NEW CONSTRUCTION ADDENDUM
CONSUMER VERSION

What is the purpose of the New Construction Addendum (Form 2A3-T)?

The New Construction Addendum (Form 2A3-T) is designed for the sale of a new construction dwelling built by the seller, or a seller-hired contractor on property owned or to be owned by the seller.

It should be used as an addendum to the Offer to Purchase and Contract (Form 2-T).

As a general rule, this addendum should be used when on new construction homes if the drywall has been completed. See Form 800G for more details on when to use this form.

If construction has been completed, what's the purpose of attaching the New Construction Addendum to an offer?

The Addendum includes a one-year builder's warranty. Although in certain circumstances, the law recognizes the existence of an implied warranty of workmanlike construction and no major structural defects. There's no one-year builder's warranty required by law. Including an express builder's warranty in the contract offers important additional protection to the buyer.

Another reason to include the Addendum as part of the offer, is because it addresses the insulation disclosure required by the Federal Trade Commission regulation for home sellers.

Can the Addendum be used if construction of the dwelling is completed, but the seller and buyer agree that the builder will make minor additional improvements; for example, finishing a bonus room with sheet rock, paint and carpet?

Yes. Additional Improvements should be described in detail in the "Additional Improvements" section.

If significant additional construction will take place, whether it's completion of the dwelling or the construction of additional improvements, the parties should use the Offer to Purchase and Contract - New Construction (Form 800-T) instead of Form 2A3-T/Form 2-T to put property under contract, because Form 800-T contains more detailed provisions for the construction process than 2A3-T.

If the parties agree that Additional Improvements will be made, what happens if there's a delay in Settlement/Closing caused by a delay in the completion of the Additional Improvements?

Generally, if a party is unable to complete Settlement and Closing within seven days after the Settlement Date, that party would be considered a "Delaying Party" and the other party could terminate the contract.

However, according to the "Completion of Additional Improvements" section, if the seller/builder is delayed in the completion of any Additional Improvements for any one of the four reasons listed there, the Settlement Date is automatically extended by a reasonable time to account for the delay, not to exceed 60 days.

Note: The seller/builder must notify the buyer in writing within five days of the start of the delay, or the right to an extension is waived.

What is the purpose of the Building Deposit?

According to the "Building Deposit" paragraph, the Building Deposit is for the seller to use in financing the construction of any contracted additional improvements.

The Building Deposit is due and payable no later than the first business day after the end of the Due Diligence Period, and is refundable only in limited circumstances.

Even if the Building Deposit is refundable, actual recovery of the Deposit may be difficult, time-consuming and/or costly if the seller is unable or unwilling to voluntarily refund it. The buyer should take this into account in deciding whether and how much Building Deposit will be paid.

