

TO: ALL COUNTY PERSONNEL

FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR

PREPARED BY: OFFICE OF FINANCIAL MANAGEMENT & BUDGET (OFMB)

SUBJECT: IMPACT FEE ESCROW AGREEMENTS

PPM #: CW-F-069

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ISSUE DATE

January 29, 2025

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EFFECTIVE DATE

January 29, 2025

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PURPOSE:

To establish specific guidelines, standards, procedures and other terms and conditions for executing and administering escrow agreements involving the payment of county development impact fees.

UPDATES:

Future updates to this PPM are the responsibility of the Director of OFMB.

AUTHORITY:

- Palm Beach County Unified Land Development Code (ULDC), as may be amended.
- Palm Beach County Charter, Section 1.3, as may be amended.

POLICY:

A feepayer who wishes to obtain a building permit prior to the Impact Fee Manager's final approval of an independent fee calculation study, existing use credit, in-kind contribution credit, exemption or other impact fee adjustments may submit an application and deposit fees set forth in the fee schedule into an escrow account pursuant to an escrow agreement in a form provided by the Impact Fee Manager.

DEFINITIONS:

The following terms and phrases have the meanings given to them by these definitions, except where the context clearly indicates a different meaning.

Escrow Agent – Banking institution charged with the fiduciary responsibility of holding, accounting for, reporting on, and disbursing funds deposited into an escrow account, including

interest earnings, pursuant to an escrow agreement executed under the terms, conditions and limitations specified herein. If a suitable banking institution cannot be identified, the Palm Beach County Clerk & Comptroller's Office may be authorized by the Parties to the escrow agreement to serve as the Escrow Agent and to establish an escrow account at a qualified public depository as defined in F.S., Chapter 280, to be held pursuant to the terms of the escrow agreement.

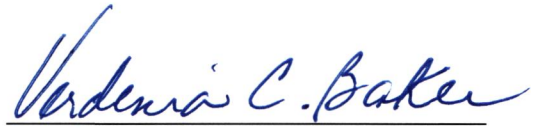
Existing Use – When used in connection with impact fee credits, means an existing structure or, if there is no longer an existing structure, the most recent structure to occupy the parcel of land for which a credit against pending new development is sought.

In-kind Contribution – When used in connection with impact fee credits, means donation of a road, school, library, park, fire-rescue or law enforcement capital facility, or the land donated for such facilities.

Guidelines:

1. Escrow agreements are for the purpose of giving the Impact Fee Manager the time needed to examine data and analysis supporting independent fee calculation studies, existing use credits, in-kind contribution credits, exemptions, or other impact fee adjustments without delaying the issuance of building permits.
2. Escrow agreements are not for the purpose of protesting fee decisions of the Impact Fee Manager or of delaying fee payments to the County pending appeal of a decision of the Impact Fee Manager.
3. The term of an escrow agreement shall be two years from the date of execution by the County. During the term of the escrow agreement, it is expected that the feepayer will diligently pursue a fee adjustment by providing independent fee calculation studies, existing use credit applications, in-kind credit applications, exemption applications, or other documentation supporting an adjustment to the fees.
4. If the Escrow Agent is a banking institution, the following conditions must be met:
 - a. The banking institution must be licensed to do business in the United States and have a minimum peer group rating that meets or exceeds the threshold levels from at least two of the following five rating services:
 1. Thomson Reuter's Bank Insight – 50
 2. IDC Bank Financial Quarterly listing – 125
 3. Veribanc, Inc. listing – 3 Star Green Rating
 4. Standard & Poors listings – Single A
 5. Moodys listing – Single A
 - b. Before any escrow agreement can be executed by the County, the feepayer must provide satisfactory proof of minimum peer group ratings for the proposed escrow agent.

- c. Escrow agents must maintain their minimum peer group ratings throughout the terms of the escrow agreement. If, at any time during the term of an escrow agreement, the escrow agent fails to maintain minimum ratings from at least two of the five approved rating services, the escrow agreement must be amended to replace the escrow agent with one meeting the minimum standards. If the feepayer fails to secure a replacement bank meeting the minimum rating standards, the Impact Fee Manager may elect to continue the escrow agreement for the remainder of term or terminate the escrow agreement by sending notification to the escrow agent with instructions to disburse the entire balance in the escrow account to the County, within the time limit set forth in the escrow agreement for such disbursements.
5. The escrow agreement must be in a form developed by the Impact Fee Manager and approved by the County Attorney. The standard form escrow agreement is available on the external County website under Planning, Zoning & Building>Administration>Forms under [Escrow Agreement-Clerk Option](#). This form may only be used with the specific approval of the Impact Fee Manager and the County Attorney. Substantive changes to the standard form of the escrow agreement must be approved by the Board of County Commissioners.
6. All costs associated with the establishment, maintenance, accounting, reporting and closing of an escrow account are the responsibility of the feepayer, and shall be paid directly to the escrow agent in the manner and according to the schedule specified by the escrow agent.
7. For each payment deposited into an escrow account in lieu of payment made directly to the County, the escrow agent will issue certified escrow receipts, notarized and attested by an officer of the bank. These certified receipts are to be presented to, and accepted by, the Palm Beach County Building Division or municipality in lieu of equivalent cash payments of impact fees for building permits.
8. Periodically, as specified in the escrow agreement, the escrow agent is required to provide the Impact Fee Manager and the feepayer with detailed statements of account activity for the period, including the starting balance, deposits into the account, withdrawals from the account, interest earned on the account, and ending balance. A similar statement is required when the escrow account is closed.
9. When the term of the escrow agreement has expired or the Impact Fee Manager has made a decision on the fee adjustment application filed by the feepayer, whichever is the first occurrence, the Impact Fee Manager will send written notification to the escrow agent to disburse funds and close the escrow account. Interest earned, if any, is to be disbursed in the same proportion as the principal.
10. In the event the feepayer disagrees with the decision of the Impact Fee Manager on the fee adjustment application, which was the purpose for the escrow account, the feepayer may appeal the decision in accordance with the ULDC. Notwithstanding such an appeal, the escrow agent must disburse funds in accordance with notification from the Impact Fee Manager.



VERDENIA C. BAKER
COUNTY ADMINISTRATOR

Supersession History

1. PPM # CW-F-069, effective 04/01/2003
2. PPM # CW-F-069, effective 08/18/2009
3. PPM # CW-F-069, effective 02/21/2014
4. PPM # CW-F-069, effective 09/23/2019