City of Chino Hills
Community Development Department
Administration
14000 City Center Drive
Chino Hills, CA 91709
(909) 364-2740 Fax (909) 364-2795
www.chinohills.org

Trust Deposit Account Agreement

October 1, 2007

Final

1. In order to process a land development project in the City of Chino Hills (City), a Trust Deposit Account (TDA) must be established prior to the City commencing any work on the project. The following information must be provided and the following provisions agreed to in order to establish a TDA:

    a. Name of Applicant: Project Owner or Legal Entity: (This will be the corporate name under which all financial transactions for this project will be conducted.)

    b. Billing Address for Applicant.

    c. Contact Person for the Applicant and Contact Person's Phone Number(s).

    d. Name of Project, Project Description & Location.

2. The following will be provided by City staff:

    a. The required project deposit amount.

    b. An assigned Project Manager.

3. When paying the initial TDA deposit amount or any required supplemental payments:

    a. The Trust Deposit Account number must be placed on all checks to ensure proper posting of payments made.

    b. There will be a return check charge of $33.00.

    c. Once a check has been returned, applicant must pay with a cashier's check or cash.

    d. A Stop Work Status will be issued if required TDA deposits are not paid within two weeks of the request for additional TDA funds. Work will re-commence once the funds are received. (If the applicant does not agree with project charges and would like an opportunity to protest the charges without slowing work on the project, he/she may pay the required TDA supplemental amount in order to keep the project moving forward while the protest of charges is considered.)

    e. The Project Manager will be the communication link between applicants and the City, except for issues that are purely financial in nature, which the applicant may direct to Finance staff.

4. On a monthly basis, the Finance Department will mail financial status statements to the applicant, which will consist of project costs incurred by City staff, consultants, and legal fees, in addition to reimbursable costs, such as postage, courier services, County Clerk charges, etc.

5. Applicant has 30 days from the date of preparation of the monthly statement to dispute any charge(s).

    a. Disputes shall be submitted, in writing, to the Finance Department. Finance staff will route disputes to the appropriate Department Director.

6. City will investigate any charge disputes within ten (10) business days of written notice of the dispute and will notify applicant of outcome of investigation within five (5) additional business days. <u>This decision will be final</u>.

7. Supplemental deposits may be required periodically, which will be determined by the Project Manager and/or the Department Director. When additional deposit has been requested, work will be suspended on the project when ninety-five (95) percent of the deposit previously received has been expended.

8. A separate, ancillary project TDA may be required for large projects if there are Council-approved contracts issued to support the project, such as for EIR consultant services, quality control engineering, etc. This will be handled separately from the primary project TDA. A separate monthly financial statement will be prepared for this type of TDA.

9. Ancillary TDAs will not be included in or referenced on a project's monthly primary account TDA statement.

10. Work will not continue unless and until any required additional TDA deposit amount is received. Projects will not be brought before the approving body for review and approval if money is due.

11. If a change of ownership occurs for the project, the existing owner must notify the City, in writing, of the change, and must provide for the effective date of the change.

    a. The Project Manager, in cooperation with the Building/Engineering/ Planning Counter will open a new account, along with requiring an initial TDA deposit for the new applicant. This will be submitted to Finance, as with the initiation of any new project TDA.

    b. A new TDA number will be issued for the new legal entity.

    c. If the new applicant has acquired (as part of the project acquisition) the project TDA funds already deposited with the City by the existing applicant, a notarized letter from the existing applicant directing the transfer of those funds to the new applicant must be submitted to the City.
    d. f the new applicant is not acquiring the project funds on file with the City as part of the ownership transfer, the existing applicant will go through the TDA refund process once all charges for the project have been paid and the outlined deposit refund timeframe has transpired.

12. Post Entitlement/Public Improvements TDAs:

    a. For the Post Entitlement/Public Improvements phase, a new TDA will be created. The Engineer's estimate for public improvements for the project will be used to establish the required deposit amount.
    b. The deposit amount may consist of new and/or transferred funds from the Entitlement TDA, if the applicant is the same for both phases of the project, or from new funds if the applicants are different for the two phases of the project.

13. Refund Process:

    a. At the completion of the project, a refund for any remaining TDA funds will be issued to the applicant, commensurate with the project's bond release.
        i. The applicant is to request a refund through the defined refund process.
        ii. If no refund is requested, any remaining funds may become the property of the City after the required period of time elapses, in accordance with California law.

    b. If a new legal entity acquires a project before its completion, the prior entity may request a refund of any remaining TDA balance in the prior entity's account. Such a refund will not occur until at least 90 days has elapsed after the effective date of the change in project ownership, and City staff has determined that all appropriate charges have been posted and collected against the prior entity's TDA.

14. Miscellaneous:

    a. TDA deposits may be used to cover unpaid bills owed to the City, including any department or district it controls or administers, e.g. water charges that have not been paid.

    b. Monthly statement financial questions are to be directed to the Finance Department, Trust Deposit Account Specialist.

    c. All other project questions are to be directed to the Project Manager.

    d. There is no guarantee that a project will be approved. Regardless of the approval or non-approval of a project, all costs for processing the project must be paid.

    e. Project staff will, to the best of their ability, provide an anticipated cost to process a project. This estimate will not include Post Entitlement work, as that dollar amount is determined by the Engineer's Estimate once a project is Entitled.

        i. Many factors impact the cost of processing a project, including the completeness and quality of a project submittal, the timeliness of required submittals, environmental issues/concerns, neighborhood issues/concerns, etc. For these reasons, staff can only provide a projected processing cost, but the ultimate cost may be higher. The applicant is responsible to pay all costs to process a project, regardless of whether or not the costs are higher than staff's initial projection.

_____ _____

Applicant Signature Date

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Print Name & Title