

## **APPENDIX G**

# **ESCROW AND LIEN AGREEMENT**



THIS AGREEMENT, made on the \_\_\_ day of \_\_\_\_\_, 19\_\_ by and between: \_\_\_\_\_, Applicant, whose address and telephone number is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner, whose address and telephone number is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and the Willingboro Municipal Utilities Authority (WMUA), whose address and telephone number is: 433 John F. Kennedy Way, Willingboro, New Jersey 08046-2119 (609) 877-2900 is entered into by, among and between the Applicant; the Owner; and the WMUA and is intended to be a binding agreement inuring to the benefit of the WMUA, with joint and several liability on the parts of the Applicant and the Owner, and which provides as follows:

A. REIMBURSABLE SERVICES.

The Applicant and Owner agree to be jointly and severally liable for all costs and fees incurred by the WMUA for professional services rendered by professionals employed by the WMUA for review of applications and all work performed in connection with the development project as herein identified. Such professionals shall include, but not be limited to engineers and attorneys.

B. DEVELOPMENT PROJECT.

The development project to which this agreement applies is known as and located \_\_\_\_\_  
Official \_\_\_\_\_ Tax \_\_\_\_\_ Map, \_\_\_\_\_ Township \_\_\_\_\_ of  
Lot \_\_\_\_\_, Block \_\_\_\_\_

C. ESCROW DEPOSIT

The Applicant shall deposit with the WMUA as an initial deposit the sum of money set forth herein to cover the reimbursable services:

1. Initial Filing Fee and Preliminary Engineer and Legal Fees: \$ \_\_\_\_\_
2. Review and Inspection Fees: \$ \_\_\_\_\_

D. ESTABLISHING FEES

Unless the known or anticipated circumstances in connection with the development project indicate that the reasonably anticipated fees to be charged shall justify a different level of fees, the following escrow deposit shall apply:

When the reasonably anticipated estimated professional fees are less than five thousand dollars (\$5,000.), the applicant is required to deposit the full estimated sum. When the balance on deposit is reduced to twenty-five percent (25%) of the initially deposited sum, and the then current estimate of remaining anticipated fees exceeds the sum remaining on deposit to complete review of the development project, the applicant shall, upon notice from the WMUA, deposit the additional sum estimated to be reasonably necessary to complete the development project review and inspection process.

When the reasonably anticipated estimated professional fees are more than five thousand dollars (\$5,000.), the applicant is either required to deposit the full estimated sum, or to make incremental deposits of five thousand dollars (\$5,000.) each, as requested by the WMUA. When the balance on deposit is reduced to twenty five percent (25%) of the initially deposited sum, and the then current estimate of remaining anticipated fees exceeds the sum remaining on deposit to complete review and inspection of the development project, the Applicant shall, upon notice from the WMUA, deposit an additional incremental sum, not to exceed five thousand dollars (\$5,000.) in any one increment, as determined by the WMUA to be reasonably necessary to complete the development project review and inspection process.

The parties hereto agree that neither the WMUA nor its employees or professionals shall have any obligation to begin or continue any work whatsoever with respect to this development project during any time period when the Applicant is not in compliance with the above provisions.

The Owner shall have the option of making any of the aforementioned deposits on behalf of the Applicant; however, the Applicant and Owner expressly and explicitly relieve the WMUA of any obligation for accountability of funds as between the Applicant and Owner.

The Owner expressly and specifically agrees and acknowledges that any professional fees incurred by the WMUA in connection with this development project shall be and remain a lien upon the real property which is the subject of the development project until paid in full. If any such fees remain unpaid for any period of time in excess of three (3) months after written notice thereof from the WMUA to the Owner, interest shall accrue thereon until paid in full at the legal rate of interest specified to apply for New Jersey Superior Court Judgments.

E. RELEASE OF EXCESS DEPOSITS

In the event that there remain unused deposited funds after full reimbursement of the WMUA for all applicable professional fees as set forth herein, the parties agree and direct that such funds shall be released by the WMUA to the OWNER.

F. DISPUTE BETWEEN THE APPLICANT AND OWNER.

Both the Applicant and Owner hereby release the WMUA from any claim arising between the Applicant and Owner and further hereby agree to hold the WMUA harmless from any costs or expenses which it may incur as a result of any dispute between the Applicant and Owner, or arising from this Agreement.

G. CHANGE IN APPLICANT OR OWNER.

The Applicant and Owner agree that the WMUA shall have no obligation to make any specific distribution of funds deposited or remaining on deposit with the WMUA in the event of the change in ownership of the property or a change in the Applicant developing the project. The Applicant and Owner agree that neither has any claim for deposited funds which have been utilized by the WMUA for actual reimbursement purposes. The Owner and Applicant hereby agree that the WMUA's release of any remaining unused funds to either the Applicant or Owner shall constitute a full and complete accord and satisfaction of all WMUA responsibility or liability to both Owner and Applicant.

The Owner agrees that this ESCROW AND LIEN AGREEMENT shall and does constitute a lien on the real property which is the subject of the proposed development project. As such any obligation under this agreement shall be and is a continuing lien upon that real property until satisfied in full.

The Applicant and Owner hereby agree and understand that neither this agreement nor anything else which occurs between the WMUA, its agents or employees and either or both of them is intended to or does create any responsibility or liability on behalf of the WMUA, its agents or employees for the design or installation of the development project. The sole function and concern of the WMUA, its agents, and employees under this agreement is with the interests of the WMUA as regards any connection to or with its utility systems. The WMUA has not undertaken any review, work or inspection under this Agreement on behalf of the Owner or Applicant, but rather has only been concerned with the WMUA's own interests which may be at variance with actual or perceived interests of the Applicant or Owner.

It is the intent of the parties hereto that this agreement be and is binding upon each of them, their heirs, assigns, and successors in interest.

This Agreement is hereby entered into on the day and date first set forth above by the execution on behalf of the parties as follows

APPLICANT \_\_\_\_\_

Attest: \_\_\_\_\_(SEAL)

OWNER \_\_\_\_\_

Attest: \_\_\_\_\_(SEAL)

WMUA (Chair) \_\_\_\_\_

Attest: \_\_\_\_\_(SEAL)  
Secretary

**ACKNOWLEDGMENT**

**IF OWNER IS NOT A CORPORATION**

State of New Jersey:

: SS.

County of Burlington :

I certify that on the \_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, \_\_\_\_\_ personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one person, each person):

- a) represented themselves as owner of the real property identified herein;
- b) is the person named herein as owner and personally signed this Escrow and Lien Agreement as Owner; and
- c) signed, sealed and delivered this document as his or her or their own act.

\_\_\_\_\_  
(Print name and Title below signature)

Notary Public, New Jersey  
My Commission Expires:

IF OWNER IS A CORPORATION

State of New Jersey:

: SS

County of Burlington :

I certify that on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, \_\_\_\_\_  
personally came before me and acknowledged under oath, to my satisfaction, that:

- a) This person is the \_\_\_\_\_ Secretary of  
\_\_\_\_\_ the corporation named in this Escrow and Lien Agreement as Owner;
- b) This person is the attesting witness to the signing of this Escrow and Lien Agreement by the proper corporate officer who is \_\_\_\_\_ the \_\_\_\_\_ President of the Corporation which has signed as Owner;
- c) This Escrow and Lien Agreement as Owner was signed, sealed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board Of Directors;
- d) This person knows the proper seal of the corporation which was affixed to this Escrow and Lien Agreement; and
- e) This person signed this proof to attest to the truth of these facts \_\_\_\_\_ (Print name of attesting witness below signature).

Signed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ 19\_\_

\_\_\_\_\_  
(Print name and Title below signature)

Notary Public, New Jersey

My Commission Expires: