

## **ESCROW AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ hereinafter referred to as “Applicant”, and the Planning or Zoning Board of the Township of Burlington, hereinafter referred to as “Board”, and the Township Council of the Township of Burlington, hereinafter referred to as “Township”.

**WHEREAS**, the Applicant is proceeding under the Zoning Ordinance/Land Development Ordinance for approval of a \_\_\_\_\_; and

**WHEREAS**, the Ordinance requires the Applicant to establish an escrow whereby work required to be performed by professionals employed by the Board will be paid for by the Applicant as required under the provisions of the Ordinance cited above; and

**WHEREAS**, both parties feel that it is appropriate to reduce this understanding to written form.

**WITNESSETH: IT IS** mutually agreed between the parties that:

**Section 1. Purposes**

The Board authorizes its professional staff to review, inspect, report and study all plans, documents, statements, improvements, and provisions made by the Applicant in conforming to the requirements of the Ordinance cited and referred to above. The Board directs its professional staff to make all oral and/or written reports to the Board of its conclusions and findings derived from the review, study, and investigation and like or similar duties performed as elsewhere authorized. The Applicant agrees to pay all reasonable professional fees incurred by the Board for the performance of the duties outlined above.

**Section 2. Escrow Established**

Applicant, Board and Township, in accordance with the provisions of this agreement, hereby create an escrow to be established with the Treasurer of the Township of Burlington and to be maintained in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits.

**Section 3. Escrow Funded**

Applicant by execution of this agreement shall pay to the Township, to be deposited in the depository referred to in Section 2, such sums as are required by the Zoning Ordinance/Land Development Ordinance. The applicant shall be notified by the Township in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. Execution of this agreement by the Township acknowledges receipt of the sums referred to under this paragraph.

**Section 4.**     *Increase in Escrow Fund*

If during the existence of this agreement the funds held by the Township shall be insufficient to cover any voucher or bills submitted by the professional staff and reviewed and approved by the Board, Applicant shall within fourteen (14) days from the date of receipt of written notice deposit additional sums with the Township to cover the amount of the deficit referred to above. During this period the professional staff shall cease all review activities. The written notice shall be sent by the Land Use Administrator setting forth the amount of the deficit and the member or members of the professional staff to whom the additional sums are due. Unless otherwise shown, receipt shall be presumed to have occurred within three (3) days after mailing.

**Section 5.**     *Submission of Vouchers by Professional Staff*

The professionals referred to in this agreement, upon the completion of their services or periodically during the performance of their services, shall submit vouchers conforming to the requirements established by the Township for vouchers of the type and kind referred to under this paragraph. Said vouchers shall include the total of all fees and costs incurred as a result of the services set forth under Section 1 of this agreement and shall contain a brief description of the services which have been rendered by the professional concerning the applicant's application.

**Section 6.**     *Board Review*

The Land Use Administrator shall review all vouchers to determine whether they have been submitted in the appropriate form. If the Land Use Administrator determines that the vouchers are in the appropriate form then the vouchers shall be submitted to the Board for review to determine whether the services have been performed in the manner and to a degree required by this agreement. The Board shall process said vouchers in the same manner and under the same terms as are normally employed for vouchers submitted for work performed on behalf of the Township. Following the determination by the board that services have been performed properly, the Land Use Administrator shall mail a copy of each approved voucher to the Applicant. At the conclusion of this processing the amounts specified in said vouchers shall be deducted by the Township from the escrow established pursuant to the agreement.

**Section 7.**     *Applicant's Objection*

It is expressly agreed to by the Applicant that the right to object to the payment of any voucher is hereby expressly waived unless written notice is received by the Land Use Administrator by certified mail no later than three (3) days prior to the next regularly scheduled Board meeting following the meeting in which the contested voucher of vouchers had been approved. The writing notice shall have accompanying it a copy of each voucher being objected to. The standard of review to be utilized by the Board in determining whether the payment of any voucher is proper is whether the fees incurred are reasonable and whether the work has been performed properly. It is furthermore understood that the Applicant shall have the right to make periodic inspections of the records maintained by the Township during normal office hours to determine the status of the escrow account.

**Section 8.**     *Interest Allocations*

Except as otherwise set forth hereinafter all interest earned on money deposited pursuant to this agreement which shall be held in escrow shall become the property of the Township as compensation for administrative services rendered in connection with this agreement. An Applicant shall be entitled to payment of interest whenever the Applicant shall have deposited an amount of money in excess of \$5,000.00 and the amount of interest paid on that money shall exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the Applicant and shall be refunded by the Township annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be, i.e., for professional services rendered to review applications for development, for municipal inspection fees pursuant to N.J.S.A. 40:55D-53 or to satisfy the guarantee requirements of 40:55D-53.a., however at that time the Township shall deduct 33 1/3% of the interest for administrative and custodial expenses incurred by the Township in fulfilling its obligations pursuant to this agreement.

**Section 9.**     *Refund*

In the event that the escrow sums posted are more than those required, or in the event that the Applicant shall abandon the application, excess funds shall be returned to the Applicant within forty-five (45) days of the issuance of the final certificate of occupancy for the project which is the subject of the application or receipt of written notice of the abandonment of the application. Prior to the issuance of the final certificate of occupancy for any project for which Board approval has been received or upon receipt of written notice of abandonment of an application, the Land Use Administrator shall determine from the professional staff whether there are any additional sums required to be paid from the escrow fund. In the event that there are, the Land Use Administrator shall notify the Treasurer of the amounts to be held in that account.

**Section 10.**    *Failure to Maintain Escrow Fund*

In the event that notice has been sent to the Applicant and the Applicant has failed to pay the increased amount into the escrow fund within the time period set forth in Section 4 then the Board shall cease further consideration of the application or of any other then pending application of the Applicant until the additional sum is given to the Land Use Administrator for deposit into the escrow fund. The Applicant hereby expressly consents to a continuance of the statutorily mandated period for completion of Board review pursuant to the Municipal Land Use Law for a period of forty-five (45) days from the date of the notice from the Land Use Administrator and hereby expressly consents to an automatic rejection of Applicant's application without prejudice and without any further action by the Board if within said period the additional sum has not been given to the Land Use Administrator.

Furthermore, in the event that notice has been sent to the Applicant and the Applicant has failed to pay the increased amount into the escrow fund within the time period set forth in Section 4 and Board review of the application has been completed, the Applicant is hereby placed on notice that the Township will not cause certificates of occupancy to be issued and may take such further action including, but not limited to, refusing to perform any and all further inspection, issuance of stop work orders and other relief as may be necessary.

**Section 11.**    *Performance Escrow – Inspections*

The provisions of this agreement shall apply to the performance escrow for inspection to be paid to the Township. The performance escrow shall be posted prior to construction of an onsite, offsite, on-

tract or off-tract improvement. The amount of the escrow shall be 5% of the cost of improvements as calculated by the Board's Engineer.

The Applicant hereby agrees that the Board Engineer will be notified in writing forty-eight (48) hours prior to the start of any construction. Failure of the Applicant to provide such notice may result in additional inspection costs.

**Section 12.** Addresses to which Notices are to be Sent

All notices required by this agreement in writing shall be sent to the following addresses:

Land Use Administrator  
Township of Burlington  
851 Old York Road  
2<sup>nd</sup> Floor  
Burlington, NJ 08016  
(609) 239-5810

Address of Applicant:

NAME		
ADDRESS		
MUNICIPALITY	STATE	ZIP CODE
TELEPHONE NUMBER		

**IN WITNESS WHEREOF** the parties hereto have their hands and seals the date first written above.

\_\_\_\_\_  
, Applicant

Sworn and subscribed to before me  
this \_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
Notary Public