

DEPTFORD TOWNSHIP MUNICIPAL UTILITIES AUTHORITY



Escrow Agreement

THIS AGREEMENT made this _____ day of _____,
20____ between _____
(Name of Applicant responsible for the escrow fund and with their physical address)

_____ for Block _____, Lot _____ for the project known as _____
_____ and the Deptford Township Municipal
(project name)

Utilities Authority (Authority).

WHEREAS, the Authority Rules and Regulations obligates the Applicant to establish an escrow account whereby work required to be performed by Authority professionals will be paid for by the Applicant as authorized under N.J.S.A. 40:55D *et seq.* and the provisions of the Authority's Rules and Regulations.

WHEREAS, both parties agree that it is appropriate to reduce this understanding to a written form.

W I T N E S S E T H

IT IS mutually agreed by and between the parties herein that:

Section 1. PURPOSE

The Deptford Township Municipal Utilities Authority authorizes its professional and administrative staff to review, inspect, report and study all plans, documents, statements, improvements, and provisions made by the Applicant. The Authority directs its professional staff and administrative staff to make all oral and/or written reports/communications to the Authority of its conclusions and findings derived from the review, study, investigation and like or similar duties performed as elsewhere authorized, including professional time allocated to such application at the Authority's regular and special meetings. The Applicant agrees to pay all professional and administrative fees incurred by the Authority for the performance of the duties outlined above.

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Section 2. ESCROW ESTABLISHED

The escrow fund shall be in an amount to be \$500.00 or 5% of the estimated amount of the project cost as determined by the Authority Engineer, whichever is greater.

- A. In the event the escrow fund to be established is for an amount which is \$5,000 or less, the Applicant and Authority, in accordance with the provisions of this Agreement hereby agree to create and establish the escrow with the designated Fiscal Officer of the Authority.
- B. In the event the escrow fund to be established is for an amount which exceeds \$5,000, the Applicant and the Authority, in accordance with the provisions of this Agreement, the Authority Rules and Regulations, N.J.S.A. 40:55D *et seq.* and N.J.S.A. 40:14B-20.1, hereby agree to create and establish the escrow as follows:

(1) The Authority shall deposit the escrow fund in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the Federal Government, or in any other fund or depository approved for such deposits by the State of New Jersey, in an account bearing interest at a minimum at the rate currently paid the institution or depository on time or savings deposits;

(2) The Authority shall notify the Applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit;

(3) The Authority shall not be required to refund an amount of interest paid on a deposit which does not 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 to him/her/it by the Authority annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Authority may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

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Section 3. ESCROW FUNDED

The Applicant, by execution of this Agreement, shall pay to the Authority, to be deposited as described above, such sums as are required by the Authority's Rules and Regulations and each and for every Agreement entered into by the parties.

Section 4. INCREASE IN ESCROW FUND

If during the existence of this Escrow Agreement the funds held by the escrow holder shall be insufficient to cover any voucher or bill submitted by the professional staff and after review and approval by the Authority, then the Applicant shall, within fourteen (14) days from the date of receipt of written Notice by the Authority, deposit additional sums, in the amount requested by the escrow holder to cover the amount of the deficiency and allow for additional work to continue. Receipt of the written notice to the Applicant shall be presumed to have been received three (3) days after mailing.

Should the Applicant fail to cure their deficient escrow account, all work by the Authority and its professionals shall cease. The Applicant shall be sent a Second Notice (certified and regular mail) advising that if the deficiency is not rectified within seven (7) days from the date of receipt of the Second Notice all prior approvals by the Authority shall be voided. Deptford Township shall be notified that the Authority approvals have been voided.

Thereafter, the Applicant may seek to reinstate their prior approvals and recommence work only upon Application to and approval of the Authority Board and the replenishment of their escrow account in the amount previously requested.

Section 5. BOARD OF REVIEW

The designated Fiscal Officer of the Authority shall review the vouchers submitted by the professionals to determine whether the services have been performed in the manner and to the degree required by this Agreement. Upon making a determination that said services have been performed properly, said official 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 Authority. At the conclusion of this processing, the amounts specified in said vouchers shall be deducted by the escrow holder from the escrow established pursuant to this Agreement and Authority's Rules and Regulations.

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Section 6. CONTEST OF REASONABLENESS

The Applicant agrees that the reasonableness of any fee or charge may be challenged by an appropriate legal action brought within forty-five (45) days from the date that the Applicant's escrow deposit balance is returned or forty-five (45) days from the date the Applicant receives notice that additional payments are requested to pay charges and fees not covered by the escrow deposits. The contest of reasonableness must first be in accordance with N.J.S.A. 40:14B-76 and should it not resolve in accordance with N.J.S.A. 52:27d-127.

The Applicant understands and agrees that the aforesaid procedure shall be the sole and exclusive method of challenging the reasonableness of charges and fees and hereby waives any longer statute of limitations.

Section 7. COLLECTION

Should the Applicant fails to pay any sum required to be paid hereunder when due, the escrow holder shall be entitled to pursue all remedies at law or equity.

Section 8. INTEREST ALLOCATIONS

Any and all interest which would result from or arise out of the deposits being made and held in escrow for the Applicant shall revert to the use and enjoyment of the escrow holder as compensation for the services rendered in connection with this Escrow Agreement, unless otherwise specified herein pertaining to the escrow funds exceeding \$5,000.00.

Section 9. GUARANTEE

In the event that the applicant fails to comply with all of the terms and conditions of this Agreement, the Authority is authorized to pursue all of the remedies against the guarantors to this Agreement as if the guarantors were, in fact, the Applicant.

The Guarantors agree to be bound by all of the terms and conditions of the Agreement. The Guarantors further agree to provide to the Authority, at its discretion, sufficient financial information to assure the Authority that the Guarantors is able to satisfy the financial obligations of the Applicant should they be in default. The Guarantors shall cure the financial obligations of the Applicant should the Applicant be in default on their escrow obligations. The Guarantors shall be the principals, partners or corporate officers, as well as the spouses of the Applicant, or such other parties as the Authority deems appropriate.

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Section 10. TRANSFER OF FUNDS

In the event the Applicant transfers ownership of the project to another party pending the acceptance by the Authority of the project the escrow account shall remain in the name of the original Applicant. The monies in the escrow account under the name of the original Applicant shall be returned to the original Applicant within 45 days of notice of the transfer.

The new owner of the project shall be required to establish with the Authority a new escrow account which shall be \$500.00 or 5% of the estimated amount of the project cost based on the amount of the Performance Guarantee remaining on the project.

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

APPLICANT: _____
Signature of Applicant

BY: _____
PRINT NAME OF APPLICANT DATE

PHYSICAL ADDRESS OF APPLICANT

DEPTFORD MUNICIPAL UTILITIES AUTHORITY

BY: _____
PRINT NAME DATE

898 Cattell Road, Wenonah, New Jersey 08090

The Applicant shall be mailed a copy of this Agreement by the Escrow Clerk along with the notification of escrow deposit as set forth in Section 2B(2).