

LOWER GWYNEDD TOWNSHIP
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made this _____ day of _____, 20____, by and between LOWER GWYNEDD TOWNSHIP, with offices located at 1130 North Bethlehem Pike, Spring House, PA 19477 ("Township") and _____, with an address at _____, ("Applicant").

BACKGROUND

- A. The Applicant is the legal or equitable owner of certain property and improvements identified as _____ (Tax Parcel #_____) ("Property").
- B. The Applicant has filed with the Township land development, subdivision and/or permit applications and plans (the "**Application and Plans**") to construct the improvements depicted in the Application and Plans, which are hereby incorporated into this Agreement by reference.
- C. The Applicant has requested that the Township's professionals and consultants, including but not limited to, the Township Engineer, Township Solicitor, Township Traffic Engineer, Township Fire Marshal and other experts, consultants and professionals employed and/or contracted by the Township (the "**Township Professionals**"), and the Township's support personnel, code enforcement officer, planning officer, zoning officer, and other Township employees now or hereafter employed (the "**Township Staff**"), review the Applications and Plans, discuss such reviews with the Applicant, perform site or field inspections, and to provide such legal services, as are required by the Township pursuant to its rules, regulations or proper engineering standards in order to ensure that the proposed development of the Property reflects proper planning and engineering practices and complies with all Township ordinances, rules and regulations (the "**Township Services**").
- D. The Township has agreed to provide the Township Services and by execution of this Agreement, the Applicant has agreed to pay all charges, fees and expenses for the Township Services, including the Township's reasonable administrative fees, not to exceed ten percent (10%) of the amount of each Invoice (the "**Township Fees and Expenses**").

NOW, THEREFORE, intending to be legally bound, the Township and Applicant do hereby promise, covenant, and agree as follows:

1. **Background.** The "Background" section above is incorporated herein by reference as if fully set forth. The Applicant is the record or equitable owner of the Property and has provided the Township with evidence of such ownership interest.
2. **Township Services.** Upon authorization by the Township Manager, or the Manager's designee, and the payment of the Escrow (herein defined), the Township Professionals and Township Staff are authorized to perform the Township Services. Performance of the Township Services shall not constitute any form of approval or permission to perform any improvements on the Property.
3. **Payment of Fees and Expenses.** The Applicant agrees to pay all Township Fees and Expenses, for

the Township Services. This Agreement supplements the Township Fee Schedule and any other applicable laws, ordinances, rules and regulations governing reimbursement of the Township Fees and Expenses, including the Applicant's rights under the Pennsylvania Municipalities Planning Code ("MPC").

4. **Escrow Deposit.** The Applicant shall deposit for the sole benefit of the Township as escrow agent, the sum of \$_____ (the "Escrow") to be held by the Township in a non-interest bearing account. The Township shall acknowledge receipt of the Escrow in writing. Should the Applicant submit formal Application and Plans to the Township, the Township may permit the Escrow to be applied to the required Improvement Agreement with Township. This Agreement shall not pertain to any permit application filing fees, as set forth in the Fee Schedule in effect at the time of the application. **Please provide an email address and contact information for the financially responsible party.**

5. **Invoices.** The Township shall send the Applicant periodic invoices for the Fees and Expenses ("Invoice(s)"), which shall be paid within thirty (30) days of the Invoice transmittal cover date. The Escrow shall be used only as financial security for the Applicant's payment of the Invoice. At the Township's discretion, the Township may use the Escrow to pay the final Invoices for the Township Services. Any funds remaining in the Escrow after final payment will be promptly refunded to the Applicant.

6. **MPC.** The Applicant acknowledges that 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 other types of permits. 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."

7. **No Permits or Approvals.** The Applicant acknowledges and agrees that no Application shall be deemed complete or approved without the Escrow, and that no approvals or permits shall be issued by the Township if the Applicant is not in compliance with the terms of this Agreement or any Township Fee Schedule then in effect. In no event shall submission of a concept plan or consulting with any of the Township Professionals or Township Staff commence the ninety (90) day review period under the MPC nor does it create any argument for approval of any plan, concept or otherwise.

8. **Governing Law; Venue; Amendment.** This Agreement shall be governed by and construed exclusively in accordance with the laws of the Commonwealth of Pennsylvania (without regard to the choice of law principles thereof). Any claim, action, suit or other proceeding under or in connection with this Agreement shall be asserted, brought, prosecuted and maintained in the Court of Common Pleas of Montgomery County, Pennsylvania. Any additional terms, conditions, or modifications of this Agreement shall not be effective unless reduced to writing, signed by the Township and Applicant and appended to this Agreement as an Addendum hereto, specifically designated as such. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid, unenforceable, unconstitutional, or void, for any reason, only that provision shall be illegal, invalid, unenforceable, unconstitutional, or void, and the remainder of this Agreement shall be in full force and effect

9. **Disputes.** The Applicant shall have forty-five (45) days after receipt of the Invoice to notify the

Township and the Township's Professionals that such Invoice is disputed and the basis for the objection. Failure of the Applicant to timely dispute an Invoice shall be a waiver of the Applicant's right to arbitration under Section 510(g) of the MPC. 53 PS §10510(g). In the event that any of the Township's Professionals and the Applicant cannot agree on the amount of the review fees, the Applicant and the Township shall follow the procedure for dispute resolution set forth in MPC Section 510(g), provided that the arbitrator resolving such dispute shall be of the same profession as the Township Professional whose fees are being disputed.

10. **Default**. If Township determines that a violation of the terms of this Agreement has occurred, written notice shall be provided to the Applicant and the Applicant shall have fifteen (15) days after the date of the notice to cure the violation. The Township may bring an action at law or in equity to enforce the terms of this Agreement. The Township's election of its remedies under this Paragraph shall not constitute a waiver of any other remedies the Township may have. The Township may also cease to issue any permits; revoke any issued permits related in any way to the breach or violation; stop providing the Township Services; and refuse to accept or approve any application. Further, all reasonable costs incurred by Township in enforcing the terms of this Agreement including, without limitation, costs and expenses of suit and reasonable attorneys' fees shall be borne by Applicant if Township prevails. Forbearance by Township to exercise its rights under this Agreement in the event of any breach of any term of this Agreement, shall not be deemed or construed to be a waiver by the Township of any part of this Agreement or of any of Township's rights under this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Township and Applicant have caused this Agreement to be executed the date first above written.

TOWNSHIP:
LOWER GWYNEDD TOWNSHIP

By: _____
MIMI GLEASON, TOWNSHIP MANAGER

APPLICANT:

Signature

Organization Name:

Print Name and Title