

PLANNING BOARD APPLICATION

**Township of Bethlehem
405 Mine Road
Asbury, New Jersey 08802**

Date of Application:_____

Township Application Number:_____

An application is hereby made for:

_____ N.J.S.A. 40:55D-70(a) Appeal or (b) interpretation

_____ N.J.S.A. 40:55D-70(c) bulk variance

_____ N.J.S.A. 40-55D-70(d) conditional use

_____ Other ancillary relief (N.J.S.A. 40:55D-34 &35)

General Information:

Name of Applicant:_____

Address of Applicant:_____

Phone Number(s):_____

Contact Person (if different from above):_____

Owner of the Property if not Applicant:_____

Address of Owner:_____

Description of the Site:

Street Address:_____

Tax Map Block Number:_____ Lot Number:_____

How Property is Zoned:_____

Principal Use:_____

Proposed Use:_____

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Description of Proposal:

Explain in detail the exact nature of the application and the changes to be made to the site: _____

Compliance with Land Development Ordinance:

Requirements	Required	Proposed	Complies?
Lot Area			
Lot Frontage			
Lot Width			
Lot Depth			
Front Yard Set Back			
Side Yard Set Back			
Rear Yard Set Back			
Floor area Ratio			
Impervious Cover			
Off Street parking			
Other			

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Additional Information:

Specify the relief sought from the Planning Board under NJSA 40:55D-70d et seq. (D variance) by answering the following questions:

- A. Does your application seek a variance to permit a use or structure not allowed by the zoning ordinance? If yes, explain.

- B. Does your application request a variance so that you can expand the use or structure on a site currently considered as not conforming in the zone in which it is located? Explain.

- C. Is your use or structure conditional in the zoning ordinance? If so, does your application seek a variance in order to deviate from a specification or standard previously imposed on the property when conditional use was granted? Explain.

- D. Does your application request a variance in order to increase the floor area ratio to more than the maximum allowed in the zone and thus increase the intensity of use on the site? Explain.

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- E. Does your application request a variance that will result in an increase in the use of the site? Explain.

Does your application seek to permit an increase in the height of a building by more than 10% of the maximum allowed? Explain.

Does your application seek to permit a structure to be placed on the site in violation of the setback requirements? Explain.

- F. How would the granting of this variance serve the general welfare and the public good?

- G. Explain how the negative impact of this variance on surrounding properties and on the general public will be mitigated.

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If the variance is requested under NJSA 40:55D-70c (C variance), please answer the following questions:

- A. Is the variance requested because the property is exceptionally narrow or shallow or has an unusual shape that prohibits the structure from being built in accordance with land use requirements? Explain.

Is the variance requested because the topography or physical features do not allow for a structure to be built within requirements of the land use law? Explain.

Is the variance requested because of an extraordinary or exceptional situation unique to the property that creates an undue hardship on the owner if the land use law is strictly observed? Explain.

Explain how the benefits of granting the variance substantially outweigh any detriment to the public good.

Has there been any previous appeal involving the site? If so, state the character of the appeal and the date of the disposition. Attach a copy of the resolution of approval.

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Other Required Information: (Supply 20 copies of each)

- _____ Attach the completed application form.
- _____ Attach a copy of the deed.
- _____ Attach a copy of proof of payment of taxes.
- _____ Attach a copy of the Certified List of Property Owners.
- _____ Attach a copy of the Escrow Fee Agreement.
- _____ Attach a plot plan showing the block and lot numbers, dimensions of the lot, dimensions of present and proposed structures, and location of all structures in relation to all other structures and to the property lines. If available, include plans of any proposed buildings.
- _____ Attach the Permission for a Site Walk.
- _____ Attach a list of possible witnesses, including professional consultants. Include the name, the address, the telephone number and the title of the individual.
- _____ Attach a resume for each professionals employed by the applicant to be placed on file in the office of the Planning Board.
- _____ Attach a Disclosure of Partnership Interest if applicable.
- _____ Attach a list of outside agencies that may be reviewing this application if applicable.
- _____ Attach a Certifications form.
- _____ Indicate compliance with the requirements of the Growth Share Ordinance, section 101-10 of the Township Code.
- _____ Indicate the amount of application fees and development review escrow funds that are being submitted with this application and calculations in accordance with Article IX 102-53.:

Application Fees	\$	
Development review escrow	\$	

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CERTIFICATIONS

Applicant's Certification:

I CERTIFY that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the corporate applicant and that I am authorized to sign the application for the Corporation or that I am a general partner of the partnership applicant and authorize to sign on behalf of the partnership.

[If the applicant is a corporation an authorized corporate officer must sign this. If the applicant is a partnership, this must be signed by a general partner]

Sworn to and subscribed
before me this____day
of_____,20__

NOTARY PUBLIC

SIGNATURE OF APPLICANT

Property Owner's Consent to Application (If owner is other than applicant):

I CERTIFY that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant. I certify that I am authorized by the corporation/partnership to sign this certification.

[If the owner is a corporation this must be signed by an authorized corporate officer. If the owner is a partnership, this must be signed by a general partner.]

Sworn to and subscribed
before me this____day
of_____,20__

NOTARY PUBLIC

SIGNATURE OF OWNER

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PERMISSION FOR A SITE WALK

Application:_____

Site Address:_____

Block _____

Lot_____

PURSUANT TO THE BETHLEHEM TOWNSHIP PLANNING BOARD BY-LAWS

Site inspection of the applicant's property to be developed (property) is recommended for all Planning Board members, representatives of all municipal, county, state, federal or other regulatory agencies required to review the application for development and consultants and experts hired by the Planning Board and government or regulatory agencies. Applications for development include the submission of permission for individuals to physically inspect the property and permission is therefore granted to enter and inspect the property and buildings. The applicant shall be notified of said inspection at least three (3) days prior to the site inspection and shall have the right to be present at the time of site inspection, accompanied by the applicant's attorney and other representatives. Further, the applicant shall be advised that any information obtained from the site inspection and facts respecting the physical situation of the property that may be disclosed by the inspection may be placed on the record at the time of public hearing and used as a basis in whole or in part, for the decision of the board.

I (WE) HEREBY GRANT PERMISSION FOR SITE WALKS AS A PART OF THIS APPLICATION.

Applicant's Signature (or authorized representative)

Date

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SAMPLE NOTICE

NOTICE OF PUBLIC HEARING BETHLEHEM TOWNSHIP PLANNING BOARD HUNTERDON COUNTY

PLEASE TAKE NOTICE that (Name of applicant) has applied to the Planning Board of Bethlehem Township for (Type of application & description of proposed development, including section of Land Use and Development Ordinance from which variance relief is sought, if applicable) on property located at (Street address), also known as Block _ Lot _ in Bethlehem Township, Hunterdon County, New Jersey. Said property is owned by (Name of owner). (A more detailed description of the proposal may be included.)

A public hearing on this application will be held by the Bethlehem Township Planning Board on **(Insert date)** at 7:30 p.m. at the Municipal Building located at 405 Mine Road, Asbury, New Jersey. All interested parties will have the opportunity to express support of or objection to the application, and may have an agent or attorney appear on their behalf.

Documents and maps pertaining to the application for which approval is sought are on file in the office of the Planning Board at the Municipal Building at 405 Mine Road, Asbury, New Jersey, and are available for inspection during the Board office's regular business hours.

This notice is provided pursuant to the Municipal Land Use Law of the State of New Jersey.

(Name)_____

(Date)_____

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AFFIDAVIT CONCERNING PERSONS TO BE SERVED, DATE AND TYPE OF SERVICE, AND FORM OF NOTICE

Re: Application of (Name **of applicant**)
To the Bethlehem Township Planning Board
Block _____ **Lot** _____

State of New Jersey:

ss:

County of Hunterdon:

(Name of applicant or person signing affidavit), of full age, being duly sworn, according to law, deposes and says that s/he did on **(date)**, at least ten (10) days prior to the hearing date, give personal notice to all property owners within 200 feet of the property affected by the above referenced application. Said notice was given either by handing a copy to the property owner, or by sending said notice by certified mail. Copies of the registered receipts are attached hereto.

Notices were also served upon: (Check if applicable)

- ☐ 1. The Clerk of the (**Municipality**) of _____
- ☐ 2. County Planning Board
- ☐ 3. The Director of the Division of State and Regional Planning
- ☐ 4. The Department of Transportation
- ☐ 5. The Clerk of Adjoining Municipalities

A copy of said notices are attached hereto and marked "Exhibit A."

Notice was also published in the _____, the official newspaper of the Municipality as required by law.

Attached to this affidavit and marked "Exhibit B" is a list of owners of property within 200 feet of the affected property who were served, showing the block and lot numbers of each property as same appear on the municipal tax map, and also a copy of the certified list of such owners prepared by the Tax Assessor of the Municipality, which is marked "Exhibit C".

There is also attached a copy of the proof of publication of notice in the official newspaper of the Municipality, which is marked "Exhibit D".

Signature of Applicant

Sworn and subscribed to
before me this _____
day of _____
20____.



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THE TOWNSHIP OF BETHLEHEM

LAND DEVELOPMENT ESCROW AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20_____
between _____ hereinafter referred to as the "Applicant", the
Planning Board of the Township of Bethlehem is hereinafter referred to as "Board", and the
Township of Bethlehem in Hunterdon County is hereinafter referred to as the "Township".

WHEREAS, the Applicant is proceeding under the Land Use Development Ordinance for approval
on Block _____, Lot(s) _____, Street _____
of a _____.

WHEREAS, the Ordinance requires the Applicant to establish an escrow whereby work required
to be performed by professionals employed by the Board will be paid for by the Applicant as
required under the provisions of the Ordinances cited above,

NOW THEREFORE,

SECTION 1. PURPOSES

The Applicant agrees to pay all reasonable professional fees incurred by the Board for
performance of its duties.

SECTION 2. ESCROW ESTABLISHED

The Applicant, in accordance with the provisions of the Agreement and N.J.S.A. 40:55D-53.1 and
N.J.S.A. 40:55D-53.2 et seq., hereby agrees to the Township's creation of an escrow to be
established by the Chief Financial Officer of the Township.

SECTION 3. ESCROW FUNDED

The Applicant, upon execution of this Agreement, shall pay to the Township such sums as are
required by Ordinance to be deposited in the repository referred to in Section 2.

SECTION 4. INCREASE IN ESCROW FUND

If during the existence of the Escrow Agreement, the funds held by the escrow shall be
insufficient to cover any voucher or bill submitted by the professional staff, the Applicant shall
within fourteen (14) days of receipt of notice, deposit additional sums with the escrow holder to

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cover the amount of the deficit referred to above and such additional amount reasonably anticipated needed to complete the application process. **Additionally, until such funds are fully replenished, no further consideration, review, processing of any pending application shall be permitted by the Board, nor shall any further inspections be performed by or on behalf on the Township until such additional escrow funds has been deposited.** Failure to post sufficient escrow funds to cover costs incurred or anticipated shall toll the period for action by the approving authority, as required by N.J.S.A. 40:55D-1 et seq and particularly N.J.S.A. 40:55D-51 and N.J.S.A. 40:55D-73 thereby barring an applicant from seeking a default approval under N.J.S.A. 40:55D-10.4.

The notice referred to in this paragraph shall be sent to (please indicate your preference):

Name

Address

Via Fax to: _____

Via Email to: _____

Unless otherwise shown, receipt shall be presumed to have occurred three (3) days after postal mailing.

After a period of forty five (45) days from the notice from the Township, the Applicant's failure to deposit the additional funds shall be grounds for denial of the application or dismissal of the application without prejudice. In the event the Board approves the application, the obligation to pay for professional plan review fees by depositing the funds in escrow shall be a condition of the approval granted by the Board. If the escrow funds are depleted after the application is filed or granted the Applicant shall pay additional funds upon demand within the aforementioned fourteen (14) day period. The failure to pay the demanded funds may also result in a voiding of any prior approvals upon due notice to the applicant by the Board. In addition to the foregoing, the Applicant hereby agrees that in the event the reasonable and necessary amounts charged by the professionals for review of the application are not paid the outstanding fess shall be deemed a lien on the above-described property and shall be collectable as the case of taxes by the adoption of a resolution by the Township governing body upon receipt of a certification that the amounts are due and owing pursuant to this agreement. Negative escrow balances shall incur interest at 1.5% per month.

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In the event of sale or transfer of property which is the subject of a development application or a change in the identity of the Applicant, all funds on deposit pursuant to this agreement shall run with the development application affecting the property. It shall be considered to be the asset and/or obligation of any subsequent owner or Applicant unless the initial owner or Applicant provides written notice to the approving authority, and to the professionals providing review services that the initial owner or applicant has specifically reserved ownership rights of the escrow account. In the event such a notice is received by the Township officials and professionals, no further review shall be undertaken by relevant professionals until the new subsequent owner or applicant has established an escrow amount and signed an escrow agreement.

SECTION 5. COLLECTION

If the Township must institute legal action to enforce the terms of this Agreement against the Applicant, the Applicant shall be responsible for reasonable attorney fees and costs of suit.

SECTION 6. TIME OF PAYMENT

The professionals referred to in this Agreement upon conclusion of their services or periodically during the performance of their services shall submit vouchers conforming to the requirements established by the Township for vouchers of the type and kind referred to under this paragraph.

SECTION 7. APPLICANT'S OBJECTION

Where the Applicant objects to the payment of any voucher from the escrow fund, the Applicant may file an objection and/or appeal pursuant to N.J.S.A. 40:55D-53.2a.

SECTION 8. RETURN OF UNUSED ESCROW FUNDS

If applicable, escrow funds cannot be refunded until the Applicant submits proof that all conditions of approval have been fulfilled. Any refund request shall be in accordance with N.J.S.A. 40:55D-53.2d.

SECTION 9. REFERENCES TO DAYS

All references to days in this Agreement are to calendar days.

IN WITNESS WHERE OF, the parties have set their hands and seals the date first written above.

SIGNATURE (Applicant*)

*If the Applicant is a corporation, this signature must be attested to by an attorney.

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[§ 102-53. Fees.](#)

[Amended 9-4-1986 by Ord. No. 202-10-86; 7-2-1987 by Ord. No. 202-13-87; 2-18-1988 by Ord. No. 202-16-88; 12-8-1988 by Ord. No. 202-18-88; 4-16-1998 by Ord. No. 255-10-98]

A. The following is a schedule of fees and escrow deposits for filing applications with the Planning Board and the Zoning Board of Adjustment. Payment shall be made in two separate checks made payable to the Township of Bethlehem and shall be submitted to the administrative officer at the time of filing the application, unless exempted as provided elsewhere in this article. The application and payments for the application charge and escrow fund shall include a statement setting forth the basis for and calculation of the payments.

[Amended 8-19-2004 by Ord. No. 255-45-2004; 11-6-2008 by Ord. No. 255-51-2008]

Type of Application	First Check Nonrefundable Application Charge	Second Check Applicant's Escrow Fund
Conceptual/sketch plat reviews		
Informal review per § 102-49D	No charge	None required
Formal review, includes planner, attorney and engineer comments	\$200 per meeting	\$1,500 minimum
Subdivisions		
Minor subdivision for purpose of merger	\$200	\$2,000
Minor	\$200	\$1,000 each new lot
Preliminary major	\$350, plus \$100 each new lot	\$1,000 each new lot; minimum \$2,400
Final major	\$250, plus \$50 each new lot	\$400 each new lot

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Type of Application	First Check Nonrefundable Application Charge	Second Check Applicant's Escrow Fund
Site plans		
Minor	\$350, plus \$0.05 per square foot of proposed new building area, plus \$0.01 per square foot of site area to be disturbed	\$1,200
Preliminary major	\$500, plus \$0.05 per square foot of proposed new building area, plus \$0.01 per square foot of the site area to be disturbed	If the gross floor area of the building is 100,000 square feet or less, \$1,000, plus \$10 per 1,000 square feet of lot area, plus \$10 per 100 square feet of gross floor area of the building. If the gross floor area of the building exceeds 100,000 square feet, \$500, plus \$3.50 per 1,000 square feet of lot area, plus \$3.50 per 100 square feet of gross floor area of the building.
Final major	\$250, plus \$0.01 per square foot of proposed new building area	If the gross floor area of the building is 100,000 square feet or less, \$1,000, plus \$3 per 1,000 square feet of lot area, plus \$3 per 100 square feet of gross floor area of the building. If the gross floor area of the building exceeds 100,000 square feet, \$500, plus \$1 per 1,000 square feet of lot area, plus \$1 per 100 square feet of gross floor area of the building.
Variances		
Appeals (N.J.S.A. 40:55D-7a)	\$50	\$200
Interpretation (N.J.S.A. 40:55D-70b)	\$50	\$200
Bulk (N.J.S.A. 40:55D-70c) Existing lots	\$100	\$1,000

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Type of Application	First Check Nonrefundable Application Charge	Second Check Applicant's Escrow Fund
As included in site plans or subdivisions	\$250 first variance, plus \$100 each additional	\$300
Use (N.J.S.A. 40:55D-70d)	\$400	\$3,000
Permit (N.J.S.A. 40:55D-70c)	\$200	\$3,000
Certified list of property owners within 200 feet from Township Clerk [see § 102-45D (3)]	\$0.25 per name or \$10 minimum	None required
Copies of minutes, transcripts or decisions [see §§ 102-45E (2) and 102-47C]	\$1 per page for first copy of said page, plus \$0.25 per copy for each additional copy of said page	None required
Off-tract improvements	None	5% of the cost of the improvement
Extensions of approval	\$100	\$250
Resubmission of application for amendment	10% of original fee	10% of original escrow deposit

B. The application charge is a flat fee to cover administrative expenses and is nonrefundable. The escrow account is established to cover the costs of professional services, including engineering, planning, legal, planning and such other professional fees and expenses as may be required in connection with the review of the submitted materials, the submission of reports, preparation of resolutions, attendance at meetings, preparation of development agreements and professional services associated with the dedication and acceptance of developer improvements. Sums not utilized in the review process shall be returned to the applicant. If the escrow deposit is depleted below 25% of the original escrow fund, the applicant shall submit additional escrow deposit so that the total sum on deposit in the escrow fund shall be no less than 75% of the original escrow fund. In the event that the balance of the escrow fund shall be less than 25% of the original amount and the applicant does not replenish the fund within 14 days of the notice of such deficiency, the municipality or approving authority shall, at its sole option, terminate review and inspection. In order for work to continue on the development or the application, the applicant shall, within said 14 days, post a deposit to the escrow fund in an amount so that the balance shall equal 75% of the original fund. In the interim, any required health and safety inspections shall be made and charged back against the escrow fund.

C. Where one application for development includes several approval requests, the sum of the individual required fees shall be paid.

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D. In accordance with Subsection [A](#) hereof, each applicant for subdivision or site plan approval shall pay all reasonable costs for professional review of the application, plus costs incurred with any informal review of a concept plan which may have preceded the submission of a preliminary application. Additionally, each applicant shall pay all reasonable costs for the municipal inspection and testing of the improvements during installation and/or as constructed. All costs for review must be paid before any approved plat, plan or deed is signed; all costs for inspection must be paid before any construction permit is issued; and any remaining costs must be paid before any occupancy of the premises is permitted or certificate of occupancy is issued.

E. If an applicant desires a court reporter, the cost of taking testimony and transcribing it and providing a copy of the transcript to the township shall be at the expense of the applicant, who shall arrange for the reporter's attendance.

F. Special meeting. Special meetings of the Planning Board or Zoning Board of Adjustment made at the request of any applicant or applicant's authorized representative shall require a fee of \$250 to defray the costs of scheduling and holding such special meeting. This fee shall be in addition to all other fees and charges heretofore or hereafter established.

G. In the event that the Planning Board or Board of Adjustment finds it necessary to obtain the advice or testimony of specialists or consultants in connection with an application, such specialists or consultants shall be compensated by the applicant as reasonably required by the Board. Advice or testimony of such consultants shall be given at the hearing with full right of cross-examination afforded to the applicant.

H. The assessment, payment of and administration of the application charges and escrow funds shall be in accordance with N.J.S.A. 40:55D-50 et seq. and as hereafter amended and as further provided for in New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

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Form W-9 (Rev. November 2005) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give form to the requester. Do not send to the IRS.																																													
Print or type See Specific Instructions on page 3	Name (as shown on your income tax return)																																														
	Business name, if different from above																																														
	Check appropriate box: ☐ Individual/ Sole proprietor ☐ Corporation ☐ Partnership ☐ Other ▶ ☐ Exempt from backup withholding																																														
	Address (number, street, and apt. or suite no.)																																														
	City, state, and ZIP code																																														
	Requester's name and address (optional)																																														
	List account number(s) here (optional)																																														
Part I Taxpayer Identification Number (TIN)																																															
Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3. Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.																																															
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Part II Certification																																															
Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. person (including a U.S. resident alien). Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)																																															
Sign Here	Signature of U.S. person ▶	Date ▶																																													
Purpose of Form																																															
A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to: 1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify that you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are a U.S. exempt payee. In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income. Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9. For federal tax purposes, you are considered a person if you are: • An individual who is a citizen or resident of the United States, • A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or • Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information. Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income. The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases: • The U.S. owner of a disregarded entity and not the entity,																																															

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- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.