Appendix M: Developer Reimbursement Audits

Introduction

This appendix provides guidance on Rule 293.70, Audit of Payments to Developer, which requires your district to engage a CPA to perform certain procedures and issue a report before a developer may be reimbursed for expenditures incurred on your district’s behalf.

The reimbursement audit report must be prepared and a copy must be filed with this Agency for any reimbursement paid from:

- bond proceeds
- bond anticipation note proceeds
- interest on bond or bond anticipation note proceeds
- funds derived from future bond proceeds
- maintenance tax revenue

The reimbursement audit report's contents are:

- Independent Accountant’s Report on Applying Agreed Upon Procedures
- Schedules of amounts reimbursable to each developer
- Comparison of amounts included in the Agency interoffice memorandum or other Agency approval correspondence with amounts reimbursable and amounts to be expended in the future

Each element of the reimbursement report is explained below. Although these are the minimum requirements, your Board may request its auditor to perform additional procedures to ensure that the reimbursement complies with its governing contract.

Accountant’s Report to the Board of Directors

A sample report is included in this appendix and can be used except where an authoritative pronouncement of the AICPA or GASB indicate another format is appropriate.

All of the procedures listed in this appendix must be performed. If any of these procedures are not performed, the report must include a detailed explanatory statement.

Reimbursement to Developers Schedule

While the reimbursement report can include reimbursements due to more than one developer, there can be only one report for each scheduled reimbursement date. If a developer has more than one reimbursement date, then separate reimbursement reports must be prepared.
If the payment to the developer is only for retainage previously identified in a prior developer reimbursement, there is no need for another report.

The report must reference the developer agreement by which the costs are being reimbursed and any extensions or supplements to that agreement.

The schedule must provide sufficient detail in a format that agrees with the *Purchase of Facilities* or *Transfer of Assets* sections of the Agency’s staff memorandum recommending approval of the district's bond issue.

The calculation of the developer’s reimbursable amount includes:

- the gross amount of the contract (original bid price + any change orders are to be presented as a lump sum)
- applicable adjustments for:
  - disallowed costs
  - other district’s share
  - other developer’s share
  - amounts held in escrow
  - retainage not paid
  - portions not to be included in this bond issue
  - amounts previously reimbursed to the developer
  - any other significant adjustments
  - the developer’s share of the costs
- net reimbursable costs by the district to the developer from the district's bond issue

List the interest to be paid to the developer in a separate column of the schedule. The amount of developer’s interest due is stated in relation to each contract and details the total interest paid at the net effective rate of the bond issue and/or the total interest paid at the developer’s borrowing rate. The developer’s average borrowing rate should be specified when possible.

The developer’s interest is calculated as: the number of days from the bank’s cancellation multiplied by the total cost eligible of the developer’s check to pay for reimbursement costs to the report date, which is then divided by 365 days. The result is multiplied by the reimbursement rate, which is then multiplied by the interest rate. The final amount is the developer’s interest.

The amounts to be reimbursed for nonconstruction costs are to be broken down into major categories of expenditures (creation costs; bond application report; and printing of the official statement).
**Comparison of Actual Cost to the Agency's Approved Cost**

**Summary**

The Comparison of Costs Schedule should compare the amounts actually expended to the amounts anticipated to be expended according to the Agency’s interoffice memorandums as adopted by the Commission's order approving your district’s bond issue. The notes must explain major differences between the staff's memorandum (or other Agency approval correspondence) and the official statement of the district's bond sale.

Amounts held in escrow by Commission order must be included in the *projected costs* column of the Comparison of Costs Schedule. The notes must list the amounts held in escrow and the intended use of those funds.

Significant variances between the staff’s memorandum or other Agency approval correspondence and the actual and projected costs must be explained in the reimbursement report's notes.

A significant variance is a variance over or under ten percent (10%) of the projected cost or any variance for projects completed before the date of the staff’s memorandum. The variance explanation must disclose Agency approval for a change in plans, surplus funds, or escrow releases which affect your district’s use of its bond proceeds.
Independent Accountant’s Report on Applying Agreed Upon Procedures

Board of Directors
(District's Name) (Date)
(District’s Complete Mailing Address)

At your request, we have performed the procedures described below with respect to the accompanying Comparison of Costs Schedule to the Interoffice Memorandum as adopted by the Commission order approving the bond issue (and the Recapitulation of Amounts to be Reimbursed to Developers). Our report was made for the purpose of providing you with information on the use of the District's bond proceeds. Our report is not to be used for any other purpose. The procedures we performed included:

1. Information for the use of proceeds was obtained from the Texas Commission on Environmental Quality’s order dated (insert date), approving the $ (insert amount) Bond Issue, which included the interoffice staff memorandum as amended.

2. Information for the costs to be reimbursed to the developers was obtained from the review of reimbursable costs as of (insert date). Information for the actual costs paid directly by the district was obtained from a review of the district's records as of (insert date).

3. The projected additional costs to be funded from this bond issue were obtained from invoices and discussions with various parties who are to be reimbursed from this bond issue.

Because the above procedures do not constitute an examination made according to generally accepted auditing standards we do not express an opinion on the accompanying schedules. In connection with the procedures referred to above, no matters came to our attention that caused us to believe that amounts included in the schedule should be adjusted. If we had performed additional procedures, or if we had made an examination of the financial statements according to generally accepted auditing standards other matters might have come to our attention that would have been reported to you. This report relates only to the attached Developer Reimbursement Report and the Comparison of Costs Schedule and does not extend to any financial statements of District's Name taken as a whole.

________________________________
(Signature of Auditor or Firm)
Schedule A

(District's Name)

Calculation of Amounts to Be Paid to Developer A from Series 20__ Bond Issue Proceeds

According to the agreement with District Name, Dated ______________, 20__
and Extension No. 1, Dated ______________, 20__ As of ______________, 20XX

<table>
<thead>
<tr>
<th>Developer A</th>
<th>Description</th>
<th>% Complete</th>
<th>Reimbursable Cost</th>
<th>Interest*</th>
</tr>
</thead>
<tbody>
<tr>
<td>X. Y. Z. Contractors, Inc.</td>
<td>Strawberry Fields, Section I</td>
<td>100%</td>
<td>$730,342</td>
<td></td>
</tr>
</tbody>
</table>
- Less Disallowed Costs | (4,378) |
- Less Developer A Share | (4,520) |
- Less Amount Held in Escrow | (710,895) |
- Interest Accrued at 9.321% | $10,549 |

| James Bros. Construction Co. | Strawberry Fields, Section II, Phase I | 70% | 343,521 | 
- Less Retainage | (3,521) |
- Less Amount Paid by Developer B | (60,431) |
- Less Developer A Share | (3,743) |
- Less Portion not Included this Issue | (68,540) |
- Less Amount Held in Escrow | (11,150) |
- Interest Accrued at 8.074% | 10,735 |

| Blackquiley Excavation Co. | Strawberry Fields, Sections I & II, Phase I & II | 100% | 129,867 | 
- Less Disallowed Costs | (2,287) |
- Less Developer A Share | (38,275) |
- Less Amount Held in Escrow | (710,895) |
- Interest Accrued at 11.56% | 89,305 |

| ABC Contractors | Wastewater Plant Expansion | 50% | 102,569 | 
- Less Retainage | (10,256) |
- Less Other District’s Share | (46,157) |
- Interest Accrued at 9.533% | 46,156 |

| MUD 2 | 50% Share of Water Plant Expansion | 80% | 143,896 | 
- Less Retainage | (14,389) |
- Interest Accrued at 7.969% | 129,507 |

| Curver, Sheltie, and Borden, Inc. | Engineering Fees related to: | 
1. Sections I and Section II, Phase 1 and 2 | 100% | 150,344 |
- Less Portion not included this issue | (5,227) |
- Less Disallowed Costs | (23,897) |
- Less Other District’s Share | (36,305) |
- Interest Accrued at 8.379% | 5,427 |

| Elder, Eggs, and Stream, Attys. | Legal Fees for Creation | 321,345 | 
| News | Creation Notices | 678 | 321,562 |

Subtotal—Reimbursable Costs and Interest Due to Developer A | 895,489 |
Less: Adjustment for erroneous prior payment to developer (See Note 3) | (40,000) |
Total Reimbursable Costs Due to Developer A | $855,489 |

Total to Be Paid from Series 20__ Bond Issue Proceeds | $905,789 |

* Note: Interest is based on an expected reimbursement date of ______________, 20XX.
## Schedule B

(District's Name)

Comparison of Actual Costs with Cost Summary As Approved by the Texas Commission on Environmental Quality

<table>
<thead>
<tr>
<th>Cost Item</th>
<th>Costs Reimbursed to Developers</th>
<th>Costs Paid Directly by District</th>
<th>Total Paid (1 + 2)</th>
<th>Projected Costs (3)</th>
<th>Projected Total (4)</th>
<th>Interoffice Memorandum Total (5)</th>
<th>Variance Over or Under (5) – (6) (7)</th>
<th>% Variance Over or Under (7) × (6) × 100</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction Costs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water, Sewer, and Drainage Facilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Section I</td>
<td>$10,549</td>
<td>$10,549</td>
<td>$710,895</td>
<td>$721,444</td>
<td>$720,000</td>
<td>$1,444</td>
<td>0.2</td>
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<td>Section II, Phase I</td>
<td>195,118</td>
<td>195,118</td>
<td>4,351</td>
<td>199,469</td>
<td>204,000</td>
<td>(4,531)</td>
<td>(2.2)</td>
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<td>Section II, Phase II</td>
<td>12,475</td>
<td>12,475</td>
<td>24,150</td>
<td>36,625</td>
<td>35,180</td>
<td>1,445</td>
<td>4.1</td>
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<td>Excavation—Diversion Channel</td>
<td>89,305</td>
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<td></td>
<td>89,305</td>
<td>89,000</td>
<td>305</td>
<td>0.3</td>
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<td>Water Plant Expansion</td>
<td>129,507</td>
<td>129,507</td>
<td>32,000</td>
<td>161,507</td>
<td>155,000</td>
<td>6,507</td>
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<tr>
<td>Wastewater Plant Expansion</td>
<td>46,156</td>
<td>46,156</td>
<td>165,151</td>
<td>211,307</td>
<td>200,000</td>
<td>11,307</td>
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<td>Engineering for Water, Sewer, and Drainage Facilities</td>
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<td>84,712</td>
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<td>84,712</td>
<td>80,000</td>
<td>4,712</td>
<td>5.9</td>
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<td>Engineering for Plant Expansion</td>
<td>5,427</td>
<td>5,427</td>
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<td>5,427</td>
<td>5,500</td>
<td>(73)</td>
<td>(1.3)</td>
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<tr>
<td><strong>Total Construction Costs</strong></td>
<td>573,249</td>
<td>573,249</td>
<td>936,547</td>
<td>1,509,796</td>
<td>1,488,680</td>
<td>21,116</td>
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<tr>
<td><strong>Nonconstruction Costs</strong></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Legal Fees</td>
<td>217</td>
<td>12,121</td>
<td>12,338</td>
<td>12,338</td>
<td>10,000</td>
<td>2,338</td>
<td>23.4</td>
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<td>Fiscal Agent Fees</td>
<td>41,563</td>
<td>41,563</td>
<td>41,563</td>
<td>50,000</td>
<td>(8,437)</td>
<td>(16.9)</td>
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<td>Creation Costs</td>
<td>322,023</td>
<td>322,023</td>
<td>322,023</td>
<td>325,000</td>
<td>(2,977)</td>
<td>(0.9)</td>
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<tr>
<td>Capitalized Interest</td>
<td>400,000</td>
<td>400,000</td>
<td>400,000</td>
<td>382,000</td>
<td>18,000</td>
<td>4.7</td>
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<td>Bond Discount</td>
<td>40,000</td>
<td>40,000</td>
<td>40,000</td>
<td>50,000</td>
<td>(10,000)</td>
<td>(20.0)</td>
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<td>Administration Costs</td>
<td>16,437</td>
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<td>16,437</td>
<td>20,000</td>
<td>(3,563)</td>
<td>(17.8)</td>
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<td>Developer Interest</td>
<td>50,300</td>
<td>50,300</td>
<td>50,300</td>
<td>62,320</td>
<td>(12,020)</td>
<td>(19.3)</td>
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<td><strong>Total Nonconstruction Costs</strong></td>
<td>372,540</td>
<td>510,121</td>
<td>882,661</td>
<td>882,661</td>
<td>89,320</td>
<td>(16,659)</td>
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<td><strong>Total Bond Issue</strong></td>
<td>$945,789</td>
<td>$510,121</td>
<td>$1,455,910</td>
<td>$936,547</td>
<td>$2,392,457</td>
<td>$2,388,000</td>
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