

NAME OF DEVELOPMENT:

AMOUNT OF SECURITY: \$ _____

WEST NOTTINGHAM TOWNSHIP
100 Park Road, Nottingham, PA 19362

PROFESSIONAL SERVICES ESCROW FEE AGREEMENT

THIS AGREEMENT, is made this _____ day of _____, 200__, by and among _____ with its principal place of business located at _____ (hereinafter called "Developer"), and the BOARD OF SUPERVISORS OF WEST NOTTINGHAM TOWNSHIP, 100 Park Road, Nottingham, PA 19362 (hereinafter called "Township").

RECITAL

WHEREAS, the Developer owns certain real property located in the Township at _____ and known as Tax Parcel Number (s) _____; and

WHEREAS, both the Township Ordinances and the Pennsylvania Municipalities Planning Code ("MPC") permit the Township to impose fees for review of subdivision and land development plans; and

WHEREAS, the Township Board of Supervisors has adopted by means of appropriate resolution or resolutions a schedule of fees, including a professional services escrow fee, for reasonable and necessary charges required by the Township to compensate its Professional Consultants for services rendered during the review process; and

WHEREAS, Developer has filed an application for subdivision and/or an application for land development ("Plans") which requires the deposit of _____ Dollars (\$_____) for the review process based upon the aforesaid Resolution.

NOW, THEREFORE, for and in consideration of the Township's review of the Plans, and the mutual promises of the parties hereto made to each other, and intending to be legally bound hereby, the parties agree as follows:

1. For purposes of this Agreement the term "Professional Consultant" shall be equivalent to the definition set forth in the MPC, as that definition may be from time to time amended. The term is currently defined to include, "persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners."

2. The purpose of this Agreement is for Developer to reimburse the Township for the reasonable and necessary expenses incurred by the Township for review of the Plans by the Township's Professional Consultants.
3. Developer, contemporaneously with the execution of this Agreement, hereby deposits with the Township the sum of _____ Dollars (\$_____), ("Initial Escrow Amount") as that fee is determined pursuant to the appropriate resolution governing professional services escrow fees as adopted by the Township. Said money shall be held in a separate escrow account ("Escrow Account") by the Township. Developer acknowledges that this amount is only an estimate and that Developer is ultimately responsible for the full cost of the Professional Consultant fees. Developer shall not be entitled to any interest in connection with the account. Developer shall be entitled to a refund of any balance in the account upon termination of this Agreement and after all Professional Consultant fees have been paid.
4. Upon submission to the Township of itemized bills for Professional Consultant fees, the Township shall have the right to deduct said amounts from the Escrow Account. The Township shall, within ten (10) days of receipt, provide copies of the itemized bills to the Developer. The Developer shall have forty-five (45) days after receipt of the bill to notify the Township and the Township's Professional Consultants that such fees are disputed and the basis for the objection to those fees. Failure of the Developer to dispute a bill within forty-five (45) days shall be a waiver of the Developer's right to arbitration of that bill under Section 510(g) of the MPC. 53 PS §10510(g). In the event that the Township's Professional Consultant and the Developer cannot agree on the amount of the review fees, the Developer and the Township shall follow the procedure for dispute resolution set forth in Section 510(g), provided that the arbitrator resolving such dispute shall be of the same profession as the professional consultant whose fees are being disputed.
5. Developer shall be required to maintain a minimum balance that is equal to twenty percent (20%) of the Initial Escrow Amount at all times. Immediately after notice from the Township that the balance in the account is below the required minimum, Developer shall deposit with the Township, sufficient funds to restore the balance to the Initial Escrow Amount. Failure of the Developer to deposit the required funds shall result in the immediate cessation of all work by the Township and its Professional Consultants.
6. This Agreement shall remain in full force and effect until the Developer withdraws its Plans; the Plans are denied approval by the Township; or Developer's Plans have received final approval and the Developer and Township have executed appropriate Land Development and/or Subdivision Agreements and corresponding Financial Security Agreements.
7. By execution of this Agreement, Developer authorizes the Township to withdraw and make disbursements from the Escrow Account to pay the Professional Consultants, without limitation, and hereby remises, releases and forever discharges the Township from any and all liability, except wanton and intentional misconduct of the Township, with respect to any sum or sums so withdrawn, and directs that the Township shall be entitled to withdraw said sums without further inquiry being made by Township.

8. Developer acknowledges and agrees that the sum deposited in the Escrow Account is for the sole purpose of paying the Township's Professional Consultants, and is not for the purpose of guaranteeing any public improvements or payment to Developer's consultants, contractors or subcontractors who supply labor or materials or perform services in connection with the Plans.
9. Township agrees that the Escrow Account shall not be diminished by it, except upon receipt of invoices from the Township's Professional Consultants, and then only in such amount as set forth in the invoices.
10. All notices to be given by any of the parties hereto shall be in writing and delivered to the address of each party set forth in the heading hereof (or to such other address as may be furnished in writing for such purpose) to the attention of the individual named in the heading, if any, by postage prepaid, registered or certified mail or by recognized overnight delivery service with positive tracking of items (e.g., Federal Express).
11. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania.
12. Any additional terms, conditions, or modifications of this Agreement shall not be effective unless reduced to writing, signed by the parties hereto and appended to this Agreement as an Addendum hereto, specifically designated as such.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers and representatives on the date first indicated hereinabove.

ATTEST/WITNESS:

DEVELOPER

BY: _____

ATTEST/WITNESS:

BOARD OF SUPERVISORS OF
WEST NOTTINGHAM TOWNSHIP

Secretary

BY: _____
Gerald T. Cox, Chairman

BY: _____
David R. Ross, Supervisor

BY: _____
Eric M. Todd, Supervisor

SEAL