



## ESCROW AGREEMENT CONTACT FORM

Please check all categories that applies or the establishment of escrow with East Allen Township. If the escrow is for Developer's Financial Security, please do not check any other escrow categories.

- General
- Grading Review
- Stormwater Management Review
- Flood Plain Permit Review
- Subdivision & Land Development
- SALDO/Community Sewage System
- Pre Development Consultation
- Zoning Amendment

Name of Project: \_\_\_\_\_

Date Application Submitted: \_\_\_\_\_ Amount Submitted: \$ \_\_\_\_\_

Owner Information:

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Developer Information:

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

## PROFESSIONAL SERVICES ESCROW AGREEMENT

THIS AGREEMENT, dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between EAST ALLEN TOWNSHIP, a Township of the Second Class of the Commonwealth of Pennsylvania, with its principal place of business being located at 5344 Nor-Bath Boulevard, Northampton, Pennsylvania 18067 (hereinafter referred to as "TOWNSHIP"),

- AND -

The Owner and/or Developer identified as \_\_\_\_\_, business(es) or individual(s) doing business in the Commonwealth of Pennsylvania, with their principal place of business or residence being located the addresses \_\_\_\_\_ (hereinafter referred to as "APPLICANT").

### WITNESSETH:

**WHEREAS**, Developer and Owner (both of which are hereinafter referred to as the "APPLICANT"), is/are the equitable/record owner(s) of the subject property(s), located in East Allen Township, Northampton County, Pennsylvania, identified as Northampton County Tax Parcel Number(s) \_\_\_\_\_ and street address of \_\_\_\_\_, and has requested a meeting with the Township Staff and Professional Consultants pertaining to the said listed tax parcel(s) located in East Allen Township; and

**WHEREAS**, APPLICANT hereby warrants and represents that it is the record/equitable owner of the subject Property(s), as evidenced by a Deed or written Agreement of Sale identified above, a copy of which is attached, and further, that Owner agrees to be bound by the terms and conditions contained within this Agreement; and

**WHEREAS**, APPLICANT has requested to meet, receive comments and communicate ("communications") to and with the TOWNSHIP's Professional Consultants and other consultants, including, but not limited to the TOWNSHIP Engineer, Township Solicitor, and other experts, consultants and Professional Consultants employed and/or contracted by the TOWNSHIP concerning the following said tax parcel(s) located in East Allen Township (all of whom are hereinafter referred to as "Professional Consultants"); and

**WHEREAS**, APPLICANT acknowledges that the administrative overhead of the TOWNSHIP, including but not limited to staff services of its Township Manager Township Secretary, Township Treasurer, Zoning Officer and other Township employees now or hereafter employed (all of whom are hereinafter referred to as "Staff") will be utilized in said communications, at the expense of and to the financial detriment of the TOWNSHIP; and

**WHEREAS**, APPLICANT acknowledges that the TOWNSHIP will incur a certain amount of engineering fees, legal fees, consulting fees, costs, charges and expenses (collectively "Expense" or "Expenses") on account of said communications with the Professional Consultants and Staff; and

**WHEREAS**, APPLICANT acknowledges that said Expenses will be incurred by the TOWNSHIP relative to communications with its Professional Consultants and Staff, and APPLICANT is willing to be solely responsible for the payment of the same.

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

1. Incorporation of Whereas Clauses. The "Whereas" paragraphs herein above are incorporated herein by reference as if fully set out hereinafter at length and, further, form part of the parties' agreement.
  
2. Record/Equitable Ownership of Subject Parcel. The APPLICANT hereby warrants and represents that it is the record/equitable owner of the subject parcel listed above, as evidenced by written documentation provided  
As part of the application for this escrow agreement, between the \_\_\_\_\_(OWNER/SELLER)  
And the \_\_\_\_\_(DEVELOPER/PURCHASER)  
referred herein as APPLICANT; and further, that it agrees to be bound by the terms and conditions of the within agreement.
  
3. Consent of Township to Communications. TOWNSHIP, at the request of Owner agrees to allow its Professional Consultants and Staff to meet, comment and communicate with Owner, so long as the Expenses incurred by the TOWNSHIP relative to the same are fully paid by Owner. Owner hereby agrees to be solely responsible for the payment of same.
  
4. Applicant's Agreement to Pay Expenses. In consideration of the privilege of APPLICANT's meeting, commenting, and communicating with the Professional Consultants and Staff of the TOWNSHIP, APPLICANT hereby agrees that this Agreement supplements the most currently adopted Township 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 (hereinafter referred to as "MPC"), and, further, APPLICANT agrees that consulting fees, including legal fees incurred by the TOWNSHIP shall be paid for by APPLICANT. Such expenses shall include any bank service charges or other charges imposed by any bank, and any accounting expense incurred by the TOWNSHIP.

5. Initial Escrow Balance to be Deposited. APPLICANT will deposit, the initial sum of (\$ \_\_\_\_\_) Dollars; for the sole benefit of the TOWNSHIP, as escrow agent, the initial escrow sum stated hereinabove on page one as “initial escrow amount”; said monies to be held in an interest-bearing segregated account administered solely by the TOWNSHIP, for the exclusive purposes hereinafter set forth (hereinafter “Escrow”). Receipt of the initial escrow amount will be acknowledged by TOWNSHIP when so deposited.
6. Expenditure of Escrow Funds. APPLICANT agrees that the Escrow account shall be used for payment of and reimbursement to 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, and agrees that the TOWNSHIP will upon request provide APPLICANT with an invoice containing copies of all invoices received by the TOWNSHIP from its Professional Consultants and/or Staff.
7. Dispute of Expenses. Notwithstanding any provision governing reimbursement to the TOWNSHIP of fees and expenses contained in the M.P.C. or any other applicable law, ordinance, rule or regulation , the parties agree that, if APPLICANT disputes any Expense, or any other cost associated with the same, said dispute shall be referred, at the APPLICANT’s sole expense, to an engineer and/or attorney depending on the type of Expense disputed, licensed in the Commonwealth of Pennsylvania (hereinafter “Professional Arbitrator”). The Professional Arbitrator shall be chosen by agreement of the parties, or, if that cannot be accomplished, by a Judge of the Court of Common Pleas of Northampton County. Within twenty-five (25) days after his or her appointment as Professional Arbitrator and his or her receipt of said disputed Expense, the Professional Arbitrator shall make a final, binding and non-appealable decision as to whether the Expense in question is, in whole or in part, reasonable and necessary and whether the Expense is to be paid, in whole or in part, by the Owner. Within ten (10) days of the determination by said Professional Arbitrator, the monies shall be paid in accordance with the Professional Arbitrator’s determination. Further, during the time period that elapses while the Professional Arbitrator is making his/her determination, all time constraints imposed upon the TOWNSHIP under the M.P.C. or any other applicable law, ordinance, rule or regulation are hereby waived by the Owner. In the event Owner disputes the amount of any Expense, the Owner shall notify the TOWNSHIP in writing by certified or registered mail of any disputed Expense. Said notification must be received by the TOWNSHIP within ten (10) days from the date the TOWNSHIP issued an invoice to the Owner, or the right of Owner to dispute same shall be deemed waived.
8. Minimum Balance. The balance of the Escrow shall at no time be in an amount of less than as listed in the chart below:

<b>Minimum Balance Amounts</b>			
<b><i>Purpose of Escrow</i></b>	<b><i>Initial Escrow Account</i></b>	<b><i>Minimum Balance</i></b>	<b><i>Replenishment Amount</i></b>
General Escrow	\$500.00	\$250.00	\$250.00
Flood Plain Permit Review	\$2,500.00	\$1,250.00	\$625.00
SALDO – Minor Subdivision	\$1,000.00	\$500.00	\$500.00
SALDO – Major Subdivision	\$5,000.00	\$2,500.00	\$2,500.00
SALDO – Land Development	\$7,500.00	\$3,750.00	\$3,750.00
SALDO – Subdivision/Land Development	\$7,500.00	\$3,750.00	\$3,750.00
SALDO/Community Sewage Disposal	\$2,500.00 Plus \$250 Per Lot	\$1,250.00	\$1,250.00
Pre Development Consultation	\$500.00	\$250.00	\$250.00

In the event that the balance of the Escrow Account falls below the Minimum Balance, the TOWNSHIP shall request Owner to deposit in the Escrow, within ten (10) business days after receipt of notification by the TOWNSHIP, the required replenishment amount. This shall no way prohibit the TOWNSHIP from requesting additional replenishment due to an increase of requested Township services and professional consultant's services from the TOWNSHIP or as outlined in Section 10. Increase of Minimum Balance.

9. Increase of Minimum Balance. At its sole discretion, the TOWNSHIP shall review the Escrow on a periodic basis and may require a reasonable increase in the Minimum Balance. In the event the TOWNSHIP requests any additional deposits, it will provide the Owner with a generalized description of the purposes for which such additional deposits will be required.
10. Failure to Maintain Minimum Balance. If Owner fails at any time, following a request from the TOWNSHIP to maintain the Minimum Balance, the parties agree that the TOWNSHIP Professional Consultants and Staff will not be obligated to communicate or meet with the Owner or its representatives; and Owner waives any and all rights it may have under the M.P.C. or any decisional law pertinent thereto, relative to any time limit for review imposed by the M.P.C. Any communications with the TOWNSHIP Professional Consultants and Staff shall then resume at such time as the Escrow is replenished by Owner.
11. Return of Unutilized Escrow Balance. At such time after the Owner's plans and/or improvements are finally approved and construction of the required improvements is completed in accordance with said Plans as determined by the Township Engineer, and the required maintenance obligation has expired, or the Plans have been denied or withdrawn, any balance remaining in the Escrow account shall be returned to Owner.
12. Commencement of Ninety (90) Day Time Period. Owner hereby agrees that the ninety (90) day time period for plan review imposed by the M.P.C. shall not commence until the date of the regular meeting of the Planning Commission following the date the plan application for approval is initially received, approved and accepted for filing by TOWNSHIP. Further, in the event the Escrow is established prior to the filing of the application for approval, the ninety (90) day time period shall not commence until the next meeting of the Planning Commission following the submission of said application.
13. Escrow as Security. The Escrow established herein shall be deemed Cash Collateral for the sole and exclusive benefit of the TOWNSHIP, as that term is applied in Federal Bankruptcy Law proceedings. This instrument shall also be deemed a security agreement creating a first-lien security interest in favor of the TOWNSHIP in the Escrow under the Uniform Commercial Code.
14. Professional Services Escrow. The parties agree the Escrow Agreement is a professional Escrow only and shall in no way, either expressly or tacitly, be construed as a construction for improvements escrow.
15. Termination. 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 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 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 Owner within ten (10) days after the above-mentioned forty-five (45) day time period.

16. Issuance of Notice of Intent to Terminate. Any Notice of Intent to Terminate required under this Agreement, to be effective, shall be forwarded by certified mail, return receipt requested, addressed as follows:

If to Owner: To the Name and Address of Owner & Developer Stated on Page One

If to \_\_\_\_\_: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Township: East Allen Township  
C/O Township Manager  
5344 Nor-Bath Boulevard  
Northampton, PA 18067

With a Copy to: Joseph J. Piperato, III, Esquire  
Eastburn and Gray, PC  
412 W. Broad Street  
Bethlehem, PA 18018

17. Severability. 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.
18. Non-Waiver. 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.
19. Binding Effect. 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.

20. Applicable Law. This Agreement shall be governed and shall be construed and interpreted in Pennsylvania in accordance with the laws of the Commonwealth of Pennsylvania. The exclusive venue for the resolution of all disputes hereunder shall be Northampton County, Pennsylvania, only.
21. Counterparts. This Agreement may be signed in multiple counterparts and all such counterparts shall be deemed to be one and the same Agreement.
22. Full Understanding by Owner. The Owner has fully read, completely understands and agrees to the following TOWNSHIP Escrow Policies and Procedures:
- A. Application and escrow fees will be submitted as separate checks, made payable to "East Allen Township".
  - B. All escrow fees must be paid at the time of filing an application or requesting of a meeting. The Owner will be responsible for payment of all legal, engineering and other invoices or fees necessary to review and approve or deny the plan by the TOWNSHIP, and that is the purpose of the escrow account. All legal, engineering and other TOWNSHIP professional costs involved with a specific permit, development or subdivision, including fees associated with recording a plan may be paid from the escrow account.
  - C. The escrow fee shall be payable at the time of the submission to the TOWNSHIP and shall remain in effect through the completion of the review, recording and/or building process.
  - D. The calculation of escrow is merely an estimate of the costs associated with the plan. It is possible that additional escrow funds may be necessary that exceed the initial calculation of fees for engineering, legal and other invoices and fees.
  - E. Escrow funds will be deposited in an interest bearing account with all interest accrued benefitting the APPLICANT. Each development or project escrow account shall be maintained separately within a single Master Escrow Account. All required bank documentation for the escrow account must be filed with the TOWNSHIP at the time of application.

An escrow balance going below 50% of the initial escrow amount must be replenished back to the original amount for the review process to continue. If escrow accounts go below the minimum amount, no further review will be done.

The escrow account balance will be refunded approximately sixty (60) days after the following applicable conditions are met, to include but are not limited to: full payment of all Expenses, approval of the Application, completion/ termination of the project, final engineering sign-off, and/or issuance of the final use and occupancy permit and expiration of the maintenance obligation. Escrow account balances will be returned only when all approvals are received, and all Expenses related to the project have been paid by the TOWNSHIP. Refunds will be made only to the party who funded the escrow.

Issuance of a conditional or temporary use and occupancy permit requires the Owner to escrow the full amount of monies necessary to complete all improvements as determined by the TOWNSHIP Zoning Administrator and/or TOWNSHIP Engineer. Examples where this may apply include final seeding/mulching and grading for a new home, or commercial structure or lighting requirements, etc.

**- CONTINUED ON FOLLOWING PAGE -**

**IN WITNESS WHEREOF**, and in consideration of the TOWNSHIP's acceptance of this Agreement and with the intent to be legally bound, the undersigned have executed this Agreement on the date beside his/her/its name.

ATTEST:

EAST ALLEN TOWNSHIP:

By \_\_\_\_\_

By \_\_\_\_\_

Brent M. Green

Township Manager

Township Seal

Date: \_\_\_\_\_

WITNESS/ATTEST:

OWNER:

By \_\_\_\_\_

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESS/ATTEST:

APPLICANT:

By \_\_\_\_\_

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COMMONWEALTH OF :  
: SS:  
COUNTY OF :

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be Township Manager of EAST ALLEN TOWNSHIP and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes herein contained by signing for EAST ALLEN TOWNSHIP by himself/herself as Township Manager of said Township.

\_\_\_\_\_  
Notary Public

COMMONWEALTH :  
: SS:  
COUNTY OF :

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of \_\_\_\_\_, a Pennsylvania \_\_\_\_\_, and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes herein contained by signing for \_\_\_\_\_ by himself/herself as such officer.

\_\_\_\_\_  
Notary Public

COMMONWEALTH :  
: SS:  
COUNTY OF :

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of \_\_\_\_\_, a Pennsylvania \_\_\_\_\_, and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes herein contained by signing for \_\_\_\_\_ by himself/herself as such officer.

\_\_\_\_\_  
Notary Public