

**IN THE COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA**

YOUR TOWNE BUILDERS, INC,
COOPER CUSTOM HOMES, INC., HESS
HOME BUILDERS, INC., C&F, INC.,
HORST & SON, INC., COSTELLO
BUILDERS, INC., and KEYSTONE
CUSTOM HOMES, INC., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

MANHEIM TOWNSHIP, MANHEIM
TOWNSHIP GENERAL MUNICIPAL
AUTHORITY, C. MATTHEW BROWN,
P.E. and ARRO CONSULTING, INC.

Defendants.

Case No. CI-14-07663

CLASS SETTLEMENT AGREEMENT

Subject to the preliminary and final approval of the Court, and as further set forth below, this Class Settlement Agreement is made as of the 28th day of December, 2023, by and between the Class Plaintiffs (as defined below), individually and as representatives of the Settlement Class (as defined below), Class Counsel (as defined below), and the Municipal Defendants (as defined below).

BACKGROUND

WHEREAS, on May 5, 2016, the Court granted Plaintiffs Your Towne Builders, Inc, Cooper Custom Homes, Inc., Hess Home Builders, Inc., C&F, Inc., Horst & Son, Inc., Costello Builders, Inc., and Keystone Custom Homes, Inc.’s (collectively “Class Plaintiffs”) motion seeking certification of a class of all persons, both natural and legal, on whom Defendants or any

of their agents imposed or will impose water-tapping fees, at any time after August 21, 2012 (the “Settlement Class”);

WHEREAS, the parties agree that the amount currently due Class Plaintiffs and the Settlement Class pursuant to the Commonwealth Court’s opinion of October 6, 2023 is slightly more than \$4.1 million, consisting of approximately \$2.85 million in excess tapping fees with prejudgment interest and approximately \$1.26 million in post-judgment interest;

WHEREAS, Defendants Manheim Township and Manheim Township General Municipal Authority (collectively, the “Municipal Defendants”) have collected no tapping fees since April 2022, and have reimbursed any members of the Settlement Class who paid tapping fees after March 7, 2022;

WHEREAS, as a result of arm’s-length negotiations, Class Plaintiffs and the Municipal Defendants have entered into this Class Settlement Agreement;

WHEREAS, the Class Plaintiffs and Class Counsel have conducted substantial discovery, have investigated the facts and underlying events relating to the subject matter of their claims, have carefully analyzed the applicable legal principles, and have concluded, based upon their investigation, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of their claims, and taking into account the substantial benefits to be received pursuant to this Class Settlement Agreement as set forth below, and for the purpose of putting to rest all controversies with the Municipal Defendants that were or could have been alleged, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Class Plaintiffs and the Settlement Class;

WHEREAS, the Municipal Defendants, for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the Class Plaintiffs’ claims, and for the purpose of

putting to rest all controversies with the Class Plaintiffs and the Settlement Class that were or could have been alleged, desire to enter into this Class Settlement Agreement;

WHEREAS, Class Counsel represent and warrant that they are fully authorized to enter into this Class Settlement Agreement on behalf of the Class Plaintiffs, and that Class Counsel have consulted with and confirmed that Class Plaintiffs fully support and have no objection to this Class Settlement Agreement; and

WHEREAS, Municipal Defendants shall pay Plaintiffs the sum of four million dollars (\$4,000,000), representing an agreed upon reduction in the amount of post-judgment interest in exchange for the releases and other benefits described below.

NOW, THEREFORE, in consideration of the mutual covenants and terms contained herein, and subject to the final approval of the Court, the Class Plaintiffs, Class Counsel, and the Municipal Defendants agree as follows:

A. SETTLEMENT CLASS

1. The Class Plaintiffs will seek, and the Municipal Defendants will not oppose, the Court's appointment of the law firms of Robson & Robson, P.C. and Bailey & Glasser LLP as Class Counsel to represent the members of the Settlement Class.

2. The Class Plaintiffs agree that they (a) will not seek to opt out of or otherwise exclude themselves from the Settlement Class, or in any way, by class definition or otherwise, seek to exclude themselves from the Settlement Class, and (b) will not object to the Court's preliminary or final approval of this Class Settlement Agreement.

B. CLASS SETTLEMENT ESCROW ACCOUNT(S)

3. No later than December 31, 2023, Class Counsel and the Municipal Defendants shall establish a Class Settlement Escrow Account pursuant to the terms of an escrow agreement between and among the parties and The Huntington National Bank (the "Escrow Agent") . Funds

in the Escrow Account shall be invested solely as provided in that escrow agreement. The Class Plaintiffs and the Municipal Defendants agree that the Class Settlement Escrow Account is intended to be and shall be treated as a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and any analogous local, state, and/or foreign statute, law, regulation, or rule.

4. All Taxes with respect to any sums in the Class Settlement Escrow Account, the administrative costs of paying such Taxes, and any other costs of establishing, maintaining, or administering the Escrow Account shall be paid from the Escrow Account by the Escrow Agent.

5. No payments from the Class Settlement Escrow Account, or any other use of the Escrow Account, shall be made without the prior approval of the Court. Class Plaintiffs shall provide Municipal Defendants with prior notice of any applications to the Court for such approvals sought.

6. In no event shall the Municipal Defendants or any of the Municipal Defendants' officials, commissioners, board members, employees, agents, attorneys, advisors, consultants, contractors, insurers, successors or assigns (collectively, the "Settlement Class Released Parties"), have any obligation, responsibility, or liability arising from or relating to the administration, maintenance, preservation, investment, use, allocation, adjustment, distribution, disbursement, or disposition of any funds in the Class Settlement Escrow Account(s).

C. PAYMENTS TO THE CLASS SETTLEMENT ESCROW ACCOUNT(S)

7. No later than December 31, 2023, the Municipal Defendants shall pay One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) by wire transfer into the Class Settlement Escrow Account. Class Counsel agrees to provide wiring instructions to the Municipal Defendants by no later than 1 p.m. on December 28, 2023. If such wire instructions are provided after that time, the deadline for Municipal Defendants to effectuate the wire transfer

into the Class Settlement Escrow Account shall be extended by an additional business day for each additional day that it takes Class Counsel to provide the wiring instructions. The parties agree that the next business day after December 31, 2023 is January 2, 2024. .

8. Upon execution of this Class Action Settlement Agreement, the Municipal Defendants hereby relinquish all rights they have to the two million seven hundred fifty thousand dollars (\$2,750,000), and any interest accrued thereon, currently being held by the Prothonotary of the Court of Common Pleas, Lancaster County. In the event the Prothonotary imposes poundage on the funds held by it, the Municipal Defendants shall be responsible for payment of such poundage such that Class Plaintiffs receive the full \$2,750,000 and any interest accrued thereon.

9. In seeking preliminary approval of this Class Settlement Agreement, Class Counsel will seek to transfer \$2,750,000 from the Court to the Escrow Agent. Defendant Manheim Township General Municipal Authority (the “Authority”) shall provide reasonable cooperation and assistance to Class Counsel and/or the Escrow Agent as is necessary to effectuate that transfer without undue delay, including by entering into or joining escrow agreements with the Escrow Agent.

10. Class Plaintiffs may terminate this Class Settlement in the event the payments and assignments described in paragraphs 7 and 8 above are not timely made, unless such delay is the result of action or inaction of Class Plaintiffs, Class Counsel or the Escrow Agent.

11. The payments described in paragraphs 7 and 8 above shall exhaust and fully satisfy any and all judgments, interest, costs, fees and any other payment obligations whatsoever under the above captioned litigation and under this Class Settlement Agreement of the Municipal Defendants and any other Settlement Class Released Parties, and shall extinguish entirely any

further obligation, responsibility, or liability to pay any notice expenses, attorneys' fees, litigation costs, costs of administration, Taxes, settlement sums, interest or sums of any kind to the Class Settlement Escrow Account, or to the Class Plaintiffs or other members of the Settlement Class (other than those who opt out of the Settlement Class), or to any of their respective counsel, experts, advisors, agents, and representatives, all of whom shall look solely to the Class Settlement Escrow Account for settlement and satisfaction of all claims released in this Class Settlement Agreement.

D. RELEASES AND COVENANTS NOT TO SUE

12. Upon final approval of the Class Settlement Agreement, the Class Plaintiffs and the Settlement Class shall:

- a. file a praecipe in the above captioned matter marking the judgment, interests, costs and fees as being fully satisfied;
- b. be deemed to have released the Settlement Class Released Party for the Released Claims (as defined below) and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the Released Claims.

13. "Released Claims" means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses) that the Settlement Class had, have or may claim now or in the future to have (including, but not limited to, assigned claims and any and all Unknown Claims) that were or could have been asserted or alleged arising out of the same nucleus of operative facts as any of

the claims alleged or asserted in this Action, including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged, argued, raised or asserted in any pleading or court filing in this Action.

14. Each member of the Settlement Class covenants and agrees that it shall not, hereafter, seek to establish, or permit another to act for it in a representative capacity to seek to establish, liability against any of the Settlement Class Released Parties based, in whole or in part, upon any conduct covered by any of the Released Claims.

15. For avoidance of doubt, no provision of this Class Settlement Agreement releases any claim of a member of the Settlement Class that is based on:

- a. breach of this Class Settlement Agreement;
- b. standard disputes arising in the ordinary course of business between members of the Settlement Class and any of the Municipal Defendants; or
- c. any tapping fees imposed by the Municipal Defendants upon their recalculation of tapping fees due to changes to the Manheim Township municipal water system and/or the Pennsylvania Municipal Authorities Act.

16. Upon final approval of the Class Settlement Agreement by the Court, Municipal Defendants shall be deemed to have released the Class Plaintiffs, Class Counsel, and their experts in this Action, from any claims relating to this Action, including claims regarding the negotiation and terms of this Class Settlement Agreement, except for any claims relating to enforcement of this Class Settlement Agreement.

17. Upon final approval of the Class Settlement Agreement by the Court, Class Plaintiffs shall within five (5) business days (a) withdraw with prejudice the Intervenor's Answer to Plaintiff's Complaint with New Matter and Counterclaims/Crossclaims filed in *Township of*

Manheim v. General Municipal Authority of the Township of Manheim, No. CI-22-07180, and otherwise relinquish their intervenor status in that action, (b) dismiss with prejudice *Your Towne Builders, Inc. v. General Municipal Authority of the Township of Manheim*, No. CI-23-01042, and (c) dismiss with prejudice *Your Towne Builders, Inc. v. Manheim Township*, No. CI-23-02718.

18. Upon final approval of the Class Settlement Agreement by the Court, the Municipal Defendants may proceed to document that the Manheim Township is the owner of the Overlook Golf Course by filing appropriate documents with the Lancaster County Recorder of Deeds as may be deemed appropriate by the Municipal Defendants in their sole discretion. Class Plaintiffs and Class Counsel agree not to directly or indirectly challenge, contest or oppose such actions by Municipal Defendants.

E. COURT APPROVAL OF PROCESS FOR DISTRIBUTION OF CLASS SETTLEMENT PROCEEDS

19. Class Counsel and the Class Administrator shall carry out the settlement notice and exclusion procedures as ordered by the Court, and shall perform such related duties as may be necessary to provide those notice and exclusion procedures consistent with the Pennsylvania Rules of Civil Procedure.

20. Class Plaintiffs, Class Counsel, and Municipal Defendants agree to use reasonable and good faith efforts to effectuate the Court's approval of the process for finalizing the distribution of the settlement proceeds, including filing necessary motion papers and scheduling any necessary hearings for a date and time that are convenient for the Court.

21. The Court may consider any applications for attorneys' fee awards, expense awards, or Class Plaintiffs' awards separately from a motion for preliminary or final approval of this Class Settlement Agreement, and may enter orders regarding such applications separately

from any judgment. Any rehearing, reconsideration, vacation, review, appeal, or any other action taken regarding only a separate order concerning only an application for attorneys' fee awards, expense awards, or Class Plaintiffs' awards, and not in any way concerning the judgment, shall not delay the finality of this settlement that otherwise would occur.

F. CONTINUING JURISDICTION

22. The Court will retain continuing jurisdiction over the Class Plaintiffs, the members of the Settlement Class, and the Municipal Defendants to implement, administer, consummate, and enforce this Class Settlement Agreement and any final judgment.

23. The Municipal Defendants and the Class Plaintiffs agree, and the members of the Settlement Class will be deemed to have agreed, to submit irrevocably to the exclusive jurisdiction of this Court for the resolution of any matter covered by this Class Settlement Agreement, the final judgment, or the applicability of this Class Settlement Agreement or the final judgment.

24. All applications to the Court with respect to any aspect of this Class Settlement Agreement or the final judgment shall be presented to and be determined by President Judge David L. Ashworth for resolution as a matter within the scope of this Action, or, if he is not available, any other judge designated by the Court of Common Pleas of Lancaster County. Without limiting the generality of the foregoing, it is hereby agreed that any suit, action, proceeding, or dispute of a Class Plaintiff or member of the Settlement Class, in which the provisions of this Class Settlement Agreement or the final judgment are asserted as a ground for a defense, in whole or in part, to any claim or cause of action, or are otherwise raised as an objection, constitutes a suit, action, proceeding, or dispute arising out of or relating to this Class Settlement Agreement or the final judgment.

G. ADDITIONAL TERMS AND CONDITIONS

25. The Class Plaintiffs, Class Counsel, the Municipal Defendants, and counsel for the Municipal Defendants, agree that they:

a. Shall not in any way encourage, promote, or solicit any person, business, or entity within the definition of the Settlement Class, or their counsel, to request exclusion from the Settlement Class, to object to this Class Settlement Agreement, or to seek any relief inconsistent with this Class Settlement Agreement; and

b. Shall not in any way encourage, promote, or solicit any person, business, or entity within the definition of the Settlement Class, or their counsel, to facilitate, induce, or cause the non-fulfillment of a condition, or the occurrence of an event, which could result in the termination of this Class Settlement Agreement.

26. The Class Plaintiffs, Class Counsel, and the Municipal Defendants shall undertake reasonable efforts to timely obtain any required approvals or consents to execute and proceed with this Class Settlement Agreement.

27. The Class Plaintiffs, Class Counsel, and the Municipal Defendants shall execute all documents and perform any additional acts reasonably necessary and proper to effectuate the terms of this Class Settlement Agreement.

28. This Class Settlement Agreement constitutes the entire, complete, and integrated agreement between and among the Class Plaintiffs, on behalf of themselves and the Settlement Class, and the Municipal Defendants with respect to the settlement of this Action.

29. In entering into and executing this Class Settlement Agreement, the Class Plaintiffs and the Municipal Defendants warrant that they are acting upon their respective independent judgments and upon the advice of their respective counsel, and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other person or

entity, other than the warranties and representations expressly made in this Class Settlement Agreement.

30. Nothing in this Class Settlement Agreement shall preclude the Municipal Defendants from seeking to collect tapping fees of \$957.94 per equivalent dwelling unit from Class Members who were or are issued building permits between March 7, 2022 and the Settlement Final Date, and (a) did not or will not pay tapping fees concurrent with the issuance of their building permits or (b) were fully reimbursed for any tapping fees they paid.

31. This Class Settlement Agreement may not be modified or amended except by a writing signed by the Class Plaintiffs and the Municipal Defendants or their respective counsel and approved by the Court.

32. This Class Settlement Agreement or any portion thereof shall not be construed more strictly against any party to it merely because it may have been prepared by counsel for one of them, it being recognized that because of the arm's-length negotiations resulting in this Class Settlement Agreement, all parties to this Class Settlement Agreement have contributed substantially and materially to the preparation of it.

33. All headings used in this Class Settlement Agreement are for reference and convenience only and shall not affect the meaning or interpretation of this Class Settlement Agreement.

34. The waiver by any Class Plaintiff or Municipal Defendant of any breach of this Class Settlement Agreement shall not be deemed or construed as a waiver of any other breach of this Class Settlement Agreement, whether prior, subsequent, or contemporaneous.

35. The Settlement Class Released Parties other than the Municipal Defendants are third-party beneficiaries of this Class Settlement Agreement and are authorized to enforce the provisions of this Class Settlement Agreement.

36. Any notice or materials to be provided to the Class Plaintiffs pursuant to this Class Settlement Agreement shall be sent to Class Counsel, and any notice or materials to be provided to the Municipal Defendants pursuant to this Class Settlement Agreement shall be sent to their respective counsel, as follows:

Edward S. Robson
Robson & Robson, P.C.
2200 Renaissance Boulevard, Suite 270
King of Prussia, PA 19406
(610) 825-3009
erobson@robsonlaw.com

Michael S. Gill
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Class Counsel

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Counsel for Manheim Township

Scot R. Withers
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Class Counsel

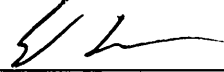
*Counsel for Manheim Township General
Municipal Authority*

37. Each of the undersigned representatives of each Class Plaintiff and each Municipal Defendant represents that it is fully authorized to enter into, and to execute, this Class Settlement Agreement on behalf of that Class Plaintiff or Municipal Defendant. Each of the Class Plaintiffs and the Municipal Defendants agrees that, in return for the agreements in this Class Settlement Agreement, it is receiving good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged.

38. This Class Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. The Class Settlement Agreement shall become effective only when executed by Class Counsel and counsel for the Municipal Defendants.

IN WITNESS WHEREOF, the signatories below have read and understood this Class Settlement Agreement, have executed it, represent that the undersigned are authorized to execute this Class Settlement Agreement on behalf of their respectively represented parties, have agreed to be bound by its terms, and have duly executed this Class Settlement Agreement.

ROBSON & ROBSON, P.C.

By:  _____

Dated: 12/28/2023

Edward S. Robson
2200 Renaissance Boulevard, Suite 270
King of Prussia, PA 19406
(610) 825-3009
erobson@robsonlaw.com

Class Counsel

BUCKLEY, BRION, MCGUIRE &
MORRIS LLP

By: _____

Dated: _____

Warren E. Kampf
118 West Market Street
West Chester, Pennsylvania 19382
(610) 436-4400
gillm@buckleyllp.com

Counsel for Manheim Township

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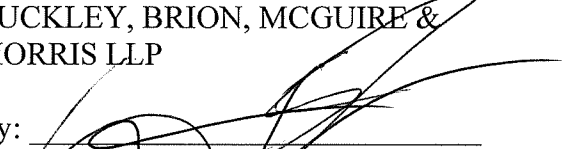
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ROBSON & ROBSON, P.C.
By: _____

Dated: _____

Edward S. Robson
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erobson@robsonlaw.com

Class Counsel

BUCKLEY, BRION, MCGUIRE &
MORRIS LLP
By:  _____

Dated: 12/28/23

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Counsel for Manheim Township

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By: Bart D. Cohen

Dated: December 28, 2023

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Class Counsel

LAMB MCERLANE PC

By: _____

Dated: _____

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Dated: _____

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Class Counsel

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