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 been 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 <u>or</u> 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

	Developer A			
Description	% Complete (Date Complete)	Reimbursable Cost		Interest*
X. Y. Z. Contractors, Inc.				
(Contract 1—Water, Sewer, and Drainage)	100%			
Strawberry Fields, Section 1	(4/10/XX)	$ 730,342		
Less Disallowed Costs		(4,378)		
Less Developer A Share		(4,520)		
Less Amount Held in Escrow		(710,895)	$ 10,549	
Interest Accrued at 9.321%				$ 973
James Bros. Construction Co.				
(Contract 2—Water, Sewer, and Drainage)	70%			
Strawberry Fields, Section II, Phase 1		343,521		
Less Retainage		(4,351)		
Less Amount Paid by Developer B		(60,431)		
Less Developer A Share		(83,621)	195,118	
Strawberry Fields, Section II, Phase 2		108,908		
Less Portion not Included this Issue		(68,540)		
Less Developer A Share		(3,743)		
Less Amount Held in Escrow		(24,150)	12,475	
Interest Accrued at 8.074%				16,735
Blackqulley Excavation Co.				
(Contract 1—Diversion Channel)	100%			
Strawberry Fields, Sections I & II, Phase I & II	(12/14/XX)	129,867		
Less Disallowed Costs		(2,287)		
Less Developer A Share		(38,275)	89,305	
Interest Accrued at 11.56%				10,326
ABC Contractors (Contract 1)	50%			
Wastewater Plant Expansion		102,569		
Less Retainage		(10,256)		
Less Other District's Share		(46,157)	46,156	
Interest Accrued at 9.533%				4,400
MUD 2 50% Share of Water Plant Expansion				
Contract with ABC Contractors, Inc.	80%	143,896		
Less Retainage		(14,389)	129,507	
Interest Accrued at 7.969%				10,321
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	(9/20/XX)	(5,430)		
Less Disallowed Costs		(23,897)		
Less Developer Share		(36,305)	84,712	
2. Wastewater Plant	80%	10,654		
Less Other District's Share		(5,227)	5,427	
Interest Accrued at 8.379%				7,545
Elder, Eggs, and Stream, Attys.				
Legal Fees for Creation		321,345		
Out-of-Pocket Expenses for Bond Issue		217	321,562	
News Creation Notices			678	
Subtotal—Reimbursable Costs and Interest Due to Developer A			895,489	50,300
Less: Adjustment for erroneous prior payment to developer (See Note 3)			(40,000)	
Total Reimbursable Costs Due to Developer A			$ 855,489	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

Cost Item	Costs Reimbursed to Developers	Costs Paid Directly by District	Total Paid Costs (1) + (2)	Projected Costs	Total Paid and Projected (3) + (4)	Interoffice Memorandum Total	Variance Over or (Under) (5) – (6)	% Variance Over or (Under) (7) ÷ (6) × 100
Construction Costs	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Water, Sewer, and Drainage Facilities								
Strawberry Fields								
Section I	$10,549		$10,549	$710,895	$721,444	$720,000	$1,444	0.2
Section II, Phase I	195,118		195,118	4,351	199,469	204,000	(4,531)	(2.2)
Section II, Phase II	12,475		12,475	24,150	36,625	35,180	1,445	4.1
Excavation—Diversion Channel	89,305		89,305		89,305	89,000	305	0.3
Water Plant Expansion	129,507		129,507	32,000	161,507	155,000	6,507	4.2
Wastewater Plant Expansion	46,156		46,156	165,151	211,307	200,000	11,307	5.7
Engineering for Water, Sewer, and Drainage Facilities	84,712		84,712		84,712	80,000	4,712	5.9
Engineering for Plant Expansion	5,427		5,427		5,427	5,500	(73)	(1.3)
Total Construction Costs	573,249		573,249	936,547	1,509,796	1,488,680	21,116	
Nonconstruction Costs								
Legal Fees	217	12,121	12,338		12,338	10,000	2,338	23.4
Fiscal Agent Fees		41,563	41,563		41,563	50,000	(8,437)	(16.9)
Creation Costs	322,023		322,023		322,023	325,000	(2,977)	(0.9)
Capitalized Interest		400,000	400,000		400,000	382,000	18,000	4.7
Bond Discount		40,000	40,000		40,000	50,000	(10,000)	(20.0)
Administration Costs		16,437	16,437		16,437	20,000	(3,563)	(17.8)
Developer Interest	50,300		50,300		50,300	62,320	(12,020)	(19.3)
Total Nonconstruction Costs	372,540	510,121	882,661		882,661	89,320	(16,659)	
Total Bond Issue	$945,789	$510,121	$1,455,910	$936,547	$2,392,457	$2,388,000	$4,457	