ken McConnell
Heber City, Utah
[REDACTED]
CC: Park Record
KPCW

From: M Kirby
Sent: Saturday, April 4, 2026 8:09 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Postpone Vote/contract approval for city manager

I will be attending the county caucus meeting on Tuesday, April 7 the evening the city council will vote on Matt Brower's city manager contract. I believe there are city council members who have been elected county delegates as well, who will be unable to attend this city council meeting.

This is an important vote and all city council members should be in attendance. Please postpone this vote so citizens can attend this city council meeting as well.

Is there a place where I can preview the city manager's contract?

Many thanks for your attention to this matter. Mattie Kirby

From: deb stenger
Sent: Monday, April 6, 2026 5:49 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) PLEASE postpone the vote re; city manager contract.

It has come to my attention that the city council meeting scheduled for 4/7/2026 includes voting on the city managers contract. That is Matt Brower. HOWEVER, the Mayor and 2 additional council members will not be present due to the GOP Caucus convention. The city MUST move this vote to the next meeting 4/21/26 so all Council members and the Mayor can be present, as well as community members who have a vested interest in this matter.

Deb Stenger

Deb Stenger
SOMNVIE
Luxury Bed Linens
WEBSITE:
DebStenger.Somnvie.com
Cell:
[REDACTED]

From: Catherine
Sent: Monday, April 6, 2026 7:55 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) M.Brower Contract

I emailed the attached document to the for public comment.

I am unable to attend the city council meeting, due to the fact, the Wasatch GOP convention will be held a the same time.

Catherine M.

April 6, 2026

Dear Council Members,

I am a resident of Heber City. I am writing to respectfully request that the City Council not renew the contract of the current City Manager, Matthew (Matt) Brower, when it comes up for renewal.

My concerns are as follows:

Public accountability: Insufficient transparency or responsiveness to residents. For example, pushing to destroy the current city park into something that most resident do not want nor asked for. Not dealing with the parking problems downtown, yet planning for more even events at the city park.

Fiscal stewardship: Over budget and not well planned out new stage at the city park. Requesting that the airport runway be replace and expanded before the life of the current runway has reached the end of its useful life.

Operational performance: Purchasing the wave with funds from a Jordonelle development without city council approval.

Community trust: There is no public trust concerning, Matthew Brower. Matthew Brower has lied to me on several occasions when I brought up concerns about the park and resident who live around said

area. He states one thing to you in person and does another in private and/or the opposite of what he stated would take place.

The above are just a few examples as to why I am requesting that the City Council not renew Matthew Brower's contract.

I believe new leadership is necessary to restore confidence, improve transparency, and ensure responsibility fiscal management of city resources. None of which Matthew Brower's has demonstrate. I urge the Council to consider a competitive search for a new City Manager and to prioritize candidates with a demonstrated record of transparent governance, fiscal discipline, and community engagement.

Thank you for your attention to this matter and for representing the interests of our community.

Sincerely,

Catherine Moore



Heber City, Ut

From: allison larsen
Sent: Monday, April 6, 2026 11:47 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Matt Brower's contract

I understand that there is a planed vote on the extension of Matt Brower's contract tonight. Because two of the city council members and the mayor will be at the Republican caucus convention, I feel it is imperative that this vote be postponed until at least April 21 or further out. This is an extremely important decision that will influence and affect our city in perpetuity.

The ENTIRE city Council and mayor, who represent ALL of the city, need to be a part of this important vote. Because of the convention, so many delegates will also not be able to attend the council meeting to present their opinion publicly. I am one of them.

The citizens of this community have every right to have their opinions and thoughts, presented and respected, as this is a position that is not voted on, but at the same time is of extreme importance. Matt has considerable influence on the trajectory of this town and we the citizens who have elected a council, need to have that council represent us!
Sincerely, Allison Salisbury

Sent from my iPad

From: Jane Thatcher
Sent: Tuesday, April 7, 2026 12:25 AM
To: CC Public Comments <ccpublic@heberut.gov>
Cc: Jane Thatcher
Subject: (EXTERNAL) Postpone the Vote on Matt Bower

I live here in Heber City and I'm a Precinct Chairwoman and GOP County Convention Delegate. It's come to my attention after reading an article published by KPCW that our City Council plans to vote on renewing the contract for Matt Bower, our City Manager, tonight at their regular meeting. I also know that Mayor Heidi Franco and two other City Council members cannot attend tonight's Council meeting due to their previous commitments to attend our GOP County Convention tonight.

I'm writing to urge you to postpone this vote to extend Matt's contract until your next meeting so all three of these individuals can be present to express their opinions on renewing this contract. It's too important to our City for three vital members not to be at the meeting.

Please postpone this vote to a more appropriate time.

Sincerely,

Jane E. Thatcher

[REDACTED]

Heber City, UT 84032

[REDACTED]

From: Patty Sprunt
Sent: Tuesday, April 7, 2026 8:52 AM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: (EXTERNAL) Postpone Vote

To Whom It May Concern;

I am writing to request that the vote to renew Mr. Brower's contract be postponed until a future council meeting. I have had some citizens reach out about this important vote, and the public's interest in this issue conflicts with the Republican Party's County Convention which is also this evening. I kindly ask that you consider this request on behalf of our city's residents who serve as delegates in that convention.

Thank you,

Patty Sprunt, Interim Chair

Wasatch County GOP

From: Steve Phillips

Sent: Tuesday, April 7, 2026 3:15 PM

To: CC Public Comments <ccpublic@heberut.gov>

Subject: (EXTERNAL) Opposition to Renewal of City Manager Matt Brower's Contract

Dear Heber City Council,

I am writing to respectfully oppose the renewal of City Manager Matt Brower's contract. My concern is not simply that Heber is growing, but that the city has too often pursued growth and redevelopment without enough visible infrastructure to support the pace and scale of that growth.

During Mr. Brower's tenure, city leadership has repeatedly emphasized downtown revitalization, the Envision Heber 2050 plan, affordable housing, airport-related economic development, and the Heber Valley bypass. While planning for the future is important, many residents believe the city has put too much emphasis on facilitating growth first and too little on ensuring roads, utilities, traffic circulation, and other core infrastructure are ready before more development moves forward.

I am concerned that the city has not kept growth sufficiently aligned with the capacity of its infrastructure and services. Heber needs leadership that prioritizes traffic flow, water, roads, parking, public safety, and long-term livability before continuing to accelerate development pressure.

For these reasons, I urge the Council to decline renewal of Mr. Brower's contract and instead seek leadership that will place infrastructure, transparency, and measured growth ahead of development pressure. Heber deserves a city manager whose top priority is balancing growth with the capacity of roads, water, parking, and public services.

Thank you for your service to Heber City and for your consideration of this concern.

Sincerely,

Steve Phillips

From: Tracy Taylor

Sent: Tuesday, April 7, 2026 4:17 PM

To: CC Public Comments <ccpublic@heberut.gov>; Heidi Franco
<hfranco@Heberut.gov>

Subject: (EXTERNAL) Matt Brower's contract- pls postpone agenda item

Hi City Council and Mayor-

I am hearing from the public that are delegates tonight, that they are upset that this agenda item is scheduled tonight. We all would like the city council to wait until ALL interested Heber citizens can attend this discussion at a future council meeting.

I think a 90 day extension to Brower's contract is in order, so we can understand what process you have conducted so far as council, and how citizens feel about this possible resigning of Brower's contract.

Thank you for your time,

Tracy Taylor

Wasatch Taxpayers Association

cell: [REDACTED]

PETITION SUBMITTED FOR PUBLIC RECORD:

Public Comment Submission

**Heber City Council Meeting
April 7, 2026**

Submitted by:

Bridget Whiting
Wasatch County Resident

Subject: Request for Consideration of Non-Renewal of City Manager Contract

Purpose of Submission:

This packet is being submitted as part of public comment and is requested to be entered into the official public record.

It includes a petition signed by community members, along with supporting documentation intended to provide context and support for questions regarding oversight, due diligence, and performance evaluation.

This submission is not an accusation, but a request for transparency, accountability, and careful review prior to any contract renewal.

Documents Included:

- Petition (288+ signatures from community members)
- Public Comment Statement
- Supporting Documentation Packet:
 - California State Auditor Report (City of Lincoln, 2019)
 - Heber City Code (City Manager oversight responsibilities)
 - City Manager Employment Agreement (performance review requirements)

Request to Council:

Prior to any contract renewal, I respectfully encourage the Council to:

- Review all available performance evaluations
- Ensure appropriate due diligence has been completed
- Consider requesting a formal review through the State Auditor to provide transparency and public confidence in the decision-making process

Statement: This submission is made in good faith and in the interest of responsible governance, financial oversight, and public trust.

PETITION SUBMISSION TO HEBER CITY COUNCIL

Subject: Do not renew City Manager Matt Brower's contract in April 2026

Submitted by: Bridget Whiting, on behalf of concerned residents of Heber Valley

Total Signatures: 288

Date Submitted: 4/7/2026

Statement:

This petition represents community members requesting that the Heber City Council carefully consider the non-renewal of the current City Manager's contract.

These signatures reflect genuine concern from residents and stakeholders regarding accountability, transparency, and leadership decisions that directly impact the future of our community.

We respectfully ask that these voices be formally acknowledged and taken into consideration as part of the decision-making process.

Signatures continue to be collected and reflect ongoing and growing community engagement.

Petition Link: <https://c.org/bQ8bmYHxT9>



Name	City	State	Postal Code	Country	Signed On
Community Member	Heber Valley			United States	2026-03-12
Kimberly Sweat	Heber City	UT	84032	United States	2026-03-12
Dana graham	Midway	UT	84049	United States	2026-03-12
Jami Hewlett	Heber City	UT	84032	United States	2026-03-12
Heidi Harmon	Heber City	UT	84032	United States	2026-03-12
Sam Torgerson	Salt Lake City	UT	84129	United States	2026-03-12
Catherine Moore	West Valley City	UT	84120	United States	2026-03-12
jane doe	Sandy	UT	84070	United States	2026-03-12
durr hehem	Charlotte	NC	28210	United States	2026-03-12
Jella Santiago	Carmel	IN	46033	United States	2026-03-12
Barry Milkovich	Midway	UT	84049	United States	2026-03-13
Sandra Vargas	Bullhead City	AZ	86426	United States	2026-03-13
Linda Lee	Salt Lake City	UT	84123	United States	2026-03-13
Caroline Needham	Farmington	UT	84025	United States	2026-03-13
Jonathan Pagan	Newnan	GA	30263	United States	2026-03-13
Adam Winget	Ogden	UT	84403	United States	2026-03-14
Nathaniel Leishman	Salt Lake City	UT	84115	United States	2026-03-14
Eridany Hernandez	West Jordan	UT	84084	United States	2026-03-14
kiarah davis		UT	84043	United States	2026-03-14
Lianet Reyes	Panama City	FL	32405	United States	2026-03-14
Daphanie Bogedahl	West Jordan	UT	84088	United States	2026-03-15
mandana sarvghad	Sandy	UT	84093	United States	2026-03-15
Sofia Flomenboym	Dallas	TX	75270	United States	2026-03-15
Savannah Palmer	Heber City	UT	84032	United States	2026-03-16
Nick Rowe	Salt Lake City	UT	84109	United States	2026-03-16
Leah hallows	Heber City	UT	84032	United States	2026-03-18
Jenna Strom	Heber City	UT	84032	United States	2026-03-18
Jhoanna Rodriguez	Heber City	UT	84032	United States	2026-03-18
Larry Weihing	Heber City	UT	84032	United States	2026-03-19
Michael jones	Heber City	UT	84032	United States	2026-03-19
Alec Sargent	Heber City	UT	84032	United States	2026-03-19
Cindy Galli	Heber City	UT	84032	United States	2026-03-19
Robert Struwe	Heber City	UT	84032	United States	2026-03-19
Lois Martino	Heber City	UT	84032	United States	2026-03-19

Brian LeClair	Heber City	UT	84032	United States	2026-03-19
Kollette Chambers	Heber City	UT	84032	United States	2026-03-19
Mike Kinsinger	Heber City	UT	84032	United States	2026-03-19
Steve Phillips	Midway	UT	84049	United States	2026-03-19
Gina Iuke	Heber City	UT	84032	United States	2026-03-19
Dolly Pinter	Heber City	UT	84032	United States	2026-03-19
Naomi Bown	Midway	UT	84049	United States	2026-03-19
Desteny Tingey	Heber City	UT	84032	United States	2026-03-19
Sadie Anderson	Wallsburg	UT	84082	United States	2026-03-19
Travis Visentin	Heber City	UT	84032	United States	2026-03-19
Meschelle Montoya	Heber City	UT	84032	United States	2026-03-19
Diane Pope	Midway	UT	84049	United States	2026-03-19
Rachel Mitchell	Heber City	UT	84032	United States	2026-03-19
Edward Pettersson	Orem	UT	84057	United States	2026-03-19
Legz For daze	Salt Lake City	UT	84012	United States	2026-03-19
Carolyn Schneider	Heber City	UT	84032	United States	2026-03-19
Brianne Field	Heber City	UT	84032	United States	2026-03-19
Ellie Novelli	Heber City	UT	84032	United States	2026-03-19
deb stenger	Heber City	UT	84032	United States	2026-03-19
Marge Bowen	Heber City	UT	84032	United States	2026-03-19
Jenifer Tringham	Heber City	UT	84032	United States	2026-03-19
Wendy Gardner	Heber City	UT	84032	United States	2026-03-19
Alexandra Folmer	Daniel	UT	84032	United States	2026-03-19
Lindy Reiloux	Heber City	UT	84032	United States	2026-03-19
Mary Williams	Heber City	UT	84032	United States	2026-03-19
Carrie Bay	Heber City	UT	84032	United States	2026-03-19
Chuck Dews	Heber City	UT	84032	United States	2026-03-19
Michael Widders				United States	2026-03-19
Patty Sprunt	Heber City	UT	84032	United States	2026-03-19
Dale James	Heber	UT	84032	United States	2026-03-19
Craig Bounous	Heber City	UT	84032	United States	2026-03-19
Kelli Gomez	Heber City	UT	84032	United States	2026-03-19
Vivis King	Sandy Utah	UT	84094	United States	2026-03-19
jen Evans	West Jordan	UT	84084	United States	2026-03-19
Christie Wilkes	Heber City	UT	84032	United States	2026-03-19
Sarah Martinez	Mission	TX	78572	United States	2026-03-20

Olivia Grant	South Jordan	UT	84009	United States	2026-03-20
Daniel Krivanec	Centerville	UT	84014	United States	2026-03-20
Meranie Karren	Heber City	UT	84032	United States	2026-03-20
Katrina Berg	Midway	UT	84049	United States	2026-03-20
Gabe Gubler	Heber City	UT	84032	United States	2026-03-20
Brittany Gubler	Heber City	UT	84032	United States	2026-03-20
Echo Neal	Heber City	UT	84032	United States	2026-03-20
Tom Johnson	Heber City	UT	84032	United States	2026-03-20
Jessica Shepherd	Heber City	UT	84032	United States	2026-03-20
Jacqueline James	Heber City	UT	84032	United States	2026-03-20
Teresa Burnham	Heber City	UT	84032	United States	2026-03-20
Naomi Hammon	Heber City	UT	84032	United States	2026-03-20
Jody Summers	Heber City	UT	84032	United States	2026-03-20
Ava Treu	Heber City	UT	84032	United States	2026-03-20
merry cardenas	Salt Lake City	UT	84123	United States	2026-03-20
Stephanie Lee	SALT LAKE CITY	UT	841061308	United States	2026-03-20
Danielle delano	Salt Lake City	UT	84104	United States	2026-03-20
Macy Risto	Midway	UT	84049	United States	2026-03-20
Josh Giles	Heber City	UT	84032	United States	2026-03-20
Marisia Hansen	Salt Lake City	UT	84116	United States	2026-03-21
Aaron Peterson	Magna	UT	84044	United States	2026-03-21
Robin Ellis	Sandy	UT	84094	United States	2026-03-21
Jay Winter	West Jordan	UT	84088	United States	2026-03-21
Mahonri Helquist	Salt Lake City	UT	84106	United States	2026-03-21
Natalie Beales	Eagle Mountain	UT	84005	United States	2026-03-21
Cindy Martinez	Kamas	UT	84036	United States	2026-03-21
Rylee Loeser	Salt Lake City	UT	84138	United States	2026-03-21
Alan Johnson	Kaysville	UT	84037	United States	2026-03-21
Mark Beaver	Salt Lake City	UT	84116	United States	2026-03-21
Travis Heckel	Heber City	UT	84032	United States	2026-03-22
Boyd Llewelyn	Midway	UT	84049	United States	2026-03-22
Pam Shriver	Heber	UT	84032	United States	2026-03-22
John Bryer	Midway	UT	84049	United States	2026-03-22
Millia Ramirez	Stephens City	VA	22655	United States	2026-03-22
Shelby Giles	Heber City	UT	84032	United States	2026-03-22
Julianne Schultz	Midway	UT	84049	United States	2026-03-22

David whipple	Heber City	UT	84032	United States	2026-03-22
Anastasia Jacob	Heber City	UT	84032	United States	2026-03-22
Cynthia Theobald	Heber City	UT	84032	United States	2026-03-22
Julie LeSueur	Heber City	UT	84032	United States	2026-03-22
Jill Kasper	Heber	UT	84032	United States	2026-03-22
SUSAN STEINKE	Midway	UT	84049	United States	2026-03-22
Kimmy Tolbert	Heber City	UT	84032	United States	2026-03-22
Samantha Moll	Heber City	UT	84032	United States	2026-03-22
Kimberly Montoya	Heber City	UT	84032	United States	2026-03-22
Jennifer Elliott	Orem	UT	84057	United States	2026-03-22
Pamela Blum	Heber City	UT	84032	United States	2026-03-22
Aubrey Hoopes	Heber City	UT	84032	United States	2026-03-22
David and	Heber City	UT	84032	United States	2026-03-22
Ruth Felker	Heber City	UT	84032	United States	2026-03-22
Marianne Maltman	Heber City	UT	84032	United States	2026-03-22
Rodney Woolley	Heber City	UT	84032	United States	2026-03-22
Barbara Norris	Heber	UT	84032	United States	2026-03-22
Sami Bennett	Heber City	UT	84032	United States	2026-03-22
Harlie Boyden	Heber City	UT	84032	United States	2026-03-22
Randi Stephens	Heber	UT	840362	United States	2026-03-22
kim Norris	Heber City	UT	84032	United States	2026-03-22
Douglas Stober	Heber City	UT	84032	United States	2026-03-22
Jennifer Petrocelli	Daniel	UT	84032	United States	2026-03-22
Madison Rockhill	Heber City	UT	84032	United States	2026-03-23
JAIME PATRICIA MILLER	Ogden	UT	84401	United States	2026-03-23
Christopher Taylor	Salt Lake City	UT	84115	United States	2026-03-23
Kyrsti Black	Heber	UT	84032	United States	2026-03-23
Terri Bronson	Heber City	UT	84032	United States	2026-03-23
Candace Henderson	Midway	UT	84049	United States	2026-03-23
Savannah Gaffney	Saratoga Springs	UT	84045	United States	2026-03-23
Danielle lecher	Heber City	UT	84032	United States	2026-03-23
Barbara Pokrin	Heber City	UT	84032	United States	2026-03-23
Ashley morrow	Heber City	UT	84032	United States	2026-03-23
Jerzy Mitchell	Riverton	UT	84065	United States	2026-03-23
Kristen Nielsen	Heber City	UT	84032	United States	2026-03-23
Tiffany McClellan	Heber City	UT	84032	United States	2026-03-23

Lisa McDougle	Midway	UT	84049	United States	2026-03-23
NaTaya Nelson	Salt Lake City	UT	84123	United States	2026-03-23
Tabatha Benzler	Heber City	UT	84032	United States	2026-03-23
Sondra Luke	Draper	UT	84020	United States	2026-03-23
s matt	Highland	UT	84003	United States	2026-03-23
Abbi Probst	Heber City	UT	84032	United States	2026-03-23
Shelly Eldredge	Heber City	UT	84032	United States	2026-03-23
Stefanie Grady	Daniel	UT	84032	United States	2026-03-23
Brandon Griffin	Heber City	UT	84032	United States	2026-03-23
Sheralun Chamberlain	Wallsburg	UT	84082	United States	2026-03-23
Ian Ferguson	Heber City	UT	84032	United States	2026-03-23
Ariana Begay	Pleasant Grove	UT	84062	United States	2026-03-23
Nicole Ferguson	Heber City	UT	84032	United States	2026-03-23
Bailey Williams	Kaysville	UT	84037	United States	2026-03-23
Maria Hayes	Heber	UT	84032	United States	2026-03-23
Michelle Stevens	Heber City	UT	84032	United States	2026-03-23
LISA VAN ORMAN HADLEY	Salt Lake City	UT	84103	United States	2026-03-23
Renee Van De Motter	Heber City	UT	84032	United States	2026-03-23
Bob Brandt	Heber City	UT	84032	United States	2026-03-23
LuAnn Brandt	Heber City	UT	84032	United States	2026-03-23
Becky Johnson	Heber City	UT	84032	United States	2026-03-23
Wylie Larsen	Heber City	UT	84032	United States	2026-03-23
Amy Van Wagoner	Heber City	UT	84032	United States	2026-03-23
Connie Doan	Heber City	UT	84032	United States	2026-03-23
Jennifer Dikes	Heber City	UT	84032	United States	2026-03-23
Ashlee Bolinder Wallin	Heber City	UT	84032	United States	2026-03-23
Brandie Mahoney	Heber City	UT	84032	United States	2026-03-24
Tyson Royall	Heber City	UT	84032	United States	2026-03-24
Brenna Schaffer	Heber City	UT	84032	United States	2026-03-24
Kaleb Schaffer	Heber City	UT	84032	United States	2026-03-24
anonymous signee	Heber City	UT	84032	United States	2026-03-24
Nikole Givens	Heber City	UT	84032	United States	2026-03-24
Julie Holmes	Heber City	UT	84032	United States	2026-03-24
Darien Whittum	Heber City	UT	84032	United States	2026-03-24
Elizabeth Seiler	Heber City	UT	84032	United States	2026-03-24
Ben Misek	Midway	UT	84049	United States	2026-03-24

Cheyan jepperson	Heber City	UT	84032	United States	2026-03-24
ANGELA DUNN	Midway	UT	84108	United States	2026-03-24
Jonathan Dunn	Midway	UT	84049	United States	2026-03-24
Camille Harper	Seattle	WA	98060	United States	2026-03-24
Brittany Renshaw	Heber City	UT	84032	United States	2026-03-24
Raymond Wright	Heber City	UT	84032	United States	2026-03-24
Liz Lange	Heber City	UT	84032	United States	2026-03-24
David Nash	Heber City	UT	84032	United States	2026-03-24
Elisa Rodriguez I	Daniel	UT	84032	United States	2026-03-24
Paul Lind	Ogden	UT	84401	United States	2026-03-24
Cristian moreno	Heber City	UT	84032	United States	2026-03-24
Alesia Valentine	Heber	UT	84032	United States	2026-03-24
Lindsay Jacobson	Kamas	UT	84036	United States	2026-03-24
Tiana McCann	American Fork	UT	84003	United States	2026-03-24
Caren Escatel	Salt Lake City	UT	84118	United States	2026-03-24
Vicky Darveau	Daniel	UT	84032	United States	2026-03-24
Jennifer Pedersen	Heber City	UT	84032	United States	2026-03-25
Jorge Ramos	Salt Lake City	UT	84115	United States	2026-03-25
Ana Ramirez	Pleasant Grove	UT	84062	United States	2026-03-25
Melissa Young	Heber City	UT	84032	United States	2026-03-25
John young	Heber City	UT	84032	United States	2026-03-25
Tanner Olson	Heber City	UT	84032	United States	2026-03-25
Michele Davis	Heber City	UT	84032	United States	2026-03-25
Kodie Burgener	Heber City	UT	84032	United States	2026-03-25
Neil Richards	Heber City	UT	84032	United States	2026-03-25
Lillian Dixon	Pleasant Grove	UT	84062	United States	2026-03-25
Kim Ransdell	South Jordan	UT	84095	United States	2026-03-25
Lisa Wark	Midway	UT	84049	United States	2026-03-25
Bowdy clyde	Heber City	UT	84032	United States	2026-03-25
Kayc Bradshaw	Heber City	UT	84032	United States	2026-03-25
Craig Jensen	Heber City	UT	84032	United States	2026-03-25
Jodi dep	Midway	UT	84049	United States	2026-03-25
Jim Christensen	South Jordan	UT	84095	United States	2026-03-25
Joan Shumway	Layton	UT	84041	United States	2026-03-26
Carol Harvey	Heber City	UT	84032	United States	2026-03-26

Mike Peters	Heber City	UT	84032	United States	2026-03-26
Joe Tirado	Ogden	UT	84401	United States	2026-03-26
Steve Farr	West Jordan	UT	84088	United States	2026-03-27
Jeremy Roberts	Salt Lake City	UT	84094	United States	2026-03-27
Ginger Baker	Heber City	UT	84032	United States	2026-03-27
Steven Propst	Park City	UT	84098	United States	2026-03-27
ROSE THOMPSON	Heber City	UT	84032	United States	2026-03-27
Imran mughal	Salt Lake City	UT	84123	United States	2026-03-27
Tajah Baca	Layton	UT	84041	United States	2026-03-28
Rachel Horne	Lehi	UT	84043	United States	2026-03-28
Thomas Martinez	Heber	UT	84032	United States	2026-03-28
lauryn camp	Boise	ID	83713	United States	2026-03-28
Cleo Bird	Salt Lake City	UT	84129	United States	2026-03-28
Karla Jenkins	Midway	UT	84049	United States	2026-03-28
Melanie Anderson	Layton		84040	United States	2026-03-29
Angie Moon	Salt Lake City	UT	84121	United States	2026-03-29
Steve Stone	Heber City	UT	84032	United States	2026-03-30
Michael B jordan	Orem	UT	84057	United States	2026-03-30
Liam dresser	Draper	UT	84020	United States	2026-03-30
Trini Quintana	Salt Lake City	UT	84104	United States	2026-03-30
Ernie Martinez	Roy	UT	84067	United States	2026-03-30
ashlyn graves	West Valley City	UT	84119	United States	2026-03-30
Lexi Bennett	kentucky	KY	40071	United States	2026-03-30
Debbie Bunker	Heber City	UT	84032	United States	2026-03-30
Chelsi davis	Salt Lake City	UT	84106	United States	2026-03-30
Carol Lopez	West Jordan	UT	84088	United States	2026-03-31
Pierre Michel Bataille	Auburndale	FL	33823	United States	2026-03-31
Kate Price	Salt Lake City	UT	84189	United States	2026-03-31
Nkwenti Tita	Minneapolis	MN	55429	United States	2026-03-31
Katrina Jensen	Salt Lake City	UT	84103	United States	2026-03-31
Taylor Cram	Orem	UT	84059	United States	2026-03-31
Andrew Lewis	Park City	UT	84098	United States	2026-03-31
Katelyn Peterson	Wallsburg	UT	84082	United States	2026-03-31
Hyke Hasratian	Bountiful	UT	84010	United States	2026-03-31
Madilyn Graffis	Roy	UT	84067	United States	2026-03-31
Jeribeth Argumedo	West Jordan	UT	84081	United States	2026-03-31

Gavin Lawrence	Anacortes	WA	98221	United States	2026-03-31
Michèle Galvin-White	Tampa	FL	33609	United States	2026-03-31
fabiola snell	Clearfield	UT	84015	United States	2026-04-01
Kai Wegner	Provo	UT	84604	United States	2026-04-01
Casey Schroader	Layton	UT	84041	United States	2026-04-01
Peyton Stevens	West Valley City	UT	84120	United States	2026-04-01
Clint Collins	Alpine	UT	84004	United States	2026-04-01
Shelly Martinez	Heber City	UT	84032	United States	2026-04-01
Vanette Olsen	Heber City	UT	84032	United States	2026-04-01
Venus Kunze	West Valley City	UT	84120	United States	2026-04-01
Madden Probst	St George	UT	84009	United States	2026-04-01
Robert Faubus	Provo	UT	84604	United States	2026-04-01
Victor Baird	Provo	UT	89104	United States	2026-04-01
Ryan Patane	Kaysville	UT	84037	United States	2026-04-01
Benjamin Gordon	Mt Pleasant	UT	84647	United States	2026-04-01
David Tovey	Corinne	UT	84307	United States	2026-04-01
Darlene Lefevre	Provo	UT	84606	United States	2026-04-01
Marcella Parsons	Salt Lake City	UT	84121	United States	2026-04-01
Luis Vicente	West Valley City	UT	84120	United States	2026-04-02
Jeri Williams				United States	2026-04-02
wendy rozier	Lehi	UT	84043	United States	2026-04-02
Bri Bendezu	Salt lake city	UT	84119	United States	2026-04-03
Zenoch Larsen	Salt Lake City	UT	84129	United States	2026-04-03
Angel Vice	Millcreek	UT	84106	United States	2026-04-03
Amber Mitchell	Sparks	NV	89436	United States	2026-04-03
Stephanie Wilcox	Midway	UT	84049	United States	2026-04-03
Bridget Whiting	Midway	UT	84049	United States	2026-04-03
Marc Pfau	Heber City	UT	84032	United States	2026-04-03
Edward Cooper	Sunset	UT	84015	United States	2026-04-03
Paul Moore	Heber City	UT	84032	United States	2026-04-03
María R	Salt Lake City	UT	84116	United States	2026-04-03
Carly Hurst	Salem			American Samoa	2026-04-04
Joshua Evans	Salt Lake City	UT	84116	United States	2026-04-04
Milani Cartier	North Salt Lake	UT	84094	United States	2026-04-05
Josephine Reece	Salt Lake City	UT	84107	United States	2026-04-05
Luke Tew	Altamont	UT	84001	United States	2026-04-06

Caley Steele Salt Lake City UT 84117 United States 2026-04-06

Michael Babcock Price UT 84501 United States 2026-04-06

Sam Manzari Salt Lake City UT 84129 United States 2026-04-06

Luke Belnap Heber City 84032 United States 2026-04-07

Brian Lund Sandy UT 84094 United States 2026-04-07

Ashraf Rafenodoost Sandy UT 84070 United States 2026-04-07

Ashley Rutledge Midway UT 84049 United States 2026-04-07

Maria Wall Ogden UT 84401 United States 2026-04-07

Catherine Moore Heber City UT 84032 United States 2026-04-07

Supporting Documentation

Documents provided to support questions of oversight and accountability

Full Report Reference:

The complete California State Auditor Report referenced in this packet can be accessed publicly at:

<https://information.auditor.ca.gov/pdfs/reports/2018-110.pdf>



City of Lincoln

**Financial Mismanagement, Insufficient Accountability,
and Lax Oversight Threaten the City's Stability**

March 2019

REPORT 2018-110



SUMMARY

Incorporated in 1890, the city of Lincoln operates under the council-manager form of government: its city council is responsible for its governance, while a city manager oversees the city's operations. From 2000 through 2010, Lincoln was one of the fastest growing cities in the nation, expanding from 11,000 to 43,000 residents. However, by the end of the decade, the local and national economies were in decline, and Lincoln's development was severely curtailed. The city experienced significant fiscal challenges as a result. In fact, Lincoln fully depleted its unrestricted general fund balance in fiscal year 2008–09, although it had increased the balance to \$8.7 million by fiscal year 2016–17. In recent years, a citizens group raised concerns related to Lincoln's finances, including its interfund loans and transfers, the fees it charged the public, its use of municipal utilities, and its general management of public funds. Our report concludes the following:

Lincoln Made Questionable Loans, Transfers, and Allocations That Did Not Always Comply With State Law

Page 9

Lincoln established restricted funds related to its different functions to ensure that it uses the revenue it receives for the purposes for which that revenue was intended. However, it used those funds to make unrelated interfund loans and transfers that it may not be able to repay. Further, as a result of loans and transfers, the city misrepresented the financial position of several funds: although these funds had year-end deficits, the loans and transfers made them appear as though they had positive fund balances. Finally, Lincoln violated the state constitution by using surplus revenue that property owners in certain areas paid in landscaping and lighting assessments to cover costs associated with properties in other areas.

Lincoln Did Not Accurately Charge the Public for Certain City Services

Page 19

Lincoln overcharged developers and builders for water infrastructure and capacity, thereby accumulating a fund balance of nearly \$41 million as of June 2017. Further, Lincoln undercharged the public for other services, such as building inspections and permit administration. Lincoln also violated provisions of the state constitution by failing to pay for its own use of municipal utilities, including water, sewer, and trash collection; it instead passed these costs on to ratepayers through increased utility rates. Lincoln has not refunded or provided equitable consideration to ratepayers for the increases in their rates resulting from the city's use of utilities.

Lincoln Did Not Establish or Consistently Follow Key Policies and Procedures to Ensure the Appropriate Management of Public Funds

Lincoln lacks key policies and procedures to ensure consistency, compliance, and transparency in its financial practices. Moreover, Lincoln did not follow its existing policies by obtaining the appropriate approval from the city manager or the city council for expenditures, resulting in questionable spending.

In addition, we reviewed the city's failure to update its master fee schedule and its inability to substantiate fee credits it granted to developers, as well as other issues related to its investment portfolio and a councilmember's activities. We found that Lincoln could improve its processes in some of these areas, and we present the related recommendations in the section of this report titled Other Areas We Reviewed beginning on page 33.

Summary of Recommendations

To ensure that it complies with state law, Lincoln should immediately review all outstanding interfund loans and confirm that the loans can be repaid.

To comply with state law, Lincoln should immediately discontinue using restricted funds to subsidize other unrelated funds that have year-end deficits.

To ensure that its fees are commensurate with the cost of providing services, Lincoln should develop and begin following by June 2019 a timeline for conducting fee studies of each of its services.

Lincoln should develop a plan to provide equitable consideration to ratepayers for the utility costs they incurred that were higher than necessary because of the city's practice of not paying for its own municipal utilities.

Lincoln should establish and follow policies and procedures for financial practices recommended by the Government Finance Officers Association.

The city manager should immediately develop and implement procedures for staff to obtain and document the required approval from the city manager or the city council before committing city resources.

Agency Comments

Lincoln agreed with all of our recommendations and indicated that it has already begun implementing some of them. We look forward to reviewing Lincoln's 60-day, six-month, and one-year responses to our recommendations to evaluate its progress.

2.14 City Manager**2.14.010 Office Of The City Manager****2.14.020 Appointment Of City Manager****2.14.030 Term****2.14.040 Functions And Duties****2.14.010 Office Of The City Manager**

There is hereby created the office of City Manager of Heber City, Utah.

HISTORY

Adopted by Ord. 98-19 on 10/15/1998

2.14.020 Appointment Of City Manager

The appointment of a person to be known as City Manager shall be by the governing body. Once approved by the governing body, the mayor shall sign the contract entered into with the City Manager on behalf of the city. Pursuant to Section 10-3b-302 of the Utah Code, (U.C.A.), 1953, the mayor may vote in the appointment or dismissal of a city manager, (U.C.A.), 1953.

HISTORY

Adopted by Ord. 98-19 on 10/15/1998

Amended by Ord. 2013-02 on 1/17/2013

Amended by Ord. 2019-16 Amending Legislative and Administrative Responsibilities on 8/6/2019

2.14.030 Term

The City Manager shall serve at the pleasure of the governing body, except that the governing body shall employ the City Manager for a term not to exceed three (3) years. The term of employment may be renewed at any time, subject to the conditions set forth in this provision. Any person serving as City Manager of the municipality under this Section may be removed with or without cause by a majority vote of the governing body. The term of employment must be voted on in public Council meeting for renewal at end of contract term if the governing body and Manager desire to renew such; or must be voted on in a public governing body meeting at any time during the contract for a term not to exceed three (3) years, without automatic renewals per (U.C.A.) 10-3b-303(4).

HISTORY

Adopted by Ord. 98-19 on 10/15/1998

Amended by Ord. 2003-25 on 11/20/2003

Amended by Ord. 2013-02 on 1/17/2013

Amended by Ord. 2019-16 Amending Legislative and Administrative Responsibilities on 8/6/2019

2.14.040 Functions And Duties

A. Section 10-3b-303, (U.C.A.), 2008, provides that the governing body in a municipality operating under a six-member council form of government may appoint a city manager to perform executive and administrative duties or functions that the Legislative Body by ordinance, resolution, employment contract, or legislative motion delegates to the manager. The Legislative Body of the City can change such ordinances, resolutions, contract, motion, duties or functions by a majority vote. The Legislative Body supervises the performance of any executive or administrative duty or function within their powers per U.C.A. 10-3b-303(1)(a).

B. The governing body may not delegate to the manager:

1. the mayor's legislative or judicial powers or ceremonial functions;
2. the mayor's position as chairman of the council;
3. or any ex officio position that the mayor holds.

C. Except as provided in Section 2.36.035, the City Manager shall be the chief administrative officer of the city to whom all employees of the city report. The City Manager shall be responsible to the Legislative Body for the administration of all city affairs according to city ordinances, resolutions, motions, or contracts. The City Manager shall assist and report to the Legislative Body of the City in all executive or administrative duties.

D. The City Manager shall act as purchasing agent for the city and review all claims as to their compliance with city contract and authorized city budgets before presentation to the city council for payment; see that all goods purchased by and for the city are received as per contract.

E. The City Manager shall attend meetings of the governing body and shall be entitled at all times to any privilege of the floor for the purpose of speaking upon any question that pertains to his/her duties and responsibilities and shall recommend to the Legislative Body for adoption such measures as Manager deems necessary or expedient. Straw polls, emails, or individual appointments shall not be used by the City Manager for Legislative Body motions or direction, except in emergencies.

F. The City Manager shall keep the governing body advised and appraised as to the financial condition and needs of the city.

G. The City Manager shall notify the Mayor and City Council of any emergency existing in any department of the city.

H. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service solely through the City Manager and neither the city council nor any member thereof or the mayor shall give orders to any subordinates of the City Manager, either publicly or privately.

HISTORY

Adopted by Ord. 98-19 on 10/15/1998

Amended by Ord. 2013-02 on 1/17/2013

Adopted by Ord. 2019-16 Amending Legislative and Administrative Responsibilities on 8/6/2019

Amended by Ord. 2023-09 on 5/2/2023

EMPLOYMENT AGREEMENT

THIS AGREEMENT of employment ("Agreement") is made and entered into as of ~~April 18~~~~March 7,~~ 2023 (the "Effective Date") by and between **Heber City**, a Utah municipal corporation, (hereinafter called "Employer") and **Matthew Brower**, (hereinafter called "Employee") each as signed below and collectively referred to as the Parties. This Agreement shall supersede and replace all prior agreements between the Parties.

Section 1: Term and Renewal

This Agreement shall remain in full force and effect until ~~April 18~~~~March 7,~~ 2026 (three years from the Effective Date) unless terminated by Employer or Employee as provided in Section 9, 10, or 12 of this Agreement. Conditions precedent to this Agreement becoming effective are i) approval of the Agreement by the Heber City Council; and ii) execution of the Agreement by the mayor of Heber City. If Employer provides notice of its intent not to renew prior to ~~January 18,~~~~December 7,~~ 2025, Employee shall not be entitled to any severance. Employee shall be entitled to a lump sum severance payment equal to nine (9) months of salary, at the Employee's then current rate of pay and benefits if (1) Employer does not provide notice of its intent not to renew prior to ~~December~~~~January 18-7,~~ 2025; (2) Employee is willing and able to enter into a new three year employment agreement with Employer on substantially the same terms and conditions as this Agreement; and (3) Employer refuses to enter into a new three year employment agreement with Employer on substantially the same terms and conditions as this Agreement.

Section 2: Duties and Authority

Employer agrees to employ Employee as City Manager to perform the functions and duties specified in City of Heber, Utah, City Code and related employee policies and procedures and to perform other legally permissible and proper duties and functions, as directed by the governing body.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee his current base salary of \$175,139.90, in installments at the same time that the other management employees of the Employer are paid.

B. Employee shall have an annual review performed by the City Council governing body. ~~The Mayor may attend but will not conduct the review.~~ Based on the annual performance evaluation by the governing body city council, consideration shall be given for a merit-based compensation increase up to the merit-based increase available to all other employees. ~~The Mayor may make a recommendation of the amount of the merit based increase, but the City Council shall make the final decision.~~

C. Employer agrees that Employee will receive the same cost of living adjustment to annual salary, if any, granted to other employees of the Employer.

Section 4: Health, Disability and Life Insurance Benefits

A. Employer agrees to provide to Employee and any dependents the same health, hospitalization, surgical, vision, dental, and medical insurance upon the same terms provided to all other employees of Heber City.

B. Employer shall provide term life insurance upon the same terms provided to all other employees of Heber City. The Employee shall name the beneficiary of the life insurance policies.



City of Lincoln

Financial Mismanagement, Insufficient Accountability,
and Lax Oversight Threaten the City's Stability

March 2019

REPORT 2018-110





CALIFORNIA STATE AUDITOR

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March 21, 2019

2018-110

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report pertaining to the city of Lincoln and its administration of public funds and assets. This report concludes that Lincoln's mismanagement of public funds, insufficient accountability, and inadequate oversight threatens its financial stability. Specifically, the city made questionable loans, transfers, and allocations during fiscal years 2013-14 through 2016-17 that did not always follow state law. The city used reserves from restricted funds designated for specific purposes for unrelated interfund loans and transfers, even though it was not able to demonstrate that the borrowing funds could repay them. Additionally, Lincoln misrepresented its financial position by temporarily transferring amounts from a restricted fund to offset significant year-end deficits, thereby presenting those funds as if they were solvent.

Lincoln also overcharged developers and builders for the cost of water infrastructure and capacity, which resulted in the city accumulating nearly \$41 million in its water connections fund as of June 2017. In addition, Lincoln undercharged developers for city staff costs to administer development projects. Until fiscal year 2018-19, Lincoln based these charges on cost data from 13 years ago, even though staff costs have increased by an average of 6 percent per year since that time. Further, Lincoln failed to pay for its own use of municipal utilities and instead passed these costs on to ratepayers, violating provisions of the state constitution. Although the city acknowledged that it should have paid more than \$1.6 million for its share of water, sewer, and solid waste services during a four-year period from January 2014 to February 2018, it has yet to provide equitable consideration to its ratepayers.

Finally, Lincoln did not establish or consistently follow key policies and procedures to ensure compliance and transparency in its financial practices, which resulted in questionable spending and management of public funds. In each of its past several financial audits, Lincoln's external financial auditor reported recurring deficiencies, including the city's inability to accurately prepare its financial statements at the end of each fiscal year.

Respectfully submitted,

A handwritten signature in cursive script that reads "John Billington".

JOHN BILLINGTON
Chief Deputy State Auditor

Selected Abbreviations Used in This Report

CAFR	comprehensive annual financial report
GFOA	Government Finance Officers Association

CONTENTS

Summary	1
Introduction	3
Lincoln Made Questionable Loans, Transfers, and Allocations That Did Not Always Comply With State Law	9
Lincoln Did Not Accurately Charge the Public for Certain City Services	19
Lincoln Did Not Establish or Consistently Follow Key Policies and Procedures to Ensure the Appropriate Management of Public Funds	25
Other Areas We Reviewed	33
Appendix	
Scope and Methodology	37
Response to the Audit	
City of Lincoln	41

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SUMMARY

Incorporated in 1890, the city of Lincoln operates under the council-manager form of government: its city council is responsible for its governance, while a city manager oversees the city's operations. From 2000 through 2010, Lincoln was one of the fastest growing cities in the nation, expanding from 11,000 to 43,000 residents. However, by the end of the decade, the local and national economies were in decline, and Lincoln's development was severely curtailed. The city experienced significant fiscal challenges as a result. In fact, Lincoln fully depleted its unrestricted general fund balance in fiscal year 2008–09, although it had increased the balance to \$8.7 million by fiscal year 2016–17. In recent years, a citizens group raised concerns related to Lincoln's finances, including its interfund loans and transfers, the fees it charged the public, its use of municipal utilities, and its general management of public funds. Our report concludes the following:

Lincoln Made Questionable Loans, Transfers, and Allocations That Did Not Always Comply With State Law

Page 9

Lincoln established restricted funds related to its different functions to ensure that it uses the revenue it receives for the purposes for which that revenue was intended. However, it used those funds to make unrelated interfund loans and transfers that it may not be able to repay. Further, as a result of loans and transfers, the city misrepresented the financial position of several funds: although these funds had year-end deficits, the loans and transfers made them appear as though they had positive fund balances. Finally, Lincoln violated the state constitution by using surplus revenue that property owners in certain areas paid in landscaping and lighting assessments to cover costs associated with properties in other areas.

Lincoln Did Not Accurately Charge the Public for Certain City Services

Page 19

Lincoln overcharged developers and builders for water infrastructure and capacity, thereby accumulating a fund balance of nearly \$41 million as of June 2017. Further, Lincoln undercharged the public for other services, such as building inspections and permit administration. Lincoln also violated provisions of the state constitution by failing to pay for its own use of municipal utilities, including water, sewer, and trash collection; it instead passed these costs on to ratepayers through increased utility rates. Lincoln has not refunded or provided equitable consideration to ratepayers for the increases in their rates resulting from the city's use of utilities.

Lincoln Did Not Establish or Consistently Follow Key Policies and Procedures to Ensure the Appropriate Management of Public Funds

Lincoln lacks key policies and procedures to ensure consistency, compliance, and transparency in its financial practices. Moreover, Lincoln did not follow its existing policies by obtaining the appropriate approval from the city manager or the city council for expenditures, resulting in questionable spending.

In addition, we reviewed the city's failure to update its master fee schedule and its inability to substantiate fee credits it granted to developers, as well as other issues related to its investment portfolio and a councilmember's activities. We found that Lincoln could improve its processes in some of these areas, and we present the related recommendations in the section of this report titled Other Areas We Reviewed beginning on page 33.

Summary of Recommendations

To ensure that it complies with state law, Lincoln should immediately review all outstanding interfund loans and confirm that the loans can be repaid.

To comply with state law, Lincoln should immediately discontinue using restricted funds to subsidize other unrelated funds that have year-end deficits.

To ensure that its fees are commensurate with the cost of providing services, Lincoln should develop and begin following by June 2019 a timeline for conducting fee studies of each of its services.

Lincoln should develop a plan to provide equitable consideration to ratepayers for the utility costs they incurred that were higher than necessary because of the city's practice of not paying for its own municipal utilities.

Lincoln should establish and follow policies and procedures for financial practices recommended by the Government Finance Officers Association.

The city manager should immediately develop and implement procedures for staff to obtain and document the required approval from the city manager or the city council before committing city resources.

Agency Comments

Lincoln agreed with all of our recommendations and indicated that it has already begun implementing some of them. We look forward to reviewing Lincoln's 60-day, six-month, and one-year responses to our recommendations to evaluate its progress.

INTRODUCTION

Background

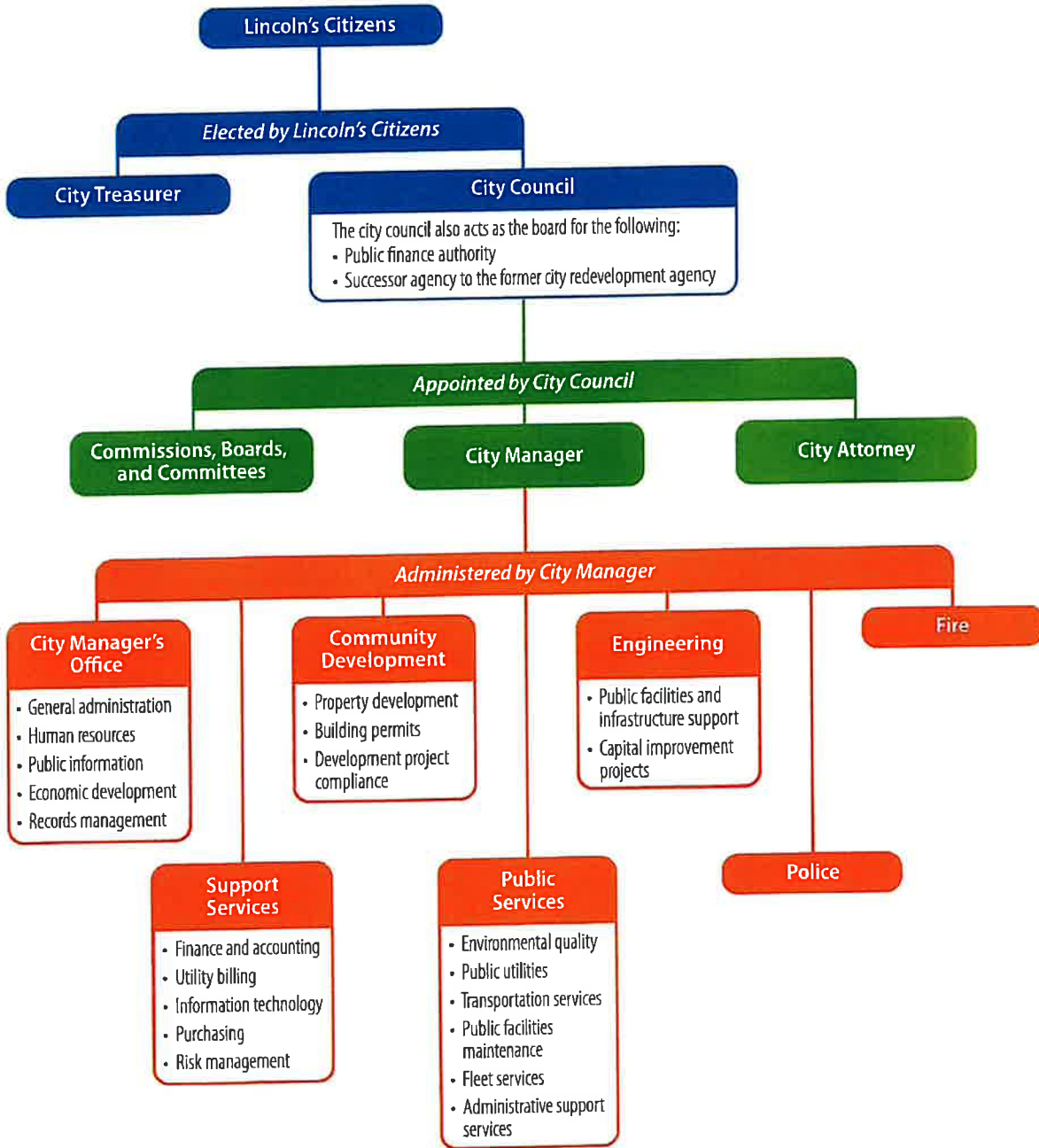
Incorporated in 1890, Lincoln is located 27 miles northeast of Sacramento in Placer County. The city, which occupies about 22 square miles, serves a population of more than 47,000 residents and administered more than 2,400 active business licenses as of December 2018. Lincoln employs about 150 full-time employees to provide a range of services, including public safety, water, sewer, garbage collection and disposal, library, community development, and general administration. It obtains water from a wholesale water supplier, Placer County Water Agency (Placer Water). Lincoln also operates a municipal airport and transit system.

City Governance

Lincoln is a general law city, which means that state law establishes its form of government and that it is subject to state law in its ability to govern municipal affairs. As a general law city, it operates under the council-manager structure: the city council is responsible for the city's governance, while the city manager administers its operations. The city council is composed of five elected officials, each serving a four-year term. Figure 1 on the following page shows Lincoln's elected officials, the positions that the city council appoints, and the departments that the city manager administers. The city uses a mayoral rotation system to select a councilmember to serve as mayor each year. Before the November 2018 election, four of the five councilmembers had served six years or longer. During the election, Lincoln voters elected two new councilmembers, who took office in December 2018.

The city manager reports to the city council and is responsible for the efficient administration of all Lincoln's operations. The city manager appoints and supervises the directors of the city departments, who present staff reports and recommendations to the city council. The city manager's office administers personnel functions, manages public information activities, oversees economic development activities, and coordinates records management. The city manager is also responsible for ensuring the enforcement of all laws and ordinances applicable to city governance. Lincoln's most recent city manager served from February 2015 through July 2018, when he resigned. The city council appointed an interim city manager in July 2018, and the term of his contract expired in January 2019. The city's director of public services, who also currently serves as Lincoln's interim director of support services, is now also serving as interim city manager until the council hires a permanent replacement.

Figure 1
Overview of Lincoln’s Government



Source: Lincoln's comprehensive annual financial report, website, and ordinance.

One of the primary responsibilities of the director of support services is to oversee Lincoln's financial operations. In this capacity, the director of support services manages the city's financial reporting, utility billing, purchasing, information technology, and risk management. The director of support services also participates in the development of the budget and coordinates the city's interactions with the external auditor responsible for conducting its annual financial audits. The most recent director of support services, who had served in that role at various times since 2006, separated from the city in January 2019, during our audit.

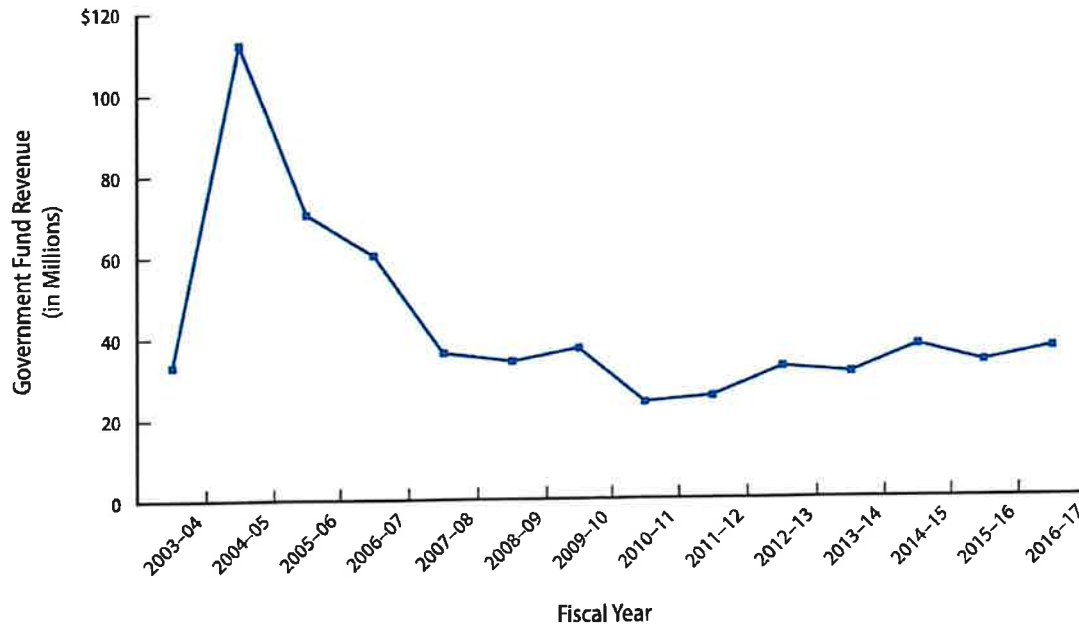
Lincoln, like other cities, uses fund accounting to comply with legal requirements. Among its other characteristics, fund accounting involves tracking financial activity using restricted and unrestricted funds. For example, Lincoln's general fund is classified as an unrestricted fund, meaning that the city can use revenue from this fund to pay for any type of government activity. However, other funds are classified as restricted funds, requiring that Lincoln use their revenue only for the specific purposes designated in state law or municipal code. For instance, state law requires Lincoln to spend revenue in the water connections fund only for expanding its access to water capacity. Additionally, Lincoln's municipal code requires it to spend revenue in its oak tree preservation fund to plant new oak trees or maintain existing trees within the city.

Rapid Growth Followed by a Sharp Decline

From 2000 through 2010, Lincoln experienced tremendous growth, expanding from 11,000 to 43,000 residents. In fact, during that decade, Lincoln was the nation's fastest growing city of more than 10,000 residents. From 2000 through 2005, it processed an average of 1,852 construction permits annually for new single-family dwellings, with a high of 2,845 permits in 2005. However, with the collapse of the national and local real estate markets after 2007, new construction permits for single-family dwellings in Lincoln fell dramatically, to only 90 permits for the entire year of 2010. Although the number of permits rose after 2010, averaging 229 each year from 2013 through 2017, it has yet to come close to the peak in 2005.

The change in Lincoln's governmental fund revenue was similar to the growth and decline in the city's construction. The majority of Lincoln's revenue in its governmental funds, which includes the general fund, comes from taxes and charges for services. As Figure 2 on the following page shows, the city's revenue peaked in fiscal year 2004–05 at \$112 million, followed by a sharp decline to less than \$24 million in fiscal year 2010–11. In recent years, the city has experienced some modest revenue growth, rising from \$31 million in fiscal year 2013–14 to \$37 million in fiscal year 2016–17.

Figure 2
 Lincoln's Government Fund Revenue Rapidly Grew in Fiscal Year 2004-05, Followed by a Significant Decline



Source: Lincoln's comprehensive annual financial reports.

As Table 1 shows, Lincoln's general fund revenue has been higher than its expenditures in recent years. From fiscal years 2004-05 through 2016-17, Lincoln's general fund revenue fluctuated from \$10.6 million to \$17.8 million annually, while its general fund expenditures ranged from \$9.8 million to \$16 million during the same period. During that period, the city set aside a certain amount of its general fund balance for specific purposes. For instance, in fiscal year 2016-17, it set aside a \$2 million reserve in case of a catastrophic emergency. Since fiscal year 2004-05, Lincoln's unrestricted general fund balance has varied significantly, plummeting as low as \$0 in fiscal year 2008-09 and rebounding to \$8.7 million in fiscal year 2016-17.

Table 1
Lincoln's General Fund Revenue Generally Exceeded Its Expenditures
(in Millions)

FISCAL YEAR	REVENUE	EXPENDITURES	UNRESTRICTED FUND BALANCE
2004-05	\$10.6	\$9.8	\$4.2
2005-06	11.4	12.1	3.1
2006-07	13.9	13.3	5.3
2007-08	14.1	15.8	2.7
2008-09	12.9	16.0	0.0
2009-10	15.5	14.1	2.5
2010-11	12.3	13.0	4.1
2011-12	12.1	11.9	3.5
2012-13	13.9	13.2	3.7
2013-14	14.3	12.8	3.8
2014-15	15.7	13.7	5.6
2015-16	16.0	14.8	6.5
2016-17	17.8	15.5	8.7

Source: Lincoln's comprehensive annual financial reports.

Concerns Over City Finances

In 2016 a local citizens group began raising concerns about possible financial improprieties in Lincoln. In February 2017, the group initially submitted a claim to the city for refunds of overcharges, alleging that the city's water rates were not proportional to the city's actual cost of providing water to customers. The group alleged that Lincoln violated the provisions of Proposition 218, a constitutional amendment adopted by the voters in 1996 to limit the ability of local governments to impose taxes, assessments, charges, and fees based on property ownership. After the city denied the claim, the group sued it in April 2017. As a result of a mediated settlement, Lincoln agreed to refund residential ratepayers for overcharges from February 2016 to the date the city adopted new water rates, which it did effective October 2018. The city council later decided to provide refunds to commercial ratepayers and to extend its refunds for both groups back to January 2014, when Lincoln first implemented the contested water rates.

Concurrent with its review of Lincoln's water funds, the citizens group identified several other concerns. It claimed that Lincoln forgave millions of dollars in fees that developers owed the city,

while allowing them to continue with their projects. The group also claimed that Lincoln misused public funds by engaging in questionable interfund borrowing and overcharging citizens and ratepayers for rates or fees for services. The group further claimed in December 2017 that Lincoln had not paid for its own water use, and it also claimed that the city falsified reports to the California Department of Water Resources to conceal its water use. In January 2018, the city council initiated an independent investigation, which revealed that city councilmembers, former city managers, and certain city staff were in fact aware that Lincoln had not paid for its own water usage. According to the independent investigation, the city and the public were put on notice of this practice as early as 2004. The concerns that the citizens group raised ultimately led to this audit.

Lincoln Made Questionable Loans, Transfers, and Allocations That Did Not Always Comply With State Law

Key Points

- Lincoln risks violating state law by making loans between funds that it may not be able to repay. From fiscal years 2013–14 through 2017–18, the city council approved four interfund loans totaling \$13.6 million, even though none of the loan agreements demonstrate that the borrowing funds had the ability to repay the loans.
- Lincoln misrepresented the financial position of certain funds by temporarily transferring amounts to these funds from a restricted fund to offset significant year-end deficits. From fiscal years 2013–14 through 2016–17, Lincoln used surpluses from the water connections fund to offset negative cash balances in the airport, fire, drainage, parks, and regional sewer funds at the end of each fiscal year.
- Lincoln violated the state constitution by allocating surplus revenue from some landscaping and lighting zones—regional areas where the city charges the property owners for landscaping, lighting, and other services in public areas within those regions—to offset deficits in other zones. Because Lincoln did not discretely account for the revenue and expenditures from each zone, property owners in certain zones subsidized the costs of benefits that owners in other zones received.

Lincoln Risks Violating State Law by Making Loans Between Funds That It May Not Be Able to Repay

Lincoln did not follow its policies pertaining to interfund loans and advances, increasing its risk of violating state law. According to the interim city manager, Lincoln did not have a policy governing interfund loans until 2013. Once in place, the policy required the city council to approve loans and advances between funds that would not be repaid within 90 days of the end of the current fiscal year. The policy also required that the city establish a formal repayment schedule for each loan, demonstrate an ability to repay the loan without negatively affecting either the lending or borrowing fund, and identify the funding source that the borrowing fund would use to repay the loan.

However, we found that the city council approved loans from restricted funds to other funds that clearly did not have the capacity to repay those loans. Table 2 on the following page shows that from fiscal years 2013–14 through 2017–18, Lincoln had eight outstanding interfund loans. The city council approved four of these loans before it adopted its interfund loan and advance policy in 2013, whereas it approved the other four—which totaled \$13.6 million—after the adoption of the policy. None of the loans the city council approved from fiscal years 2013–14 through 2017–18 met the policy's requirements. For example, instead of containing repayment schedules, these loan agreements simply stated that repayment would begin when funds were available.

Further, none of the agreements or accompanying staff reports for the eight loans demonstrated that the borrowing funds had the ability to repay the loans. Although the loans made before 2013 were not subject to the interfund loan and advance policy, we would have expected Lincoln to have demonstrated the ability to repay the loans to show that they were truly loans, rather than subsidies.

Table 2
The City Council Approved Interfund Loans Without Payment Schedules or Repayment Ability, Leading to Several Loans Not Being Repaid

DATE OF LOAN	AMOUNT LOANED (IN MILLIONS)	LENDING FUND	BORROWING FUND	AMOUNT OUTSTANDING AS OF 6/30/18, INCLUDING INTEREST (IN MILLIONS)
Loans made before 2013 that remain outstanding				
September 1988	\$0.9	Sewer	Redevelopment	\$0.3
August 2008	1.9	Solid Waste	Drainage	1.0*
January 2010	3.9	Water Connections	Redevelopment	4.2
June 2010	0.9	Housing	Redevelopment	0.2
Subtotals	\$7.6			\$5.7
Loans made after the city established the 2013 interfund loan policy				
November 2014	\$3.7	Water Connections	Sewer	\$0.0
June 2016	5.3	Water Connections	Fire	5.3
June 2016	2.3	Library	Fire	0.0†
June 2016	2.3	Oak Tree Preservation	Fire	2.3
Subtotals	\$13.6			\$7.6
Totals	\$21.2			\$13.3

Source: Lincoln's loan agreements and tracking document.

* We identified two additional interfund loans that Lincoln made to its drainage fund to address the outstanding balance of this loan. Although Lincoln retroactively dated the loans as of June 30, 2018, the city council approved these loans in September 2018, after the end of fiscal year 2017-18. We, therefore, excluded them from this table.

† Lincoln repaid this loan using available funding from a developer forgoing a refund of impact fees.

When requesting the city council's approval of these loans, the former director of support services did not provide councilmembers with pertinent information in his staff reports. For example, in June 2016, the city council approved the refinancing of three interfund loans that Lincoln had used to build firehouses in 2006. The refinancing was necessary because the terms of the original loans had ended and the fire fund had not repaid them. The new loans totaled \$9.9 million, with terms of 10 years. In his staff report to the city council, the former director of support services correctly asserted that the interfund loan and advance policy requires that the city council approve in advance loans between funds that the funds will not repay within 90 days after the

end of the current fiscal year. However, he did not identify that the policy requires the city to provide specific documentation for such loans, including a repayment schedule. Although the former director of support services claimed that the previous city manager did not provide him guidance to include more information and detail in his reports, he acknowledged that city ordinances require him to keep the city council fully advised of the financial condition and needs of the city. Moreover, we believe that he and his staff should have been aware of the city's policy regarding interfund loans and followed it.

Notwithstanding the former director of support services failing to provide the city council with complete information regarding these loans, we would have expected the city council to ensure that the loans complied with city policy. Of the five city councilmembers serving during our audit, four were not only members when the city council approved the loans in 2016 but also were members when the city council approved the 2013 policy governing interfund loans and advances. The four councilmembers told us that they expect staff to provide them with adequate information to make policy decisions. Nonetheless, we believe that these councilmembers should have been aware of the interfund loan requirements. However, at the June 2016 city council meeting, the city council approved the three interfund loans that did not meet the city's policy requirements.

In addition to not following its own policy, Lincoln risked violating state law when it made these interfund loans because it used excess revenue from its restricted funds to provide loans to other funds that do not have similar purposes. As we discussed in the Introduction, cities such as Lincoln use restricted funds to set aside revenue designated for specific purposes according to state or local laws. However, Lincoln used several restricted funds—such as the water connections fund, the oak tree preservation fund, the solid waste fund, and the library fund—to make interfund loans to other funds with unrelated purposes. Under state law, restricted funds may make loans to other funds as long as the restricted fund has a surplus, the loan does not interfere with the purpose of the restricted fund, and the borrowing fund repays the loan as soon as possible, with interest. In addition, Lincoln's policy requires that the city establish evidence of the ability to repay the loan.

However, Lincoln could not demonstrate that it could repay any of the four loans it made from fiscal years 2013–14 through 2017–18, as its policy requires, or any of the four outstanding loans from before our audit period, as we would consider a good business practice. For example, the city council approved a \$3.9 million loan in 2010 from the water connections fund to its redevelopment agency, despite the fact that city staff identified that the redevelopment agency did not have the ability to repay the loan. In addition, as Table 2 shows, the fire fund owed about \$5.3 million to the water connections fund and \$2.3 million to the oak tree preservation fund as of June 2018, yet it had not made

any payments to either lending fund since the start of the 10-year loan period in 2016. Moreover, if the fire fund's revenue remains consistent with the amounts recorded from fiscal years 2013–14 through 2016–17, it will earn less than \$1 million in cumulative revenue over the next eight fiscal years—far less than the \$7.6 million outstanding on the loans. Therefore, it is unlikely that the fire fund will be able to repay its obligations by the end of the loan period in 2026. The former director of support services acknowledged that he had concerns when establishing the loans that the fire fund would not have the ability to repay them unless the city identified alternative funding sources. However, he could not explain why he proceeded with the loan and sought the city council's approval.

As we discuss previously, a city may loan surplus amounts from restricted funds to other funds as long as the loan does not interfere with the purpose of the lending fund. Table 3 identifies four such funds that had significant surplus revenue as of June 30, 2017. Although Lincoln currently has plans or is in the process of developing plans to spend the surpluses in three of these funds, it has not demonstrated a similar level of commitment to reducing the surplus of its water connections fund. The water connections fund includes water capacity charges that the city collects from developers and property owners, and the fund has accumulated a surplus because Lincoln overcharged these fees. In certain instances, it may be reasonable for a city to maintain surplus funds, such as when it is saving for major projects. However, Lincoln could not provide documentation that it was planning such projects for the water connections fund. In addition, the city was unable to explain why it did not reduce its water capacity charges to reflect the costs of providing the related service.

Table 3
Lincoln Accumulated Surpluses in Restricted Funds That It Used for Interfund Loans
(in Millions)

LENDING FUND	CASH BALANCE AS OF JUNE 30, 2017 (NET OF LOANS)*
Water Connections	\$24.1
Library	1.9
Solid Waste	1.8
Oak Tree Preservation	1.3
Total	\$29.1

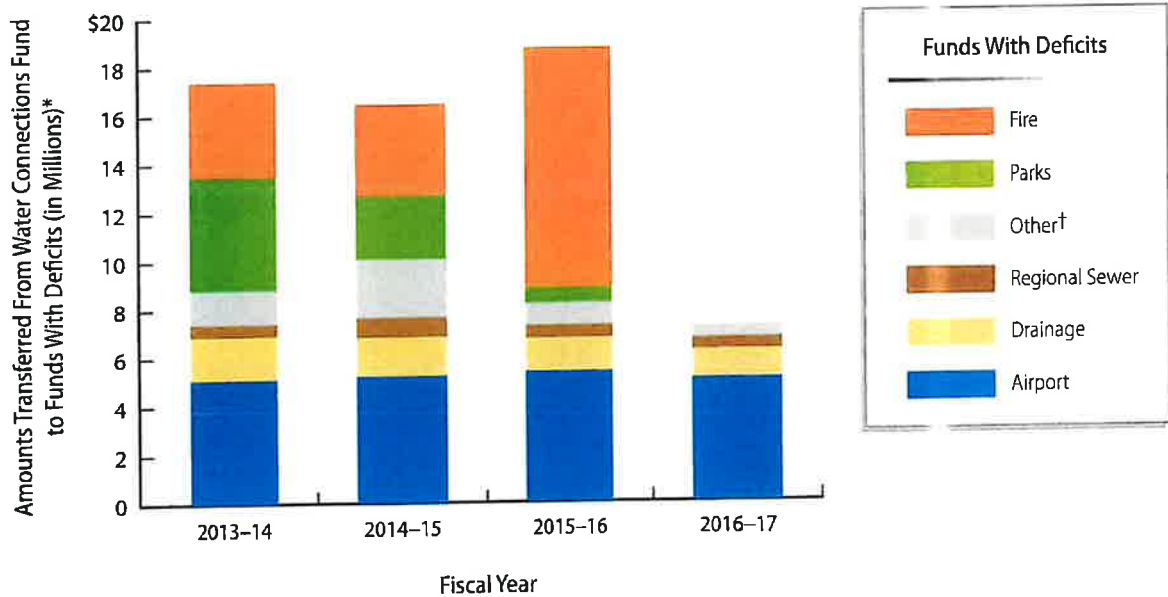
Source: Analysis of Lincoln's interfund loans, financial records, and comprehensive annual financial reports.

* We present the cash balance of each fund as of the end of fiscal year 2016–17 because Lincoln had not issued its audited financial statements for fiscal year 2017–18 at the time we conducted our analysis. The interim city manager anticipated that the financial audit for fiscal year 2017–18 would not be completed until March 2019.

Lincoln Inappropriately Utilized a Restricted Fund to Offset Year-End Deficits in Other Funds

In addition to making questionable interfund loans from its restricted water connections fund, Lincoln temporarily transferred amounts from this fund to offset significant year-end deficits in other funds, and as a result, it misrepresented its financial position in its annual financial statements. From fiscal years 2013–14 through 2016–17, some of Lincoln’s funds—including the airport, fire, drainage, parks, and regional sewer funds—ended most fiscal years with negative cash balances. These balances resulted from the city’s various practices, including operating its airport with an ongoing structural deficit and funding infrastructure projects, public facilities, and parks without having sufficient revenue from its fire, drainage, and parks funds to pay for these activities. As Figure 3 shows, Lincoln used interfund transfers ranging from a total of \$7 million to \$19 million each year to offset the year-end deficits in these funds.

Figure 3
Lincoln Inappropriately Transferred Reserves Each Fiscal Year From Its Water Connections Fund to Offset Year-End Deficits in Other Funds



Source: Analysis of Lincoln’s accounting records and financial statements.

* Lincoln posted these transfers to its accounting records to take effect on June 30, the last day of the fiscal year, but transferred the same amounts back to the lending fund the next day or shortly thereafter. The city repeated this process in subsequent fiscal years.

† Other funds include a federal grant fund and a capital project fund.

The city made these transfers on a temporary basis using the cash surplus in its water connections fund. Specifically, Lincoln posted journal entries to its accounting records when closing its books at the end of fiscal years 2013–14 through 2016–17. Recording these entries on June 30, the last day of the fiscal year, allowed the city to present the financial condition of the funds in its year-end financial statements as if they were solvent. Each year, the city reversed the journal entries effective July 1, or shortly thereafter, after preparing its financial statements. The former director of support services acknowledged that he was aware that these transactions from the water connections fund were potentially inappropriate at the time he made them, but he did so because the general fund did not have sufficient reserves to eliminate the other funds' year-end deficits. Further, he acknowledged that he authorized these transfers without seeking approval from the city manager or the city council, as the city's 2013 interfund loan and advance policy requires. Although these accounting transactions did not involve any actual transfer of money between financial institutions or bank accounts, they concealed the true financial condition of those funds with negative balances.

As a result of the transfers, Lincoln misrepresented its financial position by using the surplus in its water connections fund to offset year-end deficits in other funds, thereby presenting those funds as if they were solvent. For example, Lincoln's airport fund ended fiscal year 2016–17 with a negative cash balance of approximately \$5 million. The former director of support services authorized a journal entry to report a higher amount of cash in the airport fund, as well as several other funds, by reducing the ending balance of cash in the water connections fund. Consequently, he was able to report a positive cash balance of \$11,000 in the airport fund at the end of fiscal year 2016–17.

Lincoln misrepresented its financial position by using the surplus in one fund to offset year-end deficits in other funds.

According to guidance from the Government Finance Officers Association (GFOA), a transfer made without a reasonable expectation of repayment does not represent a loan. Instead, it should be classified as a subsidy. In the previous example, the former director of support services acknowledged that the airport fund was unable to demonstrate the ability to repay the loan. State law restricts the use of the water connections fund to certain activities, so Lincoln cannot use it to subsidize any unrelated city service.

Instead, Lincoln must use unrestricted funds, such as its general fund, to subsidize deficits in other funds. However, we confirmed the former director of support services' assertion that Lincoln's interfund loans and transfers exceeded its unassigned general fund balance in the years in question. Table 4 shows that Lincoln recorded significant interfund loans and transfers—ranging between \$26 million and \$37 million—from its restricted funds in its accounting records from fiscal years 2013–14 through 2016–17. In fiscal year 2016–17, Lincoln had an unassigned year-end general fund balance of nearly \$9 million, but this amount was insufficient to cover the city's \$26 million in interfund loans and transfers. Consequently, Lincoln will need to identify alternative financing or revenue sources, such as bonds or one-time revenue, to address these deficits.

Table 4
Lincoln Made Significant Loans and Transfers From Restricted Funds to Other Funds
 (in Millions)

FISCAL YEAR	TOTAL AMOUNT OF OUTSTANDING INTERFUND LOANS	TOTAL AMOUNT OF INTERFUND TRANSFERS FROM THE WATER CONNECTIONS FUND	TOTAL
2013–14	\$16.8	\$17.2	\$34.0
2014–15	20.5	16.5	37.0
2015–16	14.4	18.7	33.1
2016–17	18.7	7.2	25.9

Source: Analysis of Lincoln's financial statements and its outstanding loans and transfers.

Lincoln's external auditor also reported similar concerns with the city's interfund loans and transfers. Specifically, in each of the annual financial audits from fiscal years 2013–14 through 2016–17, the external auditor reported deficiencies in Lincoln's interfund loan and transfer practices, which we believe resulted in the city's misrepresenting certain fund balances in its financial reports. In each fiscal year, the external auditor reported that Lincoln misstated its interfund borrowings by classifying interfund transfers as short-term borrowings, even though the city never demonstrated the ability of these respective funds to repay the transfers within the subsequent fiscal year. The city agreed with the finding each year and repeatedly stated that city staff would reclassify these transfers as long-term loans; however, it has not taken any such action.

Similar to what we observed, the external auditor reported that Lincoln used revenue from a restricted fund to offset the year-end deficits in other funds. According to the external auditor, Lincoln's

use of restricted funds for these transactions represented an “ineligible” use of funds because the city should not use restricted funds to offset its cash deficits. The external auditor recommended that Lincoln use its general fund as the source for future transfers. However, because the general fund has insufficient resources to cover the funds’ ongoing deficits, Lincoln may need to identify additional revenue sources, reduce its general fund expenditures, or take other actions to lessen the need for the transfers. Otherwise, increasing its other anticipated general fund expenditures could jeopardize the solvency of Lincoln’s general fund.

We asked Lincoln’s external auditor about its perspective on the city’s use of interfund transfers. Although it reported the city’s practice as a significant deficiency in its summary of findings in its recent audit report, the external auditor informed us that it did not consider the issue to rise to the level of significance that would lead it to change its audit opinion from an unmodified, or clean opinion. The external auditor indicated that the city fully disclosed the transfers, and that city management agreed to resolve the issue going forward. Nevertheless, we believe that by presenting the funds that received the transfers as having positive fund balances, the city misled the public regarding its financial stability and presented an artificially high general fund balance.

Lincoln Violated the State Constitution by Allocating Surplus Revenue to Offset Deficits in Its Landscaping and Lighting Zones

We also found that Lincoln allocated surplus revenue from some landscaping and lighting zones to offset deficits in other zones. State law authorizes cities to form landscaping and lighting maintenance districts, and within these districts to group similar regional areas into zones to pay for landscaping, lighting, and other services in public areas. These districts levy assessments to property owners to pay for public improvements or services—such as landscaping or lighting for parks and streetscapes—that benefit their properties. Lincoln has 33 zones within its district, each of which represents a group of properties that substantially receive the same degree of benefit from public improvements.

The state constitution imposes certain limitations on the ability of local governments to levy assessments, including that the amount of the assessment cannot be more than necessary to cover the reasonable costs of the landscaping and lighting services and that the allocation of the costs must bear a fair or reasonable relationship to the benefits each property owner receives. However, Lincoln did not discretely account for the revenue and expenditures from each of its zones, which is necessary to ensure that it allocates the appropriate costs to the property owners in each zone. Lincoln

failed to allocate these costs appropriately, resulting in property owners in certain zones subsidizing the costs of benefits received by property owners in other zones. Because it allocated costs to property owners that were not proportionate to services it provided to them, Lincoln violated the state constitution.

Lincoln allocated costs to property owners that were not proportionate to services it provided to them.

In April 2018, the director of public services provided a staff report to the city council acknowledging that the city had not historically tracked revenue and expenditures by zone. For fiscal year 2018–19, the city estimated that five of the 33 zones would have a combined deficit of \$474,000 because the costs of maintaining those zones' landscaping and lighting exceeded the assessment revenue the city collected from the zones' property owners. For example, in the staff report, Lincoln estimated that for fiscal year 2018–19, it will collect only \$498,000 in assessment revenue for one of its zones, despite expecting to incur costs of \$1,043,000 for landscaping and lighting services in that zone. Lincoln indicates it will contribute an additional \$116,000 to that zone from its general fund in fiscal year 2018–19, which would still leave a deficit of \$429,000. The staff report shows that this zone accounts for most of the five zones' combined deficit of \$474,000.

To address the five zones with ongoing deficits, the city will need to increase the assessments in those zones through voter approval by property owners. Otherwise, the city will need to reduce services in those zones or subsidize their deficits with the general fund. For most zones in the landscaping and lighting district, the city included an annual escalation factor in the assessment to account for inflation. However, it did not implement such a factor for the one zone previously mentioned when it was established in the 1980s, so the revenue for that zone has remained the same, while the cost of maintenance has increased over time.

In addition to the need for tracking revenue and expenditures discretely for each landscaping and lighting zone, Lincoln did not pay its share of expenditures for each of its zones. State law requires the city to conduct an evaluation and prepare a report each year to apportion the costs associated with the general benefit of city maintenance in each zone. The general benefit is the portion of costs for parks, streetscapes, and lighting that provides value to

nonresidents and the city overall for which the city should pay this share of costs from the general fund. However, contrary to state law, the city had historically not apportioned any costs to the general fund. In particular, Lincoln did not begin calculating and allocating the cost of the general benefit until April 2018. For fiscal year 2018–19, Lincoln estimates the total cost of its landscaping and lighting maintenance to be \$3.3 million, of which the city determined the general fund should pay \$324,000.

Recommendations

To ensure that it complies with state law, Lincoln should immediately review all of its outstanding interfund loans to determine whether the borrowing funds can repay the loans according to the terms. For any loan that is from a restricted fund and that does not have the capacity to be repaid, Lincoln should develop a plan that ensures repayment within a reasonable time frame, including seeking possible alternative financing or revenue sources, such as the general fund, bonds, one-time revenue, or a tax increase, to address the obligation.

To ensure that city staff provides the city council adequate information to make its decisions regarding interfund loans and transfers, the city council should immediately collaborate with the city manager and department directors to establish formal expectations regarding the content of staff reports, and it should hold the city manager accountable for ensuring all staff reports meet those expectations.

To ensure that it avoids accumulating surpluses, Lincoln should establish policies and procedures by August 2019 requiring it to review its fund balances at least annually and, if necessary, reduce its fees within a reasonable time frame.

To comply with state law, Lincoln should immediately discontinue its practice of using restricted funds to subsidize other funds that have year-end deficits and that lack the ability to permanently repay the transfers within 90 days of the close of the fiscal year.

To ensure that it complies with the state constitution, Lincoln should establish and adhere to procedures that account for revenue and expenditures in each landscaping and lighting zone separately, and it should discontinue its use of surplus revenue from one zone to offset a deficit in another zone. It should take these actions by June 2019.

By June 2019, Lincoln should establish accounting procedures to ensure that it records all costs of city maintenance from the appropriate funds, including apportioning the general benefit costs to the general fund.

Lincoln Did Not Accurately Charge the Public for Certain City Services

Key Points

- Lincoln overcharged developers and builders for the cost of water infrastructure and capacity. Because its capacity charges were not commensurate with the amounts it pays for water infrastructure and capacity, the city had accumulated a fund balance of nearly \$41 million as of June 2017.
- Lincoln charged developers for city services using hourly rates that did not represent the current costs of its staff time. Until fiscal year 2018–19, Lincoln used rates that it based on cost information from fiscal year 2005–06. Consequently, the city undercharged the public for many of its services.
- Lincoln violated provisions of the state constitution by failing to pay for its own use of municipal utilities, instead passing these costs on to ratepayers. The city acknowledged that it should have paid more than \$1.6 million for its share of water, sewer, and solid waste services during the four-year period from January 2014 through February 2018.

Lincoln Overcharged Developers and Builders for the Cost of Water Infrastructure and Capacity

Lincoln overcharged its customers, which include developers and builders, for water capacity charges. A water capacity charge is a one-time fee that Lincoln assesses at the time it issues a building permit. The water capacity charge is intended to cover the city's cost of obtaining specified amounts of water for a location, including the infrastructure needed to treat and transmit water to that location. It is not the charge for the actual water, but the charge for reserving water so that it is available when needed. In its contract with Placer Water, its water supplier, Lincoln defines *capacity* as the maximum amount of water per day that the city may require Placer Water to deliver.

State law prohibits the water capacity charge from exceeding the estimated reasonable cost of providing the service. According to guidance from the League of California Cities, a city should prepare a fee study when it identifies the public services and infrastructure that will require funding through its fees. Conducting a fee study provides the quantified basis for the imposition of fees and helps the city account for its current funds and capacity, as well as planned projects going forward. Therefore, at the time Lincoln purchased capacity from Placer Water, it should have conducted a study that contemplated these factors to ensure that the fees it planned to charge aligned with the costs of the capacity it purchased and of any anticipated future expansion of capacity.

In lieu of performing a fee study that considered the costs of Lincoln's current capacity and its future capacity needs, the city council enacted an ordinance to allow the city to charge its customers an amount based on Placer Water's assumption that an average dwelling would use 1,150 gallons of water per day. However, the director of public services informed the city council in September 2018 that an average dwelling in Lincoln uses only 650 gallons per day—slightly more than one half of Placer Water's assumption—leading us to question the reasonableness of the fees Lincoln charged its customers. According to the director of public services, the city staff members who were involved in setting those fees are no longer employed by the city. She speculated that Lincoln likely took this approach because Placer Water's fee incorporated what the city understood to be an industry-standard water usage amount per dwelling.

According to the former director of support services, Lincoln has not purchased additional water capacity since 2008. The director of public services informed us that Lincoln purchased more capacity and infrastructure than it needed at that time because it was able to take advantage of a discounted rate in anticipation of future growth. The city engineer indicated that depending on the rate of new development within the city, Lincoln may not need to purchase additional capacity for the next 10 to 25 years. Further, in a November 2018 staff report to the city council, he indicated that Lincoln currently has almost 5 million gallons in water capacity reserved with Placer Water beyond the amount the city would use on a peak day, which is 35 percent more than its current needs. Lincoln's actions appear to have contributed to the increase in the fund balance of its water connections fund, which the city reported was nearly \$41 million as of June 2017. Although it may be reasonable for Lincoln to maintain additional water capacity and to retain reserve funds for future water acquisitions, infrastructure needs, or unforeseen emergencies, the interim city manager stated that the city did not have documented plans as of January 2019 for any of these purposes. Rather, as we discuss previously, Lincoln has used these reserves to make loans and transfers to other funds.

Further, Lincoln continued to increase its water capacity charges unnecessarily each year. For example, the city charged \$12,909 for fiscal year 2013–14 for a low-density single-family dwelling but increased the charge over time to \$15,862 for fiscal year 2016–17, resulting in Lincoln collecting nearly \$4 million in capacity charges in fiscal year 2016–17. The director of public services informed us that she and the city engineer discovered in 2015 that the city's actual water usage did not align with Placer Water's per-dwelling usage assumption, resulting in the city overcharging for water capacity charges. However, we did not find any evidence that the city took action to align the capacity charges with the actual water usage per dwelling.

Therefore, by not conducting a fee study that contemplated Lincoln's actual capacity needs, accumulating a \$41 million fund balance without documented plans to expand its water capacity, and unnecessarily increasing its water capacity charges annually, the city overcharged its customers, which is a potential violation of state law. In November 2018, the city engineer recommended to the city council that it approve a fee study to establish appropriate water capacity charges. The city engineer also suggested approving a temporary ordinance adjusting water capacity charges until the study is complete. During that same month, the city council authorized a fee study to establish appropriate water capacity charges, and in January 2019, the city council adopted the temporary ordinance adjusting water capacity charges to align them with the anticipated actual water usage, which in many cases lowered the water capacity charge. Lincoln also issued a request for proposals in January 2019 for an external consultant to conduct a water capacity fee study.

Lincoln Did Not Fully Recover Costs of Its Staff's Time for City Services It Provided to Developers

In contrast to the overcharges we discuss previously, we identified certain services for which Lincoln undercharged the public. Lincoln's master fee schedule includes hourly rates for position classifications throughout the city, such as an accountant or a building inspector. These staff rates represent the amounts the city charges the public to cover the hourly cost for city staff to perform development services, such as conducting building inspections and processing permits. However, Lincoln has been using outdated staff rates that do not represent the current costs of staff time for these services.

Lincoln has been using outdated staff rates that do not represent the current costs of staff time for services.

Until fiscal year 2018–19, Lincoln used staff rates that it calculated based on cost information from fiscal year 2005–06. The city most recently recalculated its staff rates in fiscal year 2012–13, which reflected increases in personnel costs since fiscal year 2005–06. However, the former director of support services informed us that the city waited until July 2018 to adopt these updated rates. The former director of support services stated that Lincoln did not adopt the updated rates in 2012 because the city attorney at that time advised that the city council would need to approve the updated rates, and

city management did not believe that the city council would do so. The former director of support services indicated that Lincoln did not update its staff rates after 2012 because it did not have the requisite staff or time needed to produce a new hourly rate schedule.

Even after implementing the 2012 rate schedule in fiscal year 2018–19, Lincoln has apparently continued to undercharge the public for costs related to development projects because the staff rates it implemented are most likely outdated as a result of inflation and wage increases after 2012. The city was already aware of certain personnel cost increases during the previous six years from 2006 to 2012, when it developed its rates for 2012. For example, the rate for the director of development services increased by \$47 per hour from 2006 to 2012, while the rate for a senior planner increased by \$24 per hour. In fact, we noted that the rates for certain staff positions increased by more than 30 percent. According to its comprehensive annual financial reports for fiscal years 2014–15 through 2016–17, Lincoln's overall general fund expenditures increased an average 6 percent each fiscal year primarily because of increased salary and benefit expenditures, which leads us to conclude that staff rates should also have increased. Lincoln incorporates both direct staffing costs, such as salaries and benefits, and indirect costs, such as administrative overhead, into its calculation of the staff rates. Likewise, the city includes these same costs in its annual budget, meaning that the city council essentially endorses the amount of the staff rates through its approval of the annual budget. Therefore, it would seem reasonable for the city to update the staff rates in its master fee schedule at the same time that the city council approves the annual budget.

Lincoln Did Not Pay for Its Own Use of Municipal Utilities

We also found that Lincoln violated provisions of the state constitution by failing to pay for its own municipal utilities—water, sewer, and solid waste services—and instead passing these costs on to ratepayers. The city uses these utilities in its general operations, such as using water for irrigating city parks. As we discuss previously, in 1996 the voters adopted Proposition 218, a constitutional amendment that limits the ability of local governments to impose taxes, assessments, charges, and fees based on property ownership. According to Proposition 218, the amount that the city can charge to ratepayers shall not exceed the cost of the service attributable to the parcel receiving the service. The city uses independent rate studies to determine the amount of fees to charge to ratepayers for their use of utilities. The rate studies identify the city's anticipated cost to provide those services. However, the city's 2013 utilities rate study did not include anticipated revenue that Lincoln should have paid from various funds, such as the general fund, to each of the utility funds for the city's own use of these utilities.

According to a March 2018 staff report, by excluding the city's share of utility usage, the city's cost to provide these services to ratepayers was higher than if it had used this revenue to offset the costs factored in its calculation of rates. The staff report estimated that from January 2014 through February 2018, the city should have paid \$1.3 million for its water use, \$252,000 for its solid waste use, and \$55,000 for its sewer use, for an estimated total of more than \$1.6 million. However, the director of public services, who developed the staff report, explained that the amount that the city should have paid for its water use was difficult to estimate—and was likely underestimated—because the city had about 40 unmetered water accounts during that time. Because it did not track the water usage for these accounts, the city was unable to determine the costs pertaining to those accounts in its estimation of the city's water use.

Although various city councilmembers, former city managers, and department directors were aware of Lincoln's failure to pay for its municipal utilities, the city did not promptly correct the issue. In response to a group of concerned residents who questioned the city's practice of not paying for its own water, the city council authorized an independent investigation in January 2018 to determine when city officials first became aware that the city had not paid for its own water use. The external law firm the city assigned to the investigation issued its report in April 2018. It determined that city management and the city council were aware as early as 2004 that Lincoln did not pay for its own water use yet failed to rectify the issue. Specifically, the law firm found that a 2004 water rate study prepared by an external consultant highlighted that the city only partially metered its own water use and recommended that the city meter and pay for all of its water use to comply with Proposition 218.

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**City management and the city council
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Additionally, the investigative report cited interviews in 2018 with a former city attorney, a former councilmember, and the city's mayor at that time, each of whom recalled a closed session during a council meeting in 2011 in which the city council discussed Lincoln's practice of not directly billing itself for water. The mayor recalled management indicating that the city did not have the funds available to pay for its water use. According to the investigative report, many factors appear to have contributed to the city not

addressing these issues sooner, such as its unprecedented growth in the early 2000s, its financial problems resulting from the 2008 recession, and staff and management turnover, particularly within the support services department.

Furthermore, the city has not refunded ratepayers for increases in rates it charged them as the result of its own, unpaid use of utilities. According to the city attorney, claims for refunds related to the city's utility use have a statute of limitations of one year, meaning that ratepayers seeking refunds of fees or charges cannot recover any amounts the city collected more than one year before the ratepayers presented their claims to the city. Although Lincoln is not legally required to issue refunds, it could consider doing so as a matter of public benefit, which it has acknowledged. Specifically, a March 2018 staff report informed the city council that it could choose to refund the costs paid by ratepayers beyond the one-year statute of limitations by passing a resolution declaring the public purpose of the refund and the commensurate benefit to the city, such as improved public trust in local government. However, the city council had not chosen to issue refunds as of February 2019.

Recommendations

Lincoln should immediately commence a fee study that ensures its fees for water capacity are commensurate with the costs of current and planned future water capacity needs. To the extent that Lincoln has previously overcharged for water capacity fees, it should develop a plan to provide equitable consideration to those who overpaid such fees, and it should eliminate any unnecessary surplus in the water connections fund.

To ensure that its fees are commensurate with the cost of providing services, Lincoln should develop and follow a timeline by June 2019 for conducting periodic fee studies for each of its services, including updating its staff rates annually.

To the extent allowable by law, the city council should develop a plan by August 2019 to provide equitable consideration to ratepayers for the utility costs they incurred that were higher than necessary because of the city's practice of not paying for its own water, sewer, and solid waste services.

To ensure transparency to the public, beginning with its fiscal year 2019–20 budget, Lincoln should specify in its annual budget the amount that it intends to spend for the use of municipal utilities—water, sewer, and solid waste—and the funds that it intends to use to pay for these costs.

Lincoln Did Not Establish or Consistently Follow Key Policies and Procedures to Ensure the Appropriate Management of Public Funds

Key Points

- Lincoln did not establish sufficient financial policies and procedures to ensure that it manages public funds appropriately. Specifically, Lincoln's lack of budgeting policies and procedures resulted in insufficient transparency with the public and a failure to provide adequate information to the city council so that it could make informed decisions.
- Lincoln did not consistently follow its policies and procedures for approving expenditures, resulting in the authorization of some questionable expenditures.
- Lincoln did not address audit deficiencies that its annual financial audits repeatedly noted. For example, it did not address the city's lack of adequate year-end closing procedures, which resulted in material misstatements in its draft financial statements and delayed completion of the city's comprehensive annual financial reports (CAFRs).

Lincoln Did Not Establish Sufficient Financial Policies and Procedures

Lincoln does not have sufficient policies and procedures to ensure consistency, compliance, and transparency in its financial practices. The GFOA recommends that governments implement specific financial, accounting, reporting, and budgeting policies and procedures, including those intended to facilitate the review, discussion, modification, and adoption of a proposed budget. The text box summarizes some of the key policies the GFOA recommends. In many instances, Lincoln has not established such policies and procedures, and in instances where it has established policies and procedures, it did not always follow them.

Lincoln could have addressed many of the issues we discuss throughout this report if it had sufficiently adopted and followed comprehensive financial

Key Budgeting Policies and Procedures That the GFOA Recommends

Fees and Charges: Adopt policies that identify the manner in which fees and charges are set. These policies may address the frequency with which cost-of-services studies will be undertaken.

Balancing the Budget: Develop a policy that defines a balanced budget and provides for disclosure when a deviation occurs.

Revenue Diversification: Adopt a policy that encourages a diversity of revenue sources. A diversity of revenue sources can improve a government's ability to handle fluctuations in revenue.

One-Time Revenue: Adopt a policy limiting the use of one-time revenue for ongoing expenditures. A government should explicitly define one-time revenue and allowable uses for that revenue.

Debt Management: Adopt policies to help ensure that the government issues and manages debt prudently to maintain a sound fiscal position.

Budget Review: Develop a set of procedures that facilitate the review, discussion, modification, and adoption of a proposed budget.

Adjusting the Budget: Have procedures in place to determine when deviations from the budget plan merit adjustments to the budget.

Communication: Institute a process that includes an examination of strengths and weaknesses of the organizational structure and of the communication of goals and directives.

Source: GFOA's Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting, (1998).

policies and procedures. For example, Lincoln does not have a policy pertaining to its establishment of fees and charges. Despite having maintained a significant reserve in its water connections fund for at least 10 years, Lincoln did not reduce the water capacity charges to its customers, as we discuss previously. Developing and following a policy pertaining to its fees would help Lincoln ensure that its fees align with the cost of services. Further, as we discuss in the Introduction, the recession had a significant negative financial impact on Lincoln. We find it surprising that Lincoln has not subsequently developed a revenue diversification policy to protect itself financially in the event of another severe market downturn.

Lincoln's lack of budget review procedures resulted in it taking actions that were not sufficiently transparent to the public and in staff failing to provide the city council with enough information to make informed decisions. The GFOA acknowledges that because most budgets inevitably reflect a compromise of goals and priorities, creating clear and accepted processes for facilitating the review, discussion, modification, and adoption of a proposed budget will help promote acceptance and timely approval. However, Lincoln has not established any such written procedures. The investigative report we previously discuss concluded that during the development of the fiscal year 2016–17 budget, the director of public services proposed including Lincoln's municipal water use as a distinct expenditure in the budget. However, the report states that the former director of support services was not comfortable including this item in the budget. Consequently, the city council does not appear to have discussed the director of public services' proposal, and the city continued to violate Proposition 218.

Lincoln's lack of budget review procedures resulted in it taking actions that were not sufficiently transparent to the public.

The city council's lack of formal expectations for its budget process resulted in practices that were not sufficiently transparent. Although the city council's investigative report indicated that some councilmembers were aware that Lincoln had not paid for its municipal water use, a majority of city councilmembers informed us that they learned in December 2017—months after the city council passed the budget—about Lincoln's failure to pay for its own use of municipal water. As we previously note, city councilmembers indicated that they expect staff to provide them with adequate information to make policy decisions. For instance,

one councilmember informed us that he relies on staff to highlight any significant changes they make to the budget. However, the duty statements for the city manager and the director of support services do not specify requirements for communicating with the city council about significant changes to the budget. Further, Lincoln does not have formalized procedures to guide its communication among city staff of goals and directives. Having such procedures would help the city council formally communicate its expectations to management, thereby mitigating instances of staff not sharing information from the city council and the public.

Although the former director of support services acknowledged that Lincoln did not have many written policies and procedures for budgeting, Lincoln included a summary in its approved fiscal year 2018–19 budget titled *Key Budget Policies* that the city informed us represents Lincoln's formal policies and procedures. This summary cites some policies that Lincoln has formalized through city council resolutions, such as a debt management policy that describes the city's policy objectives, parameters, and guidelines for issuing debt. However, the summary also references other areas for which Lincoln cannot demonstrate that it had established formal policies. For example, the summary addresses fees at a very high level, simply stating that the city will review its fees to assure that they reflect actual costs and that the city council will adopt a fee schedule. In contrast, the GFOA recommends that policies on fees and charges include specific detail on the frequency with which a city will undertake fee studies, which the city's summary does not address. Based on the concerns that we previously describe about the city's fees not always aligning with its costs of providing services, we believe that the city's key budget policies do not provide the appropriate level of detail to guide city staff in their budgeting efforts.

Lincoln Did Not Follow Certain Existing Policies and Procedures

We also determined that Lincoln did not consistently follow some of its existing policies and procedures. Although Lincoln enacted an ordinance that established specific dollar thresholds and approval requirements for spending city funds, staff sometimes made expenditures without obtaining appropriate approvals. In 2014 the city council established an ordinance requiring the city manager's approval for expenditures exceeding \$10,000 and the city council's approval for expenditures exceeding \$25,000. The ordinance also requires city council approval for contract amendments exceeding 10 percent of the original contract value. However, the city did not obtain appropriate approval for three of the 20 expenditures we reviewed from fiscal years 2013–14 through 2017–18.

In fact, for one of these three circumstances in which the city made unapproved expenditures, the city could not even demonstrate the validity of a claim. To settle this claim, Lincoln made payments that totaled \$98,000 in August and October 2017 to reimburse a homeowners association (association) for utility costs, but Lincoln could not demonstrate that the city council approved the payments. In March 2016, the association submitted a claim for more than \$40,000 for reimbursement of electricity costs it paid to operate a water booster pump station from December 2014 through December 2015, even though it alleged it had been paying the costs since 2005. In its claim, the association indicated that the utility provider billed the association for the electricity and it mistakenly paid the bill on the city's behalf for several years. According to the director of public services, the original development agreement for the subdivision stated that Lincoln would pay for the electricity for the pump station and charge property owners within the association for these costs. However, Lincoln could not provide evidence of a formal agreement describing this arrangement, and the director of public services indicated that Lincoln never imposed such a charge on property owners. Regardless, in April 2016, Lincoln rejected the claim because the association did not submit it in the time allowed by law.

Lincoln settled a claim that totaled \$98,000 but could not demonstrate that the city council approved the settlement.

However, in a July 2017 closed session meeting regarding the water rates lawsuit, the city council discussed this previously rejected claim. The city's documentation from that meeting is insufficient to determine who raised the issue, how it was connected to the water rates lawsuit, or why the city revisited a claim it had previously denied. According to the current city attorney, who was not working for the city at the time and was not present at the meeting, the city council authorized the city manager to settle the association's claim during that meeting. Further, the interim city manager indicated that Lincoln resolved the claim to avoid litigation. However, the city's actions to resolve the claim violated state open meeting law. State law directs local agencies, such as city councils, to post an agenda in advance of a closed session meeting containing a brief general description of each item of business to be transacted or discussed in the meeting. Lincoln failed to make such a disclosure before the closed session meeting in which the

city council discussed this claim. Therefore, the city council violated state open meeting law by discussing the claim without having disclosed that topic on an agenda.

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**The city council violated state
open meeting law by discussing
a claim without having disclosed
that topic on an agenda.**

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Further, Lincoln could not provide documentation that the city council directed the city manager to initiate settlement of the association's claim or that it entered into a settlement agreement with the association, which we would expect the city to have done to appropriately settle the claim. Given the importance of being transparent and accountable to the public in its use of public funds, we find it particularly concerning that Lincoln did not obtain a signed settlement agreement to protect it from potential future litigation. In addition, after the closed session meeting, two department directors—rather than the city manager—initiated the reimbursement to the association, even though department directors are not authorized to settle claims on behalf of the city. The city attorney asserted that the city council authorized payments totaling \$98,000 to the association at the August and November 2017 city council meetings when it approved its warrant lists—periodic lists of all checks Lincoln issued. However, because the city council approves warrant lists after it has already made the payments, we question how that action would constitute official authorization to settle a claim. In this instance, city staff issued the payments to the association several days before the city council approved the warrant lists.

In another instance, Lincoln allowed an engineering firm to conduct work for the city beyond the scope of its contract without obtaining prior approval from the city council, as required by city ordinance. Specifically, Lincoln entered into a contract with an engineering firm to provide temporary staffing in the community development department starting in September 2017. The contract's terms stipulated that payments for services would not exceed \$30,000. In November 2017, the director of community development needed the contractor to perform more work than the contract originally allowed. He spoke with the former director of support services, who indicated that the community development

department could use excess unspent salaries to fund the additional work. Therefore, the director of community development instructed the firm to continue working.

We reviewed written communication from the former city manager to the city council that indicated that in January 2018, the former director of support services incorrectly led staff to believe that city council approval was not required to use the unspent salaries to compensate the contractor. The former city manager indicated that after identifying the lack of city council approval, he instructed the director of community development to formally request a contract amendment for the additional costs incurred. The director of community development requested such an amendment at the next city council meeting, in February 2018. By that time, however, the engineering firm had already performed additional work and invoiced the city for a total of \$111,000, or \$81,000 more than the original contract. If the city council had denied the amendment, Lincoln might have been subject to litigation, as the city had already obligated itself to pay for the additional work.

We also found another instance when the city amended a contract without appropriate approval. In this case, a former city engineer authorized a change order that increased the amount of a contract for improving sidewalk ramps from \$20,400 to \$23,390, when he only had approval authority for contracts totaling \$12,500 or less. By amending the contract without acquiring the requisite approval, this individual violated Lincoln's purchasing ordinance. The current city engineer did not address the specific actions of his predecessor but informed us that he occasionally approves similar change orders, with the city manager's verbal approval, when it is not feasible to wait two weeks or more to obtain the city council's authorization. This approach appears to circumvent Lincoln's procedural control, which it likely adopted so that it could avoid excessive or inappropriate spending.

We also noted that when exercising their purchasing authority, Lincoln's former city managers, before July 2018, did not consistently follow ordinances concerning purchasing that the city adopted in 2014. Although the city manager has the authority to enter into contracts up to \$25,000 without prior approval of the city council, the purchasing ordinance requires the city manager to promptly report in writing all uses of this purchasing authority at a city council meeting. However, Lincoln could not demonstrate that its former city managers ever made such reports. Although the city claims that the warrant lists that the city council reviewed satisfied this requirement, we do not believe that the lists contained sufficient detail for the city council to identify instances when the city managers exercised their purchasing authority. Specifically, the list of checks did not identify who approved each expenditure.

Therefore, it is unclear whether the city council had any knowledge of purchases the former city managers authorized and whether it exerted sufficient oversight of those expenditures.

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**It is unclear whether the city council
had any knowledge of purchases the
former city managers authorized.**

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**Lincoln Did Not Address Audit Deficiencies That Its Annual Financial
Audits Repeatedly Identified**

In addition to the unresolved audit deficiencies related to interfund loans and transfers that we discuss previously, the external auditor repeatedly reported that Lincoln did not have sufficient year-end closing procedures for preparing its financial statements, which the auditor found resulted in material misstatements in the city's draft financial statements. Despite the auditor recommending that Lincoln establish year-end closing procedures each fiscal year from 2013–14 through 2016–17, Lincoln did not address the recommendations. The material misstatements required the external auditor to reconcile the financial reports and conduct additional testing, which delayed completion of the city's CAFR in three of the five years from fiscal years 2013–14 through 2017–18. State law requires cities to issue their audited CAFRs within seven months after the close of each fiscal year. Because Lincoln's fiscal year ends on June 30, it must issue its audited CAFR by January 31 of the following year. However, Lincoln issued its CAFR 19 days late for fiscal year 2013–14 and 82 days late for fiscal year 2016–17. Additionally, as of the beginning of March 2019, the city had not issued its CAFR for fiscal year 2017–18, making it at least one month late.

The former director of support services informed us that Lincoln did not correct the deficiencies in its year-end closing procedures because of insufficient staff and high turnover in the finance division. However, the interim city manager acknowledged that the city has not conducted a staffing analysis to quantify its need for additional staffing. Although it was the former director of support services' responsibility to address the audit recommendations from the city's external auditor, he did not develop a formal process or schedule for doing so. The interim city manager stated that she plans to address the audit deficiencies going forward.

Although the city manager is responsible for city operations, the council did not hold the city manager accountable for addressing the audit deficiencies. The councilmembers offered different explanations for not doing so. According to one city councilmember, the external auditor provides the city's finance committee—which includes two city councilmembers—with the detailed audit findings, but only provides the full city council with a more high-level overview that does not describe all findings. Another councilmember stated that the city manager is responsible for ensuring that all findings in the annual financial audit are resolved, and it is not the city council's responsibility to manage these issues. Nevertheless, the city council has an oversight responsibility, and it did not hold the city manager accountable to ensure staff resolved the audit findings.

Recommendations

By August 2019, Lincoln should establish and follow policies and procedures for budgeting, preparing its financial statements at the end of each fiscal year, and approving expenditures based on the GFOA guidelines and other best practices.

To help ensure that the city manager fully informs the city council of all relevant information before the council approves the annual budget, the city should specify by July 2019 the supporting information that it expects staff to provide with the proposed budget. Lincoln should then update its duty statements to require the city manager and department directors to provide the city council with this information as part of the city's budget process.

To ensure that the city complies with its purchasing policy, the city manager should immediately develop and implement procedures for staff to obtain and document the required approval from the city manager or the city council before committing city resources. Beginning immediately, the city manager should also report to the city council on a regular basis all purchases that the city manager approves.

To ensure that city management holds city staff accountable for resolving deficiencies identified in its annual audits, Lincoln's city council should immediately require the city manager to track and report progress in addressing outstanding audit recommendations at least quarterly.

By June 2019, Lincoln should develop and follow a process to ensure that it accurately and promptly records all year-end closing entries in its general ledger and issues its CAFR within the period that state law requires.

OTHER AREAS WE REVIEWED

To address the audit objectives approved by the Joint Legislative Audit Committee (Audit Committee), we also reviewed the subject areas detailed in Table 5. The table indicates the results of our work in these areas and any associated recommendations that do not appear in the other sections of this report.

Table 5
Other Areas Reviewed as Part of This Audit

Master Fee Schedule
<p>The city has not updated its master fee schedule since 2012 to reflect the fees that it currently charges, thereby conveying inaccurate information to the public regarding the costs of city services. Lincoln’s municipal code directs the city council to establish and publicly issue a schedule of fees and charges for the provision of city services. Some of the fees that Lincoln has increased since 2012 include traffic mitigation fees, water capacity charges, drainage fees, water connection fees, and community service fees. The former director of support services acknowledged that the information on the schedule is outdated but informed us that the city has not had sufficient staff resources to update that information. Nevertheless, the city’s presentation of an outdated master fee schedule could lead to confusion for members of the public who attempt to understand the costs of city services.</p>
<p>In addition, Lincoln has not conducted a comprehensive review of its fees since 2012. The municipal code requires the city council to review the fee schedule at the beginning of each fiscal year for possible revisions and amendments. In addition, the GFOA suggests that cities should review and update fees periodically based on factors such as inflation, the costs of other services, the adequacy of cost recovery, the use of services, and the competitiveness of current rates. In January 2019, Lincoln issued a request for proposals seeking a consultant to prepare a full cost allocation plan and perform a comprehensive review and evaluation of the city’s master fee schedule. Lincoln anticipates that the contractor will conduct an initial review and update of the fee schedule by the end of fiscal year 2018–19, and the city plans to have this contractor review the fee schedule annually through at least fiscal year 2021–22.</p>
<p>Recommendation</p> <p><i>To ensure transparency in providing accurate fee information to the public, Lincoln should immediately update and publicly disclose its master fee schedule to reflect the fees that it actually charges. In addition, Lincoln should periodically review its fee schedule to identify outdated fees that do not accurately reflect the cost of providing services. It should revise those fees to incorporate the costs commensurate with those services and update its master fee schedule accordingly.</i></p>

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Developer Fee Credits

Lincoln could not always justify the amounts of fee credits it provided to developers. Lincoln charges developers and builders fees to recover certain costs that the city incurs to sustain new development, such as the costs of building and maintaining new city infrastructure and providing community services. When entering into a development agreement with Lincoln, a developer may choose to mitigate some of these costs by building new city infrastructure within its development project area. In return, the city awards credits to offset the fees (fee credits) that the developer pays. The city bases the fee credits on certain factors at the time it formalizes the development agreement, such as expected construction costs and the fees set forth in the city's master fee schedule. However, these factors can change between the time of the city's initial approval of the fee credit and the time that the developer obtains building permits to perform the work.

Under those circumstances, we would expect the city to maintain support detailing any revisions to the fee credits. Although Lincoln was able to support its rationale for initially awarding fee credits to developers, it could not always substantiate the fee credits it gave the developers when they commenced work. For example, when we reviewed a development agreement from 1998 and a corresponding agreement from 2003 to transfer the fee credits involved, we found that the agreements established fee credits of \$5,936. However, when the developer obtained a building permit in 2014, the city gave it a fee credit of \$9,813. City staff could not provide evidence to substantiate the increased fee credit. The interim city manager indicated that she and the city engineer are actively researching how Lincoln has established fee credits under development agreements to ensure that the city has applied appropriate fees. By not effectively tracking its establishment of fee credits over time, the city risks charging incorrect fees to developers and not collecting sufficient funding to cover the operating and maintenance costs that it will incur as a result of new development.

Recommendation

To ensure that it applies the correct fee credits to developers, Lincoln should develop policies and procedures by September 2019 for establishing fee credits and maintaining adequate documentation to justify modifications to fee credits, including credits it awards based on changes in fee schedules and updated development agreements.

Investment Portfolio Fees

Lincoln was unaware until recently of the fee amounts it paid for management services of its investment portfolio because the quarterly investment reports its investment advisor provided lacked this information. Although the reports presented a summary of the current value of the city's investments, including any earnings recognized during the period, the investment broker reduced the earnings by its fees, rather than presenting those fees separately. Lincoln's agreement with its broker did not stipulate the terms of the fees or how they were to be disclosed. Without this information, Lincoln could not ensure that the fees that it paid were accurate or reasonable.

In response to our inquiries, Lincoln requested that its broker identify the specific fees the city paid. The broker responded in December 2018 with a high-level summary of the fees for fiscal year 2017–18, which totaled almost \$300,000. Subsequent to our inquiries, Lincoln sought proposals from other investment management firms and awarded a contract in January 2019 to a different firm to serve as the city's investment advisor. The new contract specifies the fees Lincoln will pay based on a percentage of the portfolio's total value. The interim city manager estimated that the city will pay annual fees of around \$100,000. The contract also stipulates that the investment advisor will send the city monthly statements that indicate the basis for fees it charges to the city.

Councilmember's Financial Interests

We identified one city councilmember who did not fully disclose his financial interests. State law requires city councilmembers to disclose certain financial interests annually using a form referred to as a statement of economic interest. On his statements of economic interest for calendar years 2013 through 2016, this councilmember reported up to \$100,000 that he received each year through personal loans from his family trust. We found that Lincoln engaged in a development agreement with this trust in the past, before the councilmember's tenure on the city council. In response to our inquiry, the councilmember advised us that as of November 2018, he had not repaid the loans from the trust. However, we found that he failed to disclose these outstanding loans on his 2017 statement of economic interest.

We also identified a second concern related to this councilmember. Specifically, he may have also violated state conflict-of-interest laws by participating in and influencing governmental decisions that may have affected his financial interests. State law prohibits public officials at any level of state or local government from making, participating in, or attempting to use their official positions to influence governmental decisions when they know, or have reason to know, that those decisions will have material effects on their financial interests.

In 2018 the city council considered whether to establish community facilities districts to provide financial support for basic infrastructure and public safety services, including whether to impose a tax on residents that could affect the value of properties within the boundaries of the districts. Based on our interviews with the councilmember and our review of city council meeting minutes, we determined that the councilmember was appointed to a working group that met three times starting in early 2018 to discuss the formation of these districts. The councilmember told us that as part of the working group, he participated in discussions with city staff and representatives of the building industry regarding the terms and fees necessary to recover the city's costs of providing services in the districts. City council meeting minutes also show that the councilmember participated in a city council vote on March 27, 2018, to provide the working group with policy direction.

On August 28, 2018, the city council took up resolutions to approve a transfer of properties and the formation of a community facilities district, including a special tax to finance the district, which were based on the recommendations of the working group. The city council meeting minutes show that the councilmember recused himself from the vote on these items because he indicated they could have an effect on properties that his family owned. The interim city manager and city attorney subsequently informed us that the councilmember based his recusal on his desire to exercise an abundance of caution in addressing public perception. However, because the councilmember did not provide us with sufficient information about his ownership interest, we were unable to conclude whether there were any actual conflicts of interest.

State law broadly defines "making" and "participating in" a governmental decision to include providing information, an opinion, or a recommendation for the purpose of affecting that decision. According to the California Fair Political Practices Commission (commission), the agency charged with enforcing state conflict-of-interest laws, a city councilmember who is prohibited from voting on a final resolution as a councilmember also may not participate in discussions or make recommendations as a member of a subcommittee or working group in order to influence the city council's decision. Because the record shows that the councilmember recused himself from the city council's vote, we question whether the councilmember may have violated state conflict-of-interest laws through his participation in the working group. Accordingly, we referred this matter to the commission for consideration.

We conducted this audit under the authority vested in the California State Auditor by Government Code 8543 et seq. and according to 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 specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



JOHN BILLINGTON
Chief Deputy State Auditor

Date: March 21, 2019

APPENDIX

SCOPE AND METHODOLOGY

The Audit Committee directed the California State Auditor to examine Lincoln’s governance and operational structure, administration of public funds, and assets. Specifically, the Audit Committee requested that we review Lincoln’s policies and procedures, administration of utilities, interfund loans, and accounting for development activities. The table below lists the objectives that the Audit Committee approved and the methods we used to address them.

Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed relevant state laws, rules, and regulations, as well as Lincoln’s city ordinances.</p>
<p>2 Examine Lincoln’s governance and operational structure and assess its management controls and practices, including the extent to which management meets any applicable fiduciary duties to Lincoln’s residents. To the extent possible, identify alternative organizational structures that could result in more efficient and effective management of public funds and assets.</p>	<ul style="list-style-type: none"> • Interviewed city staff and councilmembers and reviewed policies, procedures, organizational charts, committee membership, division of responsibilities, and reporting requirements for city management and the city council. • Identified the fiduciary duties for select management personnel, including the city councilmembers, the city manager, the director of support services, and the city attorney. • Researched alternative organizational structures and best practices to identify efficient and effective management methods. However, we did not identify any deficiencies in Lincoln’s organizational structure that would warrant specific changes.
<p>3 Evaluate the adequacy of Lincoln’s financial processes during the most recent five fiscal years by performing the following:</p> <ol style="list-style-type: none"> a. Review Lincoln’s audited financial statements and internal controls to determine whether there were any deficiencies and whether Lincoln took recommended corrective actions in a timely manner. b. Assess Lincoln’s practices and processes for determining how it uses public funds and assets, and its policies and procedures related to budgeting and expenditures. c. Assess Lincoln’s policies and practices regarding money transfers. d. Assess Lincoln’s policies and practices for depositing and collateralizing public funds. 	<ul style="list-style-type: none"> • Reviewed Lincoln’s CAFRs and single audit reports from fiscal years 2013–14 through 2016–17 and assessed its efforts to address deficiencies through corrective action. The city had not issued its CAFR for fiscal year 2017–18 as of early March 2019. • Compared Lincoln’s budgeting policies and procedures for its use of public funds and assets to guidance from the GFOA. • Tested a selection of Lincoln’s expenditures to determine if the city followed its policies for approving purchases, contracts, and settlements of claims. • Assessed Lincoln’s adherence to its policies regarding interfund loans and transfers by reviewing a judgmental selection of 20 interfund loans and transfers from fiscal years 2013–14 through 2017–18. • Compared Lincoln’s policies and practices for depositing and collateralizing public funds to state requirements and found that Lincoln’s deposits are appropriately collateralized. • Reviewed Lincoln’s contracts with its investment broker and advisor, examined its quarterly investment reports, and interviewed relevant city staff and the treasurer to determine whether Lincoln complied with its policies and paid appropriate investment fees.

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AUDIT OBJECTIVE	METHOD
<p>4 Determine whether Lincoln, to the extent it is required by law or regulations, reported its overall financial situation, income, spending, assets, and reserves during the most recent five fiscal years. Further, determine whether Lincoln, to the extent it is required by law or regulations, reported its water and sewage usage, customers, connections, rates, acquisitions, and related data during the most recent five fiscal years.</p>	<p>Identified state reporting requirements pertaining to financial reporting, drinking water, water quality, and water loss. Although the city was late in completing its CAFRs for three of the five years from fiscal years 2013–14 through 2017–18, we found that the city generally complied with its other reporting requirements.</p>
<p>5 Assess Lincoln's process for collecting and reporting residential and commercial fees.</p>	<ul style="list-style-type: none"> • Interviewed staff to determine Lincoln's practices for charging, collecting, and reporting residential and commercial fees. • Reviewed all developer account balances to determine how many accounts were in arrears and the total funds outstanding from fiscal years 2013–14 through 2017–18. We determined that during this period, Lincoln reduced the number of developer accounts with negative balances. Further, the combined amounts of negative balances through fiscal year 2017–18 totaled less than \$15,000, which we concluded was not significant. • Reviewed a selection of five developer deposit accounts and 10 building permits from fiscal years 2013–14 through 2017–18 and compared the fees the city charged developers and builders to the amounts disclosed in its fee schedule to ensure the city charged the correct fees.
<p>6 Determine whether the fees that Lincoln has been assessing ratepayers for water use have been in excess of the actual costs of providing the service during the most recent five fiscal years.</p>	<ul style="list-style-type: none"> • Interviewed staff and reviewed relevant documentation, including the 2013 and 2018 water rate studies, to determine how Lincoln established its 2018 water rates and evaluated whether the rates were commensurate with the cost to provide water. • In May 2018, Lincoln completed a new water rate study, which included consideration for its own use of water. The study recommended and Lincoln ultimately adopted a uniform rate for all customers based on volume, which appears reasonable.
<p>7 Determine whether Lincoln clearly communicates criteria for approving or denying applications for rate changes and whether this process is reasonably transparent.</p>	<ul style="list-style-type: none"> • Reviewed the rate change disclosure requirements in the state constitution and assessed whether Lincoln adhered to the required process in 2013 for disclosing and increasing water rates. We concluded that Lincoln generally complied with the disclosure requirements of Proposition 218 when changing its water rates in 2013. • Determined that the rate change in 2018 occurred in October, which was after our audit period.
<p>8 Determine whether Lincoln complies with relevant laws, regulations, policies, and guidelines regarding the use and distribution of redevelopment funds and, to the extent possible, assess the fairness and reasonableness of the criteria and methods Lincoln follows in its use and distribution of such funds.</p>	<ul style="list-style-type: none"> • Compared Lincoln's redevelopment plans to the requirements set forth in state law and regulations, and determined that Lincoln's redevelopment implementation plans contain the provisions necessary to comply with state law. • Reviewed three outstanding redevelopment projects to determine whether Lincoln complied with its redevelopment plan and relevant laws and regulations when using redevelopment funds and found that these projects complied with state law. • Did not further assess the fairness and reasonableness of Lincoln's criteria and methods to use and distribute redevelopment funds because the State dissolved redevelopment agencies throughout California in 2011, which was before our audit period, and because our testing concluded that historically Lincoln's redevelopment plans and projects complied with state law.
<p>9 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> • Obtained and reviewed documentation of whether Lincoln paid for its use of its own utilities from fiscal years 2013–14 through 2017–18, and whether Lincoln paid for these services from appropriate funds. • Assessed the city's reliance on interfund loans to remain solvent.

Source: Analysis of the Audit Committee's audit request number 2018-110 and information and documentation identified in the table column titled *Method*.

Assessment of Data Reliability

In performing this audit, we relied on electronic data files that we obtained from Lincoln's accounting and document management databases. The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires us to assess the sufficiency and appropriateness of computer-processed information we use to support our findings, conclusions, and recommendations. Because the city's accounting system is paperless, we were unable to perform completeness or accuracy testing. Furthermore, we did not perform a review of the controls over these data because of the significant resources required to conduct such an analysis.

To gain assurance that the financial records were complete and accurate, we identified major funds that were pertinent to our audit procedures for fiscal years 2013–14 through 2016–17—the first four years of our five-year audit period—and reconciled account totals from the general ledgers for those funds to the amounts reported in Lincoln's audited CAFRs. We were unable to perform a similar comparison for fiscal year 2017–18 because, as of early March 2019, the city had not yet issued the CAFR for that year. Additionally, because Lincoln's accounting system does not specifically distinguish transactions pertaining to interfund loans in a manner that would allow us to extract that data, we relied on spreadsheets prepared by city staff to track interfund and interagency loans during our audit period. To obtain assurance that the spreadsheets were complete, we reviewed interfund loan records in the city's document management system and did not identify any loan agreements that were not included in the spreadsheets. Although we found the financial data to be of undetermined reliability for the purposes of our audit and we recognize that these limitations may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations.

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March 1, 2019

John Billington
Chief Deputy State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

RE: Response to Draft Report of the California State Auditor

Dear Mr. Billington:

Thank you for the opportunity to comment on the draft report prepared by the California State Auditor, as requested by the Joint Legislative Audit Committee. In December 2018, the City began a comprehensive business process improvement initiative that is focused on all finance-related activities. This initiative includes the evaluation of all policies and procedures to identify areas where the City can improve accuracy, effectiveness, transparency and efficiency, and then redesign those processes or policies to realize the improvements.

This effort is long overdue and is needed to demonstrate the City's commitment to being good stewards of the public's money and to increase trust and transparency for our residents. The audit is beneficial to this effort and will serve as part of the framework for establishing a road map for moving forward. As a city, we can do better through the creation of strategic plans to correct course and improve the overall fiscal health and function of the City. Both staff and the City Council are committed to championing this effort.

Response to Audit Recommendations

The City responds to the recommendations as follows:

Section 1

Recommendation 1A: "To ensure that it complies with state law, Lincoln should immediately review all of its outstanding interfund loans to determine whether the borrowing funds can repay the loans according to the terms. For any loan that is from a restricted fund and that does not have the capacity to be repaid, Lincoln should develop a plan that ensures repayment within a reasonable timeframe, including seeking possible alternative financing or revenue sources, such as the general fund, bonds, one-time revenues, or a tax increase, to address the obligation."

City Hall
600 Sixth Street
Lincoln, CA 95648
(916) 434-2400
www.ci.lincoln.ca.us

Administrative Services - City Manager's Office - Development Services
Fire - Library - Recreation - Police - Public Services

John Billington
Chief Deputy State Auditor
March 1, 2019
Page 2

Response: The City agrees with this recommendation. The analysis of all interfund loans is currently underway and a comprehensive plan for addressing all interfund loans will be presented to City Council for input and consideration. Paying off all associated debt will require a long-term implementation strategy.

Recommendation 1B: “To ensure that it avoids accumulating surpluses, by August 2019, Lincoln should establish policies and procedures requiring it to review its fund balances at least annually and, if necessary, reduce its fees within a reasonable timeframe.”

Response: The City agrees with this recommendation and will include this requirement in a comprehensive budget policy that will be presented to City Council for consideration.

Recommendation 1C: “To comply with state law, Lincoln should immediately discontinue its practice of using restricted funds to subsidize other funds that have year-end deficits and lack the ability to permanently repay the transfers within 90 days of the close of the fiscal year.”

Response: The City agrees with this recommendation. Beginning with the 2018/2019 fiscal year, the City will discontinue this practice except for short-term loans required for the fiscal year end Generally Accepted Accounting Principle (GAAP) presentation of the City’s financial statements. These types of loans are legal, repaid within 90 days, primarily made for cash flow reasons, and are typically funded by the General Fund.

Recommendation 1D: “By June 2019, Lincoln should establish accounting procedures to ensure that it records all costs of city maintenance from the appropriate funds, including apportioning the general benefit costs to the general fund.”

Response: The City agrees with this recommendation and implemented this recommendation for fiscal year 2018/2019, beginning with the City Council’s adoption of the Lighting and Landscaping District Engineer’s Report on June 12, 2018. The City acknowledges full compliance will be demonstrated when its books are closed at the end of the fiscal year.

Recommendation 1E: “To ensure that it complies with the state constitution, Lincoln should establish and adhere to procedures that account for revenue and expenditures in each landscaping and lighting zone separately, and it should discontinue the use of surplus revenue from one zone to offset a deficit in another zone. It should take these actions by June 2019.”

Response: The City agrees with this recommendation and implemented this recommendation for fiscal year 2018/2019. Importantly, however, the costs associated with the general benefit and any zone deficit that cannot be paid by the Lighting and Landscaping District are obligations of the General Fund. Payment of this obligation by the General Fund results in decreased revenue for public safety. In order to address this issue, consideration of an assessment increase for those deficit zones, as well as those areas of the City that do not currently pay an assessment for the use of parks,

John Billington
Chief Deputy State Auditor
March 1, 2019
Page 3

landscaping, and lighting, will be necessary. The City acknowledges full compliance will be demonstrated when its books are closed at the end of the fiscal year.

Recommendation 1F: “To ensure that city staff provides the city council adequate information to make its decisions regarding interfund loans and transfers, the city council should immediately collaborate with the city manager and department directors to establish formal expectations regarding the content of staff reports, and it should hold the city manager accountable for ensuring all staff reports meet those expectations.”

Response: The City agrees to establish formal expectations among staff regarding the content of staff reports. Information provided to City Council should be reviewed and revised as appropriate to ensure the highest expectation for content.

Section 2

Recommendation 2A: “Lincoln should immediately commence a fee study that ensures its fees for water capacity are commensurate with the costs of current and planned future water capacity needs. To the extent that Lincoln has previously overcharged for water capacity fees, it should develop a plan to provide equitable consideration to those who overpaid such fees and it should eliminate any unnecessary surplus in the water connections fund.”

Response: The City agrees with this recommendation and has initiated the process by issuing a request for proposals to complete the required study. Proposals were received by the City on February 22, 2019, and it is anticipated that a contract will be proposed to City Council on March 12, 2019. The fee study will be used to inform any nexus for the future use of water connection revenue on hand. If a nexus is not identified, the City Council will then evaluate equitable considerations and the public benefit to determine the appropriate action to address any unnecessary surplus.

Recommendation 2B: “To ensure that its fees are commensurate with the cost of providing services, Lincoln should develop and follow a timeline by June 2019 for conducting periodic fee studies for each of its services, including updating its staff rates annually.”

Response: The City agrees with this recommendation. Below is the current status of the various fee studies that are completed or underway:

***Water Rates:** Complete. New rates were implemented October 1, 2018.*

***Solid Waste and Wastewater Rates:** Studies are underway. Draft rates are expected to be presented to City Council by August 2019.*

***Public Facility Element (PFE) Study:** Draft study completed. Final study anticipated to be presented to City Council by June 30, 2019.*

***Master Fee Schedule:** Contract awarded for preparation of the study on February 26, 2019. Anticipate completion by June 30, 2019.*

***Cost Allocation Plan:** Contract awarded for preparation of the study on February 26, 2019. Anticipate completion by June 30, 2019.*

John Billington
Chief Deputy State Auditor
March 1, 2019
Page 4

Water Connection Nexus Study: Proposals received. Contract will be proposed to City Council on March 12, 2019.

Moving forward, the City will create a schedule ensuring regular updates to its fees and rates.

Recommendation 2C: “To the extent allowable by law, the city council should develop a plan by August 2019 to provide equitable consideration to ratepayers for the utility costs they incurred that were higher than necessary because of the city’s practice of not paying for its own water, sewer, and solid waste services.”

Response: *The City agrees with the recommendation that further discussion should take place related to this item. The City Council originally addressed this item at its March 13, 2018 meeting. At the end of that meeting, City Council concluded that any decision regarding the item should be postponed until the completion of the audit. Therefore, this item will now be brought back before the Council for consideration.*

Recommendation 2D: “To ensure transparency to the public, beginning with its fiscal year 2019-20 budget, Lincoln should specify in its annual budget the amount that it intends to spend for the use of municipal utilities—water, sewer, and solid waste—and the funds that it intends to use to pay for these costs.”

Response: *The City agrees to implement this recommendation.*

Section 3

Recommendation 3A: “By August 2019, Lincoln should establish and follow policies and procedures for budgeting, preparing its financial statements at the end of each fiscal year, and approving expenditures based on the GFOA guidelines and other best practices.”

Response: *The City agrees with this recommendation and has already initiated its implementation as part of the comprehensive business process improvement initiative. On February 12, 2019, the City Council adopted a Closing Policy and a Grants Management Policy. Staff is currently developing a comprehensive budget policy as part of budget planning for the 2019/20 fiscal year. The City will ensure that all policies and procedures required by the Governmental Accounting Standards Board (GASB) and its Generally Accepted Accounting Principles (GAAP) are adopted and implemented.*

Recommendation 3B: “To help ensure that the city manager fully informs the city council of all relevant information before the council approves the annual budget, the city should specify by July 2019 the supporting information that it expects staff to provide with the proposed budget. Lincoln should then update its duty statements to require the city manager and department directors to provide the city council with this information as part of the city’s budget process.”

John Billington
Chief Deputy State Auditor
March 1, 2019
Page 5

Response: The City agrees with this recommendation and is currently developing a comprehensive budget policy that will be presented to City Council for consideration.

Recommendation 3C: “To ensure that the city complies with its purchasing policy, the city manager should immediately develop and implement procedures for staff to obtain and document the required approval from the city manager or the city council before committing city resources. Beginning immediately, the city manager should also report to the city council on a regular basis all purchases that the city manager approves.”

Response: The City agrees with this recommendation and is in the process of reviewing the policies and procedures that already exist to determine what modification is required to fully implement this recommendation.

Recommendation 3D: “To ensure that the city management holds city staff accountable for resolving deficiencies identified in its annual audits, Lincoln city council should immediately require the city manager to track and report progress in addressing outstanding audit recommendations at least quarterly.”

Response: The City agrees with this recommendation and will be regularly presenting this information to the Financial Investment and Oversight Committee and the City Council.

Recommendation 3E: “By June 2019, Lincoln should develop and follow a process to ensure that it accurately and promptly records all year-end closing entries in its general ledger and issues its CAFR within the period that state law requires.”

Response: Complete. The City Council adopted a new Closing Policy on February 12, 2019, which addresses this requirement. The City acknowledges full compliance will be demonstrated when its books are closed at the end of the fiscal year.

Section 4

Recommendation 4A: “To ensure transparency in providing accurate fee information to the public, Lincoln should immediately update and publicly disclose its master fee schedule to reflect the fees that it actually charges. In addition, Lincoln should periodically review its fee schedule to identify outdated fees that do not accurately reflect the cost of providing services. It should revise those fees to incorporate the costs commensurate with those services and update its master fee schedule accordingly.”

Response: The City agrees with this recommendation and began implementation on February 26, 2019, when the City Council approved a contract for services with a consultant tasked with completing a comprehensive update to the Master Fee Schedule and the Cost Allocation Plan, both with required annual updates.

John Billington
Chief Deputy State Auditor
March 1, 2019
Page 6

Section 5

Recommendation 5A: “To ensure that it applies the correct fee credits to developers, Lincoln should develop policies and procedures by September 2019 for establishing fee credits and maintaining adequate documentation to justify modifications to fee credits, including credits it awards based on changes in fee schedules and updated development agreements.”

Response: The City agrees with this recommendation and is addressing it primarily through the adoption of a new Public Facility Element (“PFE”) study. A draft study is completed, and the final study is anticipated to be presented to City Council by June 30, 2019. Additional procedures will be adopted for the accounting of these credits to ensure they are accurately tracked and managed.

Conclusion

The audit provided the City of Lincoln a valuable opportunity to look internally and improve its operational processes. City staff and the City Council look forward to engaging residents to address the heart of the City’s challenges, a shortfall in General Fund revenue, and the levels of service provided.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Jennifer Hanson
City Manager