

**LOWER ALLEN TOWNSHIP SUBDIVISION/LAND DEVELOPMENT ORDINANCE
DEVELOPERS FINANCIAL SECURITY AGREEMENT FOR CONSTRUCTION AND
INSPECTION OF IMPROVEMENTS**

THIS AGREEMENT, made this _____ day of _____, 20____, by and between _____ a (partnership) a corporation existing under the laws of _____ (an individual trading as _____) having a principal place of business as

(Street) (City) (State)

Hereinafter called "Applicant", and the Township of Lower Allen, a first class Township, of Cumberland County, Pennsylvania, having its principal office at 2233 Gettysburg Road, Camp Hill, Pennsylvania, Herein after called "Township".

WITNESSTH:

WHEREAS, the Applicant is the (Equitable) owner of a certain real estate situate in Lower Allen Township, Cumberland County, Pennsylvania, bound and described as shown on a (Subdivision Plan)(Land Development Plan) dated _____, prepared by _____, entitled _____ hereinafter called "Plan"; and,

WHEREAS, Applicant has submitted to the Township for approval said Plan, and Lower Allen Township Subdivision and Land Development Ordinance, hereinafter called "Ordinance" requires that the Applicant submit to the Township financial security sufficient in amount as shall be determined as hereinafter set forth to cover the costs and to guarantee the construction of certain improvements in Section 192-45 of such Ordinance; and,

WHEREAS, Section 192-46 of such Ordinance requires a written agreement that the necessary grading, paving, street improvements, curbs, sidewalks, street lights, fire hydrants, water mains, and sanitary sewers, stormwater management, erosion and sediment control and other improvements, as may be required by the Township, shall be installed in strict accordance with the Plan, specifications and schedules approved by the Township and Ordinances; and,

WHEREAS, the cost of the improvements has been determined to be the sum of (\$_____00) dollars.

NOW, THEREFORE, the parties hereto intending to be legally bound, mutually agree as follows:

1. Applicant shall proceed and do, or cause to be done, necessary work to install the following improvements for such premises in the strict accordance with the specifications of Ordinance.
2. The applicant agrees that the foresaid construction and installation will be completed within _____ year(s) from the date hereof.
3. Applicant shall deposit with the Township financial security in an amount sufficient to cover the costs of all required improvements. The financial security shall guarantee performance of this Agreement and completion of the improvements by the Applicant in strict accordance with the approved plan, specifications and schedules and the standards and specification of the Ordinance. The financial security shall be (corporate surety bond)(irrevocable letter of credit)(restrictive or escrow account) in the amount of (\$_____00). The amount of the financial security shall be

equal to one hundred ten (110%) percent of the cost of the required improvements for which financial security is to be posted.

4. The cost of improvements shall be established in the following manner:
 - a. By submission to the Board of Commissioners (herein the "Board") of a fair and reasonable estimate of the cost of completion of the required improvements as prepared by a licensed professional engineer.
 - b. If an estimate is not approved by the Township Engineer, and the Township and Applicant subsequently cannot agree upon an estimate, then the cost of improvements shall be established per subsection 192-8 of the Ordinance.
5. If the applicant requires more than one (1) year from the date of posting of such financial security to complete the required improvements, the amount of such financial security shall be increased by an additional ten (10%) percent for each one (1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding one hundred ten(110%) percent of the cost of completing the required improvements as reestablished on or about expiration of the proceeding one (1) year period as established by estimates prepared by the Applicant's Engineer and approved by the Township Engineer in accordance with subsections 192-47 and 192-48 of the Ordinance.
6. As the work of installing the required improvements proceeds, the party posting the financial security may request periodic reductions in the amount of required security, based on the estimated cost to complete the improvement.
 - a. Any such request shall be in writing addressed to the Board.
 - b. Within forty-five (45) days from receipt of such request the Township Engineer shall certify in writing to the Board such portion of the work upon the improvement that has been completed in accordance with the approved plan, specifications, and schedules in accordance with the Ordinance.
 - c. Upon such certification by the Township Engineer, the Board shall authorize release by the bonding company or lending institution of an amount as estimated by Township Engineer fairly representing the value of the improvements completed. Failure of the Board to act within said forty-five (45) day period shall be deemed to be approval of release of funds as requested.
7. Where any of said improvements are not to be dedicated to the Township, prior to final release of the financial security at the time of completion and certification thereof by the Township Engineer, the Board shall retain ten (10%) percent of the estimated cost of the foresaid improvements to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design, specifications, and schedules as depicted on the final plat for a term of eighteen (18) months from the date of such certification by the Township Engineer.
8. Prior to the acceptance by the Board of the dedication of all or some of the required improvements, the Applicant shall post financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with design, specifications, and schedules as depicted on the final plat for a term of eighteen (18) months from the date of acceptance of said dedication.
 - a. Said financial security shall be of the same type as required by subsection 192-47 of the Ordinance.

- b. The amount of such financial security shall be fifteen (15%) percent of the actual cost of installation of said improvements.
- 9. When the Applicant has completed all of the required improvements, the Applicant shall notify the Board in writing, of the completion of the foresaid improvements and shall send a copy thereof to the Engineer.
 - a. The Board shall, within ten (10) days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the required improvements.
 - b. The Township Engineer shall thereupon file a report, in writing, with the Board and shall promptly provide a copy of the same to the Applicant. The report shall be made within thirty (30) days after receipt by the Engineer of the authorization for inspection by the Board.
 - c. The report shall be detailed and shall indicate approval or rejection of such improvements, or any portion thereof, that are not approved or are rejected by the Township Engineer, the report shall contain a statement of the reasons for non-approval or rejection.
 - d. The Board shall notify the Applicant within fifteen (15) days of receipt of the Township Engineer's report, of the action of the governing body within relation thereto.
 - e. If the Board or the Township Engineer fails to comply within time limitation provisions contained herein, all improvements will be deemed to have been approved and the Applicant shall be released of all liability, pursuant to its performance guaranty bond.
 - f. If any portions of the improvements are not approved or are rejected by the Board, the Applicant shall proceed to complete the same, and upon completion, the same procedure of notification as listed above shall be followed.
- 10. Applicant represents that no lots have thus far been conveyed in such Plan, no rights-of-way have been granted to any utilities to use any of the streets in such Plan, and the entire premises set forth on such Plan still is held intact in fee by Applicant. All sanitary sewers satisfactorily built and installed shall become the property of Lower Allen Township Authority free of any and all encumbrances after Engineer of the Authority certifies completion, and Applicant agrees to tender to Lower Allen Township Authority a deed of dedication to the sewer lines installed therein upon their completion prior to the sale of any lots from such Plan.
- 11. Upon completion of such improvements and as a condition of acceptance by Township, Applicant shall submit to Township an affidavit, waiver of mechanics liens and such other satisfactory evidence as Township may require, that all labor, material, rental, contractors and subcontractor used, supplied, furnished or employed in the construction of such improvements have been paid.
- 12. Applicant shall indemnify and save harmless the Township, its elected and appointed officials, employees, agents, and servants, of and from all claims arising from actions of Applicant, contractors or subcontractors in connection with construction of improvements, and Applicant will appear for and defend the Township against any and all such claims.

13. Applicant shall take out and maintain during the life of this Agreement such Public Liability and Property Damage Insurance which shall protect the Township from claims for property damages, as well as claims for damages for personal injury, including wrongful death, which may arise from operation under this Agreement, whether such operations be by Applicant or by any contractor or subcontractor directly or indirectly employed on the project.
14. On or prior to the date of this Agreement, Applicant has deposited with Township, the receipt whereof is hereby acknowledged, the sum of _____ dollars, such amount being equal to 5% (five percent) of the costs of all required improvements, which shall be held by the Township, without interest, for application by the Township to or towards the following costs chargeable against it in the performance of this agreement: the Township's cost of meetings, inspections and other verification, regarding installation of required improvements, in accordance with Section 192-47 of the Ordinances.

If the aforesaid deposits are insufficient to cover the charges of the Engineer or other consultant to the Township for the foresaid service rendered or any other services rendered relating to the required improvements, Township shall bill Applicant for such deficiency. Applicant shall pay Township the amount of such bill. If the foresaid deposits exceed said charges of the Engineer or consultant to the Township, the balance remaining shall be refunded to the Applicant without interest after final release by the Board of Commissioners of any security posted with respect to maintenance or repair of the improvements required by Section 192-50.

IN WITNESS, WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

ATTEST:
(CORPORATE SEAL)

LOWER ALLEN TOWNSHIP

Secretary

By _____
President

(Individual)

Signature of Individual

Witness:

Trading and Doing Business as

(Partnership)

(Name of Partnership)

Witness:

By _____ (Seal)

By _____ (Seal)

=====

By _____ (Seal)

(Corporation)

ATTEST:

(Name of Corporation)

(Assistant) Secretary

By _____
(Vice) President

(CORPORATE SEAL)