



Ms. Corrie Stokes
Austin City Auditor
200 West Cesar Chavez
Suite 200
Austin, Texas 78701

Delivered by Hand

Dear Ms. Stokes:

This is a formal request for your office to conduct a thorough and complete performance and financial audit of the CodeNEXT process. Austin City Code, Section 2-5 authorizes your office to audit a program or department for mismanagement, inefficiency, ineffectiveness, or lack of controls. Austin City Code, Section 2-3-5.¹ In addition, Section 2-3-7 authorizes your office, on its own initiative, to conduct a special audit: "The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the city auditor determines that: (1) fraud, waste, or abuse, as defined in Section 2-3-5 may have occurred or is occurring..."

There is compelling evidence to believe that CodeNEXT, one of the City's most important projects, has involved serious mismanagement, inefficiency, and waste; and, therefore, an audit is warranted. The most recent CodeNEXT draft is more than 1,300 pages long, incomplete, and riddled with errors. The project is two years late and has exceeded its budget by over 400 percent, with costs growing from \$1.6 million to \$8.4 million. In addition, there has been an enormous use of staff time in the Planning Department and other departments, with little to show for it. CodeNEXT will be the most expensive and time-consuming code rewrite in the United States history, according to former President of the American Planning Association, Jim Duncan. Many taxpayers believe the CodeNEXT process is the epitome of waste, inefficiency, and dysfunction.

We are asking for your office to conduct an independent investigation and to issue a public audit report as soon as possible to prevent continued waste of taxpayer funds.

¹ Austin City Code, Section 2-3-5 provides, in relevant part, that "the city auditor may conduct a performance or financial-related audit, investigation, and other audit work to determine if... a function, program, service, or policy is effective in achieving its stated or intended result or benefit, including the level of effectiveness;... an audited function, program, service, or policy effectively, economically, and efficiently acquires, protects, and uses its resources, including personnel, property, and space..."

As you are aware, an outside consultant issued a report known as the [“Zucker Report”](#) in 2015, laying bare many major problems within the Austin Planning Department.² While some cosmetic changes have been made as a result of its findings, we are concerned that CodeNEXT suffers from the same sort of mismanagement that prompted the report.

The third draft of CodeNEXT was due on November 28th but was suddenly delayed by more than two months—for no apparent reason other than its own unworkability. The delay suggests that there may be so much waste, inefficiency, and dysfunction at play that the project is beyond salvaging. One councilmember was even quoted as saying that “it seems like we are marching on to another draft when we don’t have a corrected second draft.”

CodeNEXT appears to have suffered from consistently and fundamentally poor management. The result has been multiple poor work products, abysmal quality control, lack of clear and consistent goals, lack of performance metrics, multiple cost overruns, and project delays. As has been extensively covered in the local media, the City of Austin initiated CodeNEXT in 2013, when its cost was projected to be \$1.6 million. Since that time, the project budget has inexplicably ballooned to more than \$8 million. This includes a \$2.27 million amendment that the Austin City Council passed in October of this year, which closely followed a \$1.6 million amendment in March.³ The Council has now increased project costs through budget amendments a total of five times.

This an extraordinary amount of public money to have spent for a product that the *Austin Chronicle* claims “everybody hates.”⁴ It is more than the Department of Justice has spent on the Russia probe.⁵

Just as troubling, CodeNEXT project staff and consultants have:

- Failed to consider the disparate impact of their recommended policies on low-income communities and communities of color
- Failed to produce a single coherent draft
- Failed to produce a method for comparing the proposed new code with the existing code
- Failed to demonstrate any measurable community benefit
- Failed to win community confidence
- Failed to follow even the most basic MBE/WBE guidelines
- Failed or were egregiously late to respond to ongoing questions and comments from councilmembers and every city commission that has reviewed the project

² <http://www.austintexas.gov/zuckerfinalreport>

³ <http://www.mystatesman.com/news/local/austin-council-members-anxiety-grows-over-codenext-cost-timeline/t3b6fxdiEEg3dHMCbYlq9H/>

⁴ <https://www.austinchronicle.com/news/2017-06-09/why-does-everyone-hate-codenext/>

⁵ <http://www.cnn.com/2017/12/05/politics/robert-mueller-investigation-money-spent-fbi/index.html>

We should also point out that CodeNEXT is predicated upon the findings of "Imagine Austin," which stipulates annual updates and a major update at the five-year mark—but to our knowledge these updates have been neither produced nor attempted. As a result, CodeNext may be wasted effort as it is based on outdated and irrelevant policies that were put in place more than 7 years ago before the new 10-1 council system was implemented.

We respectfully request that your office conduct a detailed performance and financial audit of all CodeNEXT-related expenditures and activities in an attempt to discover why so little has been produced at such great public expense, and after such a long period of time.

Thank you in advance for your assistance in this important matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Fred I. Lewis", with a long horizontal line extending to the right.

Fred I. Lewis, President
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