

PROFESSIONAL ESCROW AGREEMENT

THIS AGREEMENT, dated this ____ day of _____, 20__, by and between ALLEN TOWNSHIP, a Township of the Second Class, with its principal place of business being located at 4714 Indian Trail Road, Northampton, Northampton County, Pennsylvania 18067 (hereinafter referred to as "TOWNSHIP")

AND

_____ (hereinafter referred to as "DEVELOPER/OWNER"),

WITNESSETH:

WHEREAS, DEVELOPER/OWNER, is the equitable/record owner of the subject premises consisting of _____ acres, located in Allen Township, Northampton County, Pennsylvania, being Northampton County Tax Parcel No. _____, and is in the process of requesting subdivision/land development plan approval relative to said premises; and

WHEREAS, DEVELOPER/OWNER has requested to meet and consult with the TOWNSHIP's professional consultants (as that term is defined in the Pennsylvania Municipalities Planning Code), including, but not limited to the Township Engineer, Township Solicitor, and other experts, consultants and professionals employed and/or contracted by the TOWNSHIP relative to said subdivision/land development plan review (hereinafter "Professional Consultants"); and

WHEREAS, DEVELOPER/OWNER recognizes that the administrative overhead of the Township, including but not limited to the staff services of its employees now or hereafter employed (hereinafter "Staff") will be utilized in said review discussions, all to the financial detriment of the Township; and

WHEREAS, DEVELOPER/OWNER further recognized that the TOWNSHIP will incur a certain amount of fees, costs, charges and expenses (collectively "Expenses") on account of said review discussions; and

WHEREAS, DEVELOPER/OWNER realizes that said Expenses will be incurred by the TOWNSHIP relative to review discussions with its Professional Consultants and Staff, and DEVELOPER/OWNER is willing to be solely responsible for the payment of the same, so long as the same are reasonable.

NOW THEREFORE, intending to be legally bound, the parties hereto do hereby promise, covenant and agree as follows:

1. The "Whereas" clauses above mentioned are incorporated herein by reference as if fully set out and, further, form part of the parties' agreement.

2. DEVELOPER/OWNER hereby warrants and represents that it is the record/equitable owner of the subject Premises, as evidenced by _____ dated _____ between _____ (Sellers) and _____ (Purchaser); and further, that it agrees to be bound by the terms and conditions of the within Agreement.

3. TOWNSHIP, at the request of DEVELOPER/OWNER agrees to allow its Professional Consultants and Staff to meet for review purposes with DEVELOPER/OWNER, so long as the reasonable Expenses incurred by the TOWNSHIP relative to the same are fully paid by DEVELOPER/OWNER. DEVELOPER/OWNER hereby agrees to be solely responsible for the payment of same.

4. In consideration for the privilege of DEVELOPER/OWNER meeting with the Professional Consultants and Staff of TOWNSHIP, DEVELOPER/OWNER hereby agrees that this Agreement supplements the TOWNSHIP's Fee Schedule and any other applicable laws, ordinances, rules and regulations governing reimbursement to the TOWNSHIP of said Expenses, including applicant's rights under the Pennsylvania Municipalities Planning Code (MPC). DEVELOPER will deposit, for the sole benefit of the TOWNSHIP, the initial sum of _____ (\$_____) Dollars; said monies to be held in the TOWNSHIP name alone, as escrowee, in an interest bearing segregated account not co-mingled with its general fund, for the exclusive purposes hereinafter set forth (hereinafter "Escrow").

Receipt of the amount of \$ _____ will be acknowledged by TOWNSHIP when so deposited.

5. DEVELOPER/OWNER agrees that the Escrow account shall be used to reimburse the TOWNSHIP for any and all Expenses, fees and charges of its Professional Consultants and Staff, which may be based on minimum charges for particular services. The TOWNSHIP will provide DEVELOPER/OWNER, on a monthly basis, with an itemized invoice containing copies of all invoices received by the TOWNSHIP from its Professional Consultants and/or Staff during the prior month. Any dispute as to the items contained on said invoices shall be resolved in accordance with the applicable provisions of the MPC.

In the event DEVELOPER/OWNER disputes the amount of any Professional fee, DEVELOPER/OWNER shall notify the TOWNSHIP in writing by certified or registered mail of any disputed fees. Said notification must be received by the TOWNSHIP within ten (10) days from the date the TOWNSHIP issued a summary statement of itemized fees to the DEVELOPER/OWNER.

6. The balance of the Escrow shall at no time be in an amount of less than Fifty Percent (50%) of the original amount, or _____ (\$ _____) Dollars ("Minimum Balance"). In the event that the balance of the Escrow Account falls below the Minimum Balance, the TOWNSHIP shall request DEVELOPER/OWNER to deposit in the Escrow, within ten (10) business days after receipt of notification by the TOWNSHIP, the difference between the then current balance and the original escrow amount. At its sole discretion, the TOWNSHIP shall review the Escrow on a periodic basis and may require a reasonable increase in the Minimum Balance. At such time after the subdivision/land development project receives final approval, or Developer/Owner notifies the Township in writing that the project is being terminated, any balance remaining in the Escrow account shall be returned to DEVELOPER/OWNER.

7. DEVELOPER/OWNER hereby agrees that the 90 day time period for Preliminary/Final plan review imposed by the MPC shall not commence until the date of the

regular meeting of the Planning Commission following the date a complete Preliminary/ Final application for approval is filed

8. DEVELOPER/ OWNER hereby agrees that in lieu of the TOWNSHIP collecting an administrative fee on all distributions from the escrow account, any interest earned on the escrow provided shall inure to the Township. Further, DEVELOPER/ OWNER agrees that the retention of the interest earned is fair and reasonable given the expenses the TOWNSHIP will incur as a result of the application submitted by DEVELOPER/ OWNER.

9. The Escrow established herein shall be deemed Cash Collateral for the sole and exclusive benefit of the TOWNSHIP, as that term is applied in Bankruptcy proceedings. This instrument shall also be deemed a security agreement creating a first-lien security interest in favor of the TOWNSHIP in the Escrow.

10. If DEVELOPER/OWNER fails at any time, following a request from the TOWNSHIP in accordance with paragraph 6 to replenish the escrow, the parties agree that the TOWNSHIP Professionals and Staff will not be obligated to converse or meet with the DEVELOPER/OWNER or his representatives; and DEVELOPER/OWNER waives any rights it may have under the MPC or any decisional law pertinent thereto, relative to the 90 day time limit for review imposed by Section 508 of the MPC. The review discussions with the TOWNSHIP Professionals and Staff shall continue at such time as the Escrow is replenished by DEVELOPER/OWNER.

11. The parties agree that the within Escrow Agreement is a professional Escrow only and shall in no way, either expressly or tacitly, be construed as a construction escrow.

12. Either party may terminate this Agreement for any reason by providing a notice of intent to Terminate. It is understood and agreed that, other than for good cause shown, the TOWNSHIP may not terminate this Agreement so long as the DEVELOPER/OWNER is in compliance in all material respects with all of the terms of this Agreement and any other related documentation between the parties, their successors and assigns. Upon receipt of said Notice by the TOWNSHIP, this Agreement shall terminate forty-five (45) days from said date. All

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Professional Fees due the TOWNSHIP, including those incurred by the TOWNSHIP within the above-referenced time period, shall be paid from the Escrow created herein. Any balance in the Escrow fund shall be paid by the TOWNSHIP to DEVELOPER/OWNER within ten (10) days after the above-mentioned forty-five (45) day time period.

13. Any notice of Intent to Terminate required under this Agreement, to be effective, shall be forwarded by certified mail, return receipt requested, addresses as follows:

IF TO DEVELOPER/OWNER:

WITH COPY TO:

IF TO THE TOWNSHIP, ADDRESSED AS FOLLOWS:

Allen Township
4714 Indian Trail Rd.
Northampton, PA 18067

WITH A COPY TO:

B. Lincoln Treadwell, Jr., Esq.
Treadwell Law Offices, P.C.
915 West Broad Street
Bethlehem, PA 18018

14. The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

15. No failure to act upon any default or to exercise any right or remedy hereunder shall constitute a waiver of such default or a waiver of any other terms of the within Agreement.

16. This Agreement shall be binding upon the parties hereto, their successors and assigns, and shall not be altered, amended or vacated except by the express written consent of all parties.

17. This Agreement shall be governed and shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

18. This Agreement may be signed in multiple counterparts and all such counterparts shall be deemed to be one and the same Agreement.

