

RESOLUTION NO. _____
REGULATING INSURANCE, BONDING AND ESCROW DEPOSITS
FOR DEVELOPER CONSTRUCTION OF SANITARY SEWER
SYSTEM PROJECTS

RESOLVED by Franklin Township Municipal Sanitary Authority (“FTMSA”) that in all cases where an improvement to the public sanitary sewer system, including but not limited to sanitary sewer line or lines, manholes, lampholes, lift stations or treatment facilities (together “Sewer System Improvements”) are to be constructed by a developer, private property owner or other individual or entity other than FTMSA in the area serviced by FTMSA (“Developer”), then the following shall apply whether or not planning modules, exemption from filing planning modules or other permits are required from PaDEP:

1. Insurance Requirements:

- A. Where Estimated Cost of Construction is in Excess of \$10,000 – Evidence of liability insurance coverage in such form and amount (but no less than \$1 Million) as is satisfactory to the FTMSA Solicitor (“FTMSA Solicitor”), and which shall name the FTMSA as an additional insured.
- B. Where Estimated Cost of Construction is Less than \$10,000 – Evidence of liability insurance coverage in such form and amount (but no less than \$500,000) as is satisfactory to the FTMSA Solicitor, and which shall name the FTMSA as an additional insured.
- C. Specific Requirements – All liability insurance required hereunder shall be written with an insurance company licensed to do business within the Commonwealth of Pennsylvania, and in addition to other standard provisions, shall provide that the insurance company shall not be permitted to cancel the insurance without first giving at least ten (10) days prior written notice to FTMSA.
- D. Evidence of Coverage – The minimum evidence of coverage required shall be a certificate of coverage issued by the insurer or insurer’s agent. In the event that there are any limitations listed on the certificate or any attachment thereto, then in addition, submission of any endorsement required in order to evidence the required coverage shall be submitted. All certificates shall be subject to the prior approval of the FTMSA Solicitor.

- E. Time for Submission – All and required insurance certificates shall be submitted and be approved prior to the commencement of any construction of the Sewer System Improvements.

2. Bonding Requirements:

- A. General – Prior to the commencement of construction of the Sewer System Improvements, a Developer shall submit the performance bond listed in subparagraph B hereafter together with written evidence that Developer shall post the required maintenance bond listed in subparagraph C.
- B. Performance Bond - A performance bond in the amount of 110% of the Cost of Construction as defined hereafter shall be submitted and which shall extend for the later of (i) one (1) year from the date of issuance of the bond or (ii) the date of completion of the Sewer System Improvements as evidenced by a certificate of completion issued by the FTMSA Engineer (“FTMSA Engineer”). If the party posting the performance bond requires more than one (1) year from the date of posting to complete the Sewer System Improvements, the performance bond shall be increased on the anniversary date of the performance bond by the greater of 10% of the original bond amount, or 110% of the cost of completing the required improvements as re-established on or about the expiration of the preceding one (1) year period, with the cost of completing the required improvements to be established in accordance with the provisions of 53 Pa. C.S.A. §5607(23).
- C. Maintenance Bond – Once a Certificate of Completion for the Sewer System Improvements has been issued by the FTMSA Engineer, then the Developer shall cause to be posted financial security (the “Maintenance Bond”) to secure the structural integrity of the Sewer System Improvements as well as the functioning of the Improvements in accordance with the design and specifications as depicted on the final plat, the Reimbursement or Developer’s Agreement and the Authority’s rules and regulations. The amount of the Maintenance Bond shall be 15% of the actual cost of the installation of the Sewer System Improvements as determined by the FTMSA Engineer, and shall extend for a period of 18 months from the date of the Certificate of Completion. The performance bond shall not be released until the Maintenance Bond has been posted.

- D. Letter of Credit Alternative – In lieu of a corporate bond, the requirements of subparagraphs B and C above shall be satisfied by a letter of credit or such other financial security as is approved by the FTMSA Solicitor provided that the same is submitted in the required amount and form as is approved by the FTMSA Solicitor.
- E. FTMSA as Listed Obligee – Whether a corporate bond or a letter of credit, FTMSA must be specifically named obligee, payee and beneficiary of the approved submission.
- F. Requirements of Bond – All security posted hereunder shall guaranty FTMSA full and complete performance by both the Developer and Developer’s Contractor, guarantying FTMSA against any deficiencies in the Sewer System Improvements which are to be constructed and guaranty all costs of repair and maintenance thereof until the Expiration Date.

3. Required Escrow Deposit:

- A. Escrow Deposit - The minimum escrow deposit (“Escrow Deposit”) shall be \$2,500.00 plus 5% of the Cost of Construction as defined hereafter for the first \$500,000.00, plus 1% of the Cost of Construction in excess of \$500,000.
- B. Tender of Escrow Deposit – The above total Escrow Deposit shall be paid prior to the FTMSA Board entering into the Standard Construction Agreement.
- C. Use of Escrow Deposit – The Escrow Deposit shall secure any and all costs incurred by FTMSA by (i) to reimburse the FTMSA Engineer for the cost of engineering review, inspection and other services incurred and bills or any other costs or charges incurred or charged by the FTMSA Engineer and resulting from the Sewer System Improvements, (ii) any and all costs or fees incurred or charged to FTMSA by the FTMSA Solicitor and resulting from Solicitor review, meetings with the Developer or his agent, preparation of any required developer or other agreements, negotiations, time involved in right of way acquisitions, reimbursement for any fees or expenses incurred in any litigation resulting from the Sewer System Improvements and any other miscellaneous costs or fees incurred by the Solicitor resulting, and (iii) any costs or expenses resulting to FTMSA, including but not

limited to the cost of any administrative, staff or field personnel for any services rendered and resulting from the proposed Sewer System Improvements, the cost of any testing or the use of FTMSA equipment, all of which shall be in accordance with fee schedules published from time to time by FTMSA, and any costs incurred resulting from administrative review.

- D. Draws Upon Escrow Deposit – FTMSA shall be entitled to draw upon the Escrow Deposit to pay for all fees and costs which are incurred by FTMSA or are billed by the FTMSA Engineer or the FTMSA Solicitor and which result from the Sewer System Improvements. Any costs of inspection shall be at the going billing rate of the FTMSA Engineer at the time that said costs are incurred.

- E. Depletion of Escrow Deposit – In the event that the amount of the Escrow Deposit at any time is reduced to less than \$1,000.00, then the FTMSA staff shall submit notice of the same to the Developer who shall advance sufficient monies to increase the amount of the Escrow Deposit to no less than \$2,500 within 14 days from receipt of said notice.

- F. Term Required for Escrow Deposit – The Escrow Deposit shall remain in place until the Expiration Date, and within sixty (60) days thereafter, FTMSA staff shall cause any balance then remaining to be returned to Developer together with an accounting of all expenditures (after receipt of written request by the Developer to do so) from any monies advanced. Provided that no interest shall be due and payable to any Developer by FTMSA resulting from any investment that FTMSA staff may make of the Escrow Deposit.

- G. Escrow Deposit - The escrow deposit required under paragraph 3.A. above shall be applicable whenever there are Sewer System Improvements to be constructed by the Developer. In all other cases where FTMSA action is required for a development other than (i) allocating a sewer tap under an existing corrective action plan, or (ii) the issuance of a sewer tap permit, the required Escrow Deposit shall be \$1,000.00, payable no later than the close of business on the next business day following the date that FTMSA grants approval for the development. In such cases, the Escrow Deposit shall be used in accordance with the provisions of paragraphs 3.C. and 3.D. above. Once all required approvals for the development have been obtained from PaDEP and the municipality, FTMSA Staff shall return any balance then

remaining from the Escrow Deposit within thirty (30) days after receiving written request from the developer.

4. Cost of Construction – The Cost of Construction for any of the Sewer System Improvements referred to herein shall mean the cost to the Developer of the following: (i) The cost of all labor and material resulting from any and all grubbing, excavation, installation or construction of the Sewer System Improvements; (ii) all engineering design and oversite during the construction process; (iii) all performance and maintenance bonds as are otherwise required by FTMSA; (iv) the cost of all right of way acquisitions; and (v) the cost of any and all other costs or charges to be incurred by the Developer as a result of the construction and thereafter the dedication of the Sewer System Improvements to FTMSA. The cost of construction shall not include the cost to Developer of constructing lateral sewer lines or any other installations which are not to be transferred or dedicated to FTMSA as part of the undertaking of Developer. The Cost of Construction shall be the amount estimated submitted by the FTMSA Staff and/or the FTMSA Engineer after submission of the required construction drawings by the Developer.

5. Effective Date of Resolution – This Resolution and the requirements herein shall apply to all applications submitted on and after the date of adoption hereof.

ADOPTED this _____ day of _____, 2008.

ATTEST:

FRANKLIN TOWNSHIP MUNICIPAL
SANITARY AUTHORITY

Secretary

By: _____
Chairman