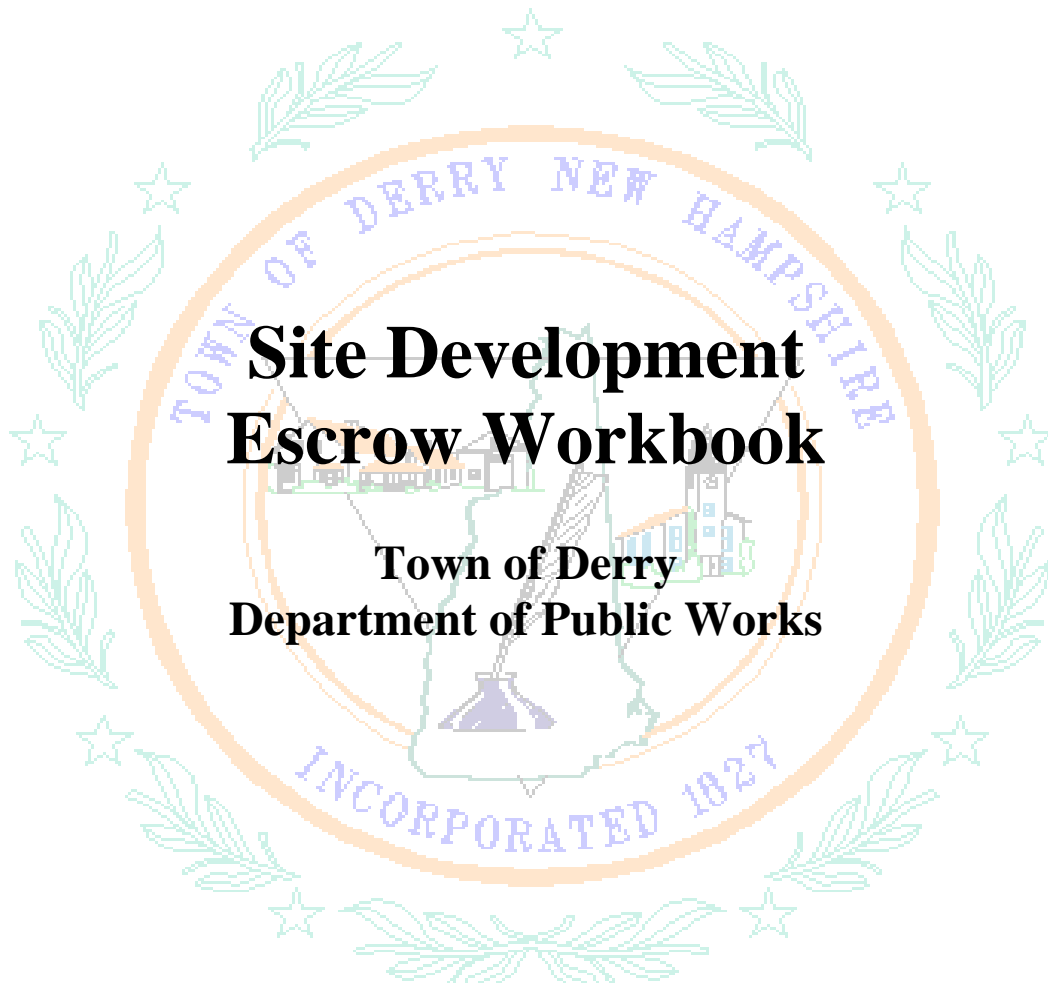


Project Name: _____



Site Development Escrow Workbook

Town of Derry
Department of Public Works

April 2005
Revised March 1, 2007

14 Manning Street
Derry, NH 03038
Office: (603) 432-6144
Fax: (603) 432-6130

Table of Contents

	Page No.
Introduction	3
Establishing Construction Escrow	4-6
Request for Escrow Release	7
Engineering Inspections	8
Attachments:	
• Sample Letter of Credit	
• Project Improvement Guarantee Summary Sheet	
• IRS Form W-9	
• Improvement Guarantee Escrow Release Forms	
• Improvement Guarantee Worksheet	
• Site Work Costs	

INTRODUCTION

This booklet is intended to provide the information necessary for establishing and processing project financial security for development work in the Town of Derry. Both the Public Works and Community Development Offices have assembled this document in order to simplify establishing and processing security requests and releases.

The package is divided into separate sections and includes samples of all forms necessary for establishment of project security or escrow.

Overall, these guidelines have been established in order to provide proper direction to the owner/applicant/developer so that the Public Works staff can properly evaluate these requests and process them.

Any questions regarding the content of this workbook should be directed to the Engineering Department of the Public Works Office.

ESTABLISHING CONSTRUCTION ESCROW

The following documents are relative to establishing initial project security:

- Project Improvement Guarantee Summary Sheet
- IRS Form W-9
- Improvement Guarantee Worksheet
- Site Work Costs

Upon Planning Board approval of the project, the developer and his agent must establish escrow for all estimated costs associated with the construction work and public improvements to be performed by the project. The time limit for establishing the construction escrow is six (6) months from the date of Planning Board approval. These public improvements typically include, but are not limited to, the following:

- Construction of Public Streets
- Off-site Improvements to Public Facilities
- Erosion Control
- Site Restoration & Stabilization
- Loam & Seed
- Landscaping
- Drainage & Associated Structures
- Survey Markers
- Safety Issues (lights, guardrails)
- Fire Cisterns/Fire Ponds
- Any sewer work, not including individual building connections
- Any water system improvements, including establishment of corporation stops

Should there be questions regarding any public improvements that require security on a project, the developer, or his agent, should contact the Town for clarification.

TYPES OF ESCROWS ALLOWED

ITEM	TYPE OF SECURITY REQUIRED
As-Built Drawings	Cash or Letter of Credit
Site Development	Cash or Letter of Credit
Work within Public Right of Way	Cash or Letter of Credit
Off-Site Improvements	Cash or Letter of Credit
Special Conditions	Cash or Letter of Credit
Site Restoration	Cash or Letter of Credit

All letters of credit submitted to the Town of Derry must be on official bank letterhead and they must contain signatures from the developer, as well as, the bank's representative. Photocopied or faxed letters of credits will not be accepted. A sample letter of credit is enclosed in this package. All letters of credits must contain the stipulation that if all improvements are not completed by the expiration date and a certificate stating completion has not been issued, then the letter of credit shall be automatically considered to have been called (see last paragraph of the sample letter of credit).

ESTABLISHING CONSTRUCTION ESCROW

The following steps should be followed to establish project security value :

1. Using the itemized list on the Improvement Guarantee Worksheet, an estimated quantity should be established for all items necessary to construct the project. All landscaping must be itemized on a separate sheet of paper.
2. After the quantities have been established, prices from the Town's approved Site Work Costs sheet are entered as unit prices for each item.
3. Based on quantity and unit price, a total project value is established. After calculating the project value, engineering and contingencies (20%), and escalation factor (8%) must be applied to establish the total project escrow amount.
4. The Public Works Office will then review the escrow and advise the developer of any revisions needed.
5. Included in the final escrow package is the agreed upon escrow guarantee worksheet with summary sheet, W-9 and the letter of credit or cash escrow.

The entire package is presented to the Public Works Office. The Public Works Office will forward the information to the Planning Board for approval. Planning Board meetings are conducted on the first and third Wednesday of every month. All escrow requests must be submitted to the Public Works Office ten (10) days prior to the meeting for processing

REQUEST FOR ESCROW RELEASE

The following steps should be followed when requesting an escrow release :

1. Using the Improvement Guarantee Escrow Release Form, the Developer should indicate an estimated value complete for each item being requested for release.
2. The form should also indicate the total value of remaining work.
3. This form should be presented along with a cover letter to the Public Works Engineering Department for consideration.
4. The Escrow Release Form will be reviewed and then forwarded to the Planning Board.

All outstanding engineering inspection fees must be paid in full prior to the processing of any applicable escrow releases.

The escrow release package must be presented to the Town's Public Works Office ten (10) calendar days prior to the Planning Board meeting at which the request is to be considered.

It should be noted that all landscaping and loam and seed escrow funds will be held for a period of one (1) year after installation. This is done so that the Town of Derry can ensure that all vegetation (landscaping, grass seed) will survive for that one year period.

ENGINEERING INSPECTIONS

All construction projects secured by escrow are subject to inspections by the Engineering Department of the Public Works Office. The cost for these inspections will be invoiced to the developer of record on a monthly basis. The inspections are billed at a rate of \$50.00 per hour and mileage is charged at a rate of \$0.375 per mile. Any failure to pay for these inspections will result in a hold of any release on the construction escrow. The Engineering Department will, only at the request of the Developer, calculate an *approximate* fee schedule for the engineering inspections.

ATTACHMENTS

- Sample Letter of Credit
- Project Improvement Guarantee Summary Sheet
- IRS Form W-9
- Improvement Guarantee Escrow Release Forms
- Improvement Guarantee Worksheet
- Site Work Costs

SAMPLE LETTER OF CREDIT

Date _____

Town of Derry – Public Works Dept
14 Manning Street
Derry, New Hampshire 03038

RE: Subdivision/Site Plan
Location

Irrevocable Letter of Credit # _____ Expiration Date: _____

Dear Town Officials:

By this document, the _____ Bank (hereinafter “Issuer”) hereby issues an irrevocable letter of credit in the amount of \$ _____ to the Town of Derry on behalf of _____ (hereinafter “Developer”). This irrevocable letter of credit is issued to guarantee completion of all improvements required by the Derry Planning Board and the Town of Derry Land Development control Regulations in conjunction with a Subdivision/Site Plan _____ dated _____, prepared by _____ and approved by the Derry Planning Board on _____ (date).

It is understood that the improvements guaranteed by this irrevocable letter of credit include, but are not limited to, the following:

General improvements as described in escrow worksheet.

It is agreed and understood by the Issuer of this Letter of Credit that it shall be issued for a period of twelve (12) months. If all improvements guaranteed by this letter of credit are not completed by _____ (date) and if a certificate indicating completion of all improvements has not been issued by the Town Building Inspector, then this **letter of credit shall be automatically considered to have been called**. Without further action of the Town of Derry or its Planning Board, the _____ Bank shall forthwith forward a check in the amount of _____ to the Treasurer of the Town of Derry. The funds so forwarded to the Town Treasurer shall be used exclusively for the purpose of completing the improvements, which are guaranteed by this letter of credit. Any funds not needed by the Town to complete improvements required by the Subdivision/Site Plan referred to above shall be returned to the Bank.

(Signature of Bank Official) (Dated)

I have read this letter of credit and agree to its terms.

(Signature of Developer) (Dated)

TOWN OF DERRY

IMPROVEMENT GUARANTEE SUMMARY SHEET

CONSTRUCTION ESCROW

Map No. _____ Parcel No. _____ Project Name: _____

STREET NAME

AMOUNT

TOTAL: _____

APPROVED FOR AMOUNT BY:

DEVELOPER'S SIGNATURE

DATE

The undersigned agrees to perform the work set forth on the attached worksheet in accordance with the plans and specifications submitted therewith and in accordance with the specifications and the laws and regulations of the Town of Derry, NH all within one year from date.

Prior to final release, all required warranty deeds shall be submitted, and all costs incurred by the Town of Derry, NH, for roadway inspections shall be reimbursed to the Town.

If in the opinion of the Planning Board, all work is not completed within 12 months of the date of this Agreement, the Developer hereby releases to the Town of Derry, NH the amount of the performance guarantee still in effect at that time. This amount will then be used by the Town of Derry, NH to complete the necessary work.

Cash escrow deposits shall be established into interest bearing accounts by the Town of Derry. Said interest will be released to the developer at the time of final release and project closeout. If interest is necessary by an authorized third party to complete the work, then this money shall be released to the contractor performing the work.

Company Name

Authorized Signature

Address

Date

Tax I.D Number

Telephone Number

APPROVED BY THE PUBLIC WORKS:
BOARD:

APPROVED BY THE PLANNING

Public Works Director

Chairman

Engineering Department

Secretary

TOWN OF DERRY ESCROW RELEASE FORM

Date: _____

Project: _____ Tax Map No.: _____

Location: _____

Present Amount Retained \$ _____

Release #

_____ \$ _____

New Work Value Subtotal: \$ _____
Engineering/Contingency (20%) : \$ _____
SUBTOTAL : \$ _____
Escalation (8%) : \$ _____
Amount to Retain : \$ _____
AMOUNT TO RELEASE : \$ _____

Approved by:

Michael Fowler, P.E., Public Works Director

Date: _____

Engineer, Public Works Department

Date: _____

George Sioras, Community Development Director

Date: _____

Robert Mackey, Code Enforcement

Date: _____

Planning Board Chairperson

Date: _____

Planning Board Secretary

Date: _____

The parties below reviewed this document at a pre-construction meeting held on _____ relating to the construction of

_____.

Town of Derry Date

Developer Date

Developer's Contractor Date

Developer's Engineer Date