



TOWN OF FORESTBURGH
AGREEMENT FOR THE PAYMENT OF REVIEW EXPENSES

APPLICANT: _____

PROJECT NAME: _____

PROJECT LOCATION: _____

PROJECT DESCRIPTION: _____

PROPERTY OWNER: _____

APPLICATION SUBMISSION DATE: _____

APPLICANT CONTACT EMAIL: _____

This ESCROW AGREEMENT dated as of below by and among Applicant having an address at _____ and the Town of Forestburgh, a municipal corporation duly organized and existing under the laws of the State of New York and having its offices at 933 County Route 401, Forestburgh, NY, (Town). Applicant and Town are collectively referred to herein as the “Parties”.

WHEREAS, Applicant is in the process of preparing and submitting the Application to the Town of Forestburgh Planning Board in connection with the Project located within the Town of Forestburgh, New York; and

WHEREAS, the Application is anticipated to require, among other things, certain technical review by professional consultants;

WHEREAS, the Town is authorized under Town Code Chapter 82 to require Applicant to reimburse the Town for legal, engineering and technical consulting services expended in connection with the Town's evaluation and review of the Application;

WHEREAS, Town Code § 82-4 (B) sets forth the applicable procedure for establishing an initial escrow amount; and

WHEREAS, under Town Code § 82-4 (B) (5), Applicant may waive such procedures and execute an escrow agreement in a form approved by the Town, and deposit funds to the escrow account pursuant to the terms of such agreement.

NOW THEREFORE, in consideration of the mutual promises herein, the Town and Applicant hereby agree as follows:

1. Applicant shall reimburse the Town in full for all reasonable and necessary engineering, legal and other professional consulting fees incurred in connection with the Town's review of the Application. Applicant shall not be required to reimburse the Town for any legal, engineering or other professional consulting fees associated with any litigation related to the Application or the Project.
2. Upon execution of this Agreement, Applicant shall deposit the sum of \$_____ with the Forestburgh Town Clerk, who shall hold the funds in escrow in a non-interest bearing account to be used to pay the reasonable and necessary engineering, legal and/or other professional consulting fees incurred in the review of the Application.
3. The Town shall submit an itemized bill to Applicant, at least ten (10) days prior to any deduction of such amount billed from the escrow account being established herein. If Applicant disputes or objects to any fee or expense on the itemized bill, it shall promptly notify the Town Supervisor, in writing, within five (5) days after receiving the itemized bill. The Town Supervisor shall not pay the disputed fee or expense from the escrow account until the dispute has been resolved in writing between the Town and Applicant either by mediation, negotiation, court order or otherwise.
4. The Town Board shall review and audit all professional consulting invoices incurred under this Agreement and shall approve payment of only such expenses and fees as are reasonable in amount and necessarily incurred by the Town.
5. Should the sums being maintained in the escrow account by the Town of Forestburgh become reduced to the point where there remains \$500 or less in said escrow account, upon receipt of written notice of such balance from the Town, Applicant will be required to replenish the escrow account with a deposit of an amount acceptable to the Town, which may be specified in the written notice. Failure on the part of Applicant to timely make such replenishment may result in the suspension of all activities by the Town in connection with the review or determination of any pending Application(s).
6. In the event the sums maintained in the escrow account are insufficient to satisfy any outstanding invoices, the Applicant shall pay those amounts and agrees to indemnify the Town against any liability for those outstanding amounts.
7. Upon completion of the Town's review of the Project, any balance remaining in the escrow account shall be refunded to Applicant within thirty (30) days of the submission and payment of the Town's final bill by Applicant and payment in full of all application and approval fees by Applicant.
8. In the event Applicant withdraws the Application, any balance remaining in the escrow account shall be refunded to Applicant within sixty (60) days of the Town's receipt of a written notice of such withdrawal (the "Withdrawal Date"), provided that all outstanding invoices and application and approval fees incurred by the Town for review of the Application prior to the Withdrawal Date have been paid.

9. The Town shall not charge Applicant any other fee to review the Application other than the fees and expenses set forth under this agreement or any application fee as established by the Town.
10. This Agreement constitutes the entire and exclusive agreement between Applicant and the Town concerning the subject matter herein and supersedes any prior or contemporaneous oral or written agreements or understandings.
11. No modifications to this Agreement shall be effective unless in writing and signed by both parties.
12. This Agreement shall be binding on and inure to the benefit of the respective parties. Any rights under this Agreement may not be transferred or assigned without written consent by the Town. This Agreement is not intended to create any rights or remedies in favor of any person who is not a signatory to this Agreement, or in any way create any third-party beneficiary rights or remedies.
13. This Agreement shall be deemed to have been mutually drafted and shall be construed fairly and in accordance with its terms. No party shall be entitled to any presumption or construction in such party's favor as a result of any party assuming the burden of memorializing the parties' agreement hereunder.
14. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Faxed or e-mailed signatures to this Agreement shall be binding for all purposes.
15. Each party shall bear its own legal and other professional expenses or similar fees, in connection with the preparation, negotiation and execution of this Agreement.
16. This Agreement shall be governed by the laws of the State of New York without reference to the conflict of laws rules thereof.

APPLICANT

By:
Title:
Date:

TOWN OF FORESTBURGH

By:
Title:
Date: