

**AGENDA
MUNICIPAL COUNCIL
WORKSESSION MEETING
January 22, 2018
6:00 p.m.**

1. Call to Order and Pledge of Allegiance.
2. Roll Call.
3. Adequate Notice of this meeting as required by the Open Public Meetings Act of 1975, has been provided by an Annual Notice sent to The Home News Tribune, The Star Ledger and the Sentinel on December 9, 2017 and posted in the Main Lobby of the Municipal Complex on the same date.
4. **ORAL PETITIONS AND REMARKS**
5. **REVIEW OF MINUTES:**
 - a. Worksession Meeting of December 4, 2017
 - b. Regular Meeting of December 6, 2017
 - c. Re-organization Meeting of January 1, 2018
6. **ADMINISTRATIVE AGENDA:
FROM MAYOR THOMAS LANKEY:**
 - a. Re-appointment of Salvatore Pizzi to the Planning Board
 - b. Re-appointment of John Soltesz to the Environmental Commission
 - c. Appointment of Kunal Patel to the Environmental Commission
 - d. Appointment of Dr. Nimisha Shukla to Health Advisory Board
 - e. Appointment of Dr. Sudhanshu Prasad to Health Advisory Board
 - f. Appointment of Ojasvi Arora to Local Emergency Planning
 - g. Appointment of Mahesh Chitnis to Local Emergency Planning
 - h. Appointment of Raju Desai to the Fair Rental Housing
 - i. Appointment of Vallari Patel to the Fair Rental Housing
7. **REPORTS FROM ALL COUNCIL COMMITTEES:**
8. **POINTS OF LIGHT**
9. **FROM THE BUSINESS ADMINISTRATOR:**
 - a. Resolution awarding Contract/Purchase order for Maintenance and support for the phone and radio systems for the Township (\$25,061.76)
 - b. Resolution awarding Contract for Public Bid No. 17-12-04 Office Supplies (not to exceed \$75,000.)
 - c. Resolution appointing Director of Public Works.
10. **FROM THE DEPARTMENT OF FINANCE:**

- a. Report of Disbursements through January 18, 2018
 - b. Resolution authorizing refund in the amount of \$265,651.80 for redemption of tax sale certificates.
11. **FROM THE DEPARTMENT OF HEALTH:**
- a. Resolution authorizing a reimbursement of Rental Re-occupancy Inspection fess.
 - b. Resolution of Support from the Municipal Council of the Township of Edison, authorizing the development and submission of a viable application to the 2018 Sustainable Jersey™ Small Grant Program, funded by the PSE&G Foundation, to support local green/sustainable, environmental and ecological initiatives, activities, projects and programs.
12. **FROM THE DEPARTMENT OF LAW:**
- a. Resolution authorizes the Mayor to execute the attached Developer’s Agreement with K-Land No. 66, LLC, with respect to Block 762, Lot 1.A (property located at Jackson Avenue and Gibian Street), as shown on the Township of Edison tax maps.
 - b. Resolution amends the award of a Professional Services Contract to Apruzzese, McDermott, Mastro & Murphy, P.C. for special labor counsel services to set the correct hourly rate to be billed for services rendered.
 - c. Ordinance amending Chapter 19 Township Code to revise and update the Street Excavation Ordinance.
 - d. An Ordinance amending the Township Code Chapter 11-35 “Clothing Donation Bins” setting forth requirements for placement and maintenance of Clothing Donation Bins.
 - e. Ordinance amending Promotional Process in the Fire Division
 - f. Resolution authorizing the Mayor to appoint Punita Amin, ESQ as Alternate/Conflict Municipal Prosecutor.
13. **FROM THE DEPARTMENT OF PLANNING AND ENGINEERING:**
- a. Resolutions refunding of Construction Permit fees for work never performed.
 - b. Resolutions returning of Tree Maintenance Bonds.
 - c. Resolution authorizing the grant of \$5,200.00 from the Townships Affordable Housing Weatherization/Energy Assistance Program.
14. **FROM THE COUNCIL MEMBER OF THE PLANNING BOARD:**
- 15.. **DISCUSSION ITEMS:**
- Council President Patil**
- a. None
- Councilmember Coyle**
- a. None
- Councilmember Diehl**

a. None

Councilmember Gomez

a. None

Councilmember Joshi

a. None

Councilmember Lombardi

a. Resolution of Recognition – Harrison Sussman

Councilmember Sendelsky

a. None

16. **ADJOURNMENT**

RESOLUTION AWARDING CONTRACT/PURCHASE ORDER TO VALUE ADDED VOICE SOLUTIONS FOR MAINTENANCE AND SUPPORT FOR THE PHONE AND RADIO SYSTEMS FOR THE TOWNSHIP OF EDISON

WHEREAS, there is a need for maintenance and support for the recording systems for the phone and radio systems in the 911 Communication Center in the Township of Edison for the period of March 1, 2018 through February 28, 2019; and

WHEREAS, VALUE ADDED VOICE SOLUTIONS, 1111 Shore Dr., Brielle, NJ 08730, has been awarded State Contract Number 83908 under T-0109/Radio Communication Equipment and Accessories for this service; and

WHEREAS, in accordance with the authority set forth in N.J.S.A. 40A:11-12 of the Local Public Contracts Law, public bidding is not required when the purchase is under a state contract; and

WHEREAS, VALUE ADDED VOICE SOLUTIONS, has submitted a quote for the contract in the amount of \$25,061.76; and

WHEREAS, funds in the amount of \$25,061.76 have been certified to be available in the Dispatch 911 Maintenance of Other Equipment Account, Number 8-01-25-0250-000-026 subject to and contingent upon the availability of sufficient funds in the 2018 temporary and/or permanent budget; and

WHEREAS, the Township Council accepts Edison Township's recommendations as described herein.

NOW, THEREFORE, IT IS RESOLVED by the Township Council of the Township of Edison, as follows:

1. The Mayor, or his designee, is hereby authorized to execute a contract/purchase order in the amount not to exceed \$25,061.76 subject to and contingent upon the availability of sufficient funds in the 2018 temporary and/or permanent budget and any other necessary documents, with VALUE ADDED VOICE SOLUTIONS, 1111 Shore Dr., Brielle, NJ 08730 as described herein.
2. This contract is authorized pursuant to the authority set forth in N.J.S.A. 40A:11-12 of the Local Public Contracts Law, and State Contract, No. 83908 under T-0109.

CERTIFICATION OF AVAILABILITY OF FUNDS

I hereby certify that funds in the amount of **\$25,061.76** have been certified to be available Account Number **8-01-25-0250-000-026** subject to and contingent upon the availability of sufficient funds in the 2018 temporary and/or permanent budget.

Nicholas C. Fargo
Chief Financial Officer

Date

**RESOLUTION ACCEPTING BID AND AWARDING CONTRACT TO W.B. MASON COMPANY INC.
FOR OFFICE SUPPLIES**

WHEREAS, bids were received by the Township of Edison on November 28, 2017 for Public Bid No. 17-12-04-Office Supplies for the Township of Edison; and

WHEREAS, W.B. MASON COMPANY INC., 21 Commerce Dr., Cranbury, NJ 08512, submitted the lowest legally responsible, responsive bidder; and

WHEREAS, W.B. MASON COMPANY INC. has also been awarded State Contract Number 88839 under T-0052-Office Supplies & Recycled Copy Paper Statewide; and

WHEREAS, it is in the best interest of the township to purchase office supplies from W.B. MASON INC. utilizing both of these contracts to obtain the best pricing for various items as highlighted on the spreadsheet; and

WHEREAS, the initial contract shall be for one (1) year from execution of the contract with options to renew for two (2) one (1) year renewals at the sole discretion of the Township at the same prices, conditions, requirements and terms of the contract, subject to and contingent upon appropriation of sufficient funds each renewal year; and

WHEREAS, the amount of the first year and any succeeding renewal year shall not exceed \$73,000.00 as awarded under the Township Contract Number 17-12-04 and the amount of the first year and any succeeding renewal year shall not to exceed \$2,000.00 as awarded under State Contract Number 88839 under T-0052-Office Supplies & Recycled Copy Paper Statewide and these cannot be encumbered at this time; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.10 funds for Open-End Contracts shall be committed at the time an order is placed and shall not exceed the unit price; and

WHEREAS, no amount shall be chargeable or certified until such time as goods or services are ordered or otherwise called for. Prior to incurring the liability by placing the order, the certification of available funds shall be made by the Chief Financial Officer or Certifying Financial Officer. It shall be the responsibility of the official responsible for issuing the purchase order to notify and seek the certification of availability of funds of the Chief Financial Officer or Certifying Finance Officer, as appropriate (N.J.A.C. 5:30-5.5(b)); and

WHEREAS, the Township Council accepts Edison Township's recommendations as described herein and as submitted on the summary spreadsheet.

NOW, THEREFORE, IT IS RESOLVED by the Township Council of the Township of Edison, as follows:

1. All bids have been reviewed, and the bid submitted by W.B. MASON COMPANY INC., 21 Commerce Dr., Cranbury, NJ 08512 for Office Supplies for the Township of Edison, is determined to be the lowest legally responsible, responsive bid for various items as listed on the spreadsheet and stated herein under Contract No. 17-12-04 and State Contract Number 88839; T-0052-Office Supplies & Recycled Copy Paper Statewide.
2. The Mayor, or his designee, is hereby authorized to execute a contract in the amount not to exceed \$75,000.00 for the first year and any succeeding renewal year subject to and contingent upon appropriation of sufficient funds for each renewal year and any other necessary documents, with W.B. MASON COMPANY INC. as described herein.

RESOLUTION ____

EXPLANATION: A Resolution providing the Municipal Council's advice and consent to the appointment by the Mayor of Anthony Russomanno as Township Director of the Department of Public Works.

WHEREAS, the Township of Edison (the "Township") is a public body corporate and politic of the State of New Jersey and seeks to appoint a director ("Director") of its Department of Public Works ("Department"); and

WHEREAS, the Director shall be responsible for the administration, direction, coordination, supervision and control of all divisional units of the Department; and

WHEREAS, the Municipal Council of the Township ("Municipal Council") has reviewed the qualifications of Anthony Russomanno to serve as Director, including his education, training, experience and certifications, and found him both highly experienced and suitable to fill the available position; and

WHEREAS, the Mayor desires to appoint Anthony Russomanno as Director of the Department, for the reasons set forth herein; and

WHEREAS, the Municipal Council seeks to provide its advice and consent to the aforesaid appointment, in accordance with *N.J.S.A. 40:69A-43(b)*; and

WHEREAS, Anthony Russomanno shall be appointed as Director at compensation as set by municipal ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison, Middlesex County, State of New Jersey, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Municipal Council hereby provides its advice and consent to the Mayor's appointment of Anthony Russomanno to serve as Director of the Department, at compensation as set by municipal ordinance.
3. A copy of this Resolution shall be available for public inspection at the offices of the Township Clerk.
4. This Resolution shall take effect immediately.

RESOLUTION

APPROVAL OF DISBURSEMENT OF FUNDS BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EDISON FOR THE PERIOD ENDING JANUARY 18, 2018.

WHEREAS, the Director of Finance of the Township of Edison has transmitted to the Township Council a Report of Disbursements made through January 18, 2018.

FUND	AMOUNT
Current	\$16,075,371.03
Sewer Utility	86,693.37
Capital	170,797.87
Grant Funds	750.00
Dog (Animal Control)	903.98
Trust	266,459.45
CDBG	187,524.26
Tree Fund	0.00
Payroll Deduction	1,119,188.96
Law Enforcement	0.00
Open Space	0.00
Park Improvements	0.00
Sanitation Fund	100,767.00
Self Insurance	0.00
Affordable Housing	0.00
Cash Performance	21,252.73
Developers Escrow	101,426.81
Tree Planting	0.00
Federal Forfeited	0.00
Tax Sale Redemption	1,083,332.04
Water Operating Fund	0.00
Edison Landfill Closure Trust	0.00
TOTAL	\$19,214,467.50

/s/ Nicholas C. Fargo
Chief Financial Officer

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Edison, that the above-referenced disbursements report is hereby approved.

RESOLUTION

Authorizing refund for redemption of tax sale certificates

WHEREAS, the Tax Collector of the Township of Edison, Lina Vallejo, reports and advises that at various sales of land for delinquent taxes held by the Edison Township Collector of Taxes, Middlesex County, New Jersey, the attached listing of tax sale certificates were sold; and

WHEREAS, the Tax Collector further reports that the said tax sale certificates have been redeemed thereof, and further advises that the purchasers of said property are legally entitled to a refund of monies paid at the time of redemption.

NOW THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Edison, that the aforementioned recitals are incorporated herein as though fully set forth at length.

BE IT FURTHER RESOLVED, by the Municipal Council of the Township of Edison, that the appropriate official of the Township is hereby authorized to draw checks to the noted parties in the amounts specified on the attached listing, totaling **\$265,651.80**.

**RESOLUTION AUTHORIZING A REIMBURSEMENT OF RENTAL REOCCUPANCY INSPECTION
FEES TO MURIELLE FERINO**

WHEREAS , Murielle Ferino, Realtor, representing owner Marilyn Pinto-Quinones of a rental unit located at 538 Waterford Drive, Edison, made an application for a Rental Reoccupancy Inspection along with payment in the amount of \$75.00; and

WHEREAS, the owner has now chosen to sell rather than rent this unit, therefore a rental reoccupancy inspection is not required.

NOW, THEREFORE, IT IS RESOLVED by the Township Council of the Township of Edison, that the Chief Financial Officer of the Township of Edison shall refund the amount of \$75.00 to Murielle Furino, c/o Fox & Foxx Realty, 940 Amboy Avenue, Edison, NJ 08837, which amount represents the amount the an initial Rental Reoccupancy Inspection

CERTIFICATION OF AVAILABILITY OF FUNDS

I hereby certify that funds in the amount not to exceed **\$75.00** are available for the above refund in Account No. **8-01-55-0291-000-000**.

Chief Financial Officer

**RESOLUTION AUTHORIZING A REIMBURSEMENT OF RENTAL REOCCUPANCY INSPECTION
FEES TO PAMMI UPPALADADIUM**

WHEREAS , Pammi Uppaladadium, owner of a rental unit located at 57 Annette Drive, Edison, made an application for a Rental Reoccupancy Inspection along with payment in the amount of \$75.00; and

WHEREAS, the owner has now chosen to sell rather than rent this unit, therefore a rental reoccupancy inspection is not required.

NOW, THEREFORE, IT IS RESOLVED by the Township Council of the Township of Edison, that the Chief Financial Officer of the Township of Edison shall refund the amount of \$75.00 to Pammi Uppaladadium, 1 Gentore Ct., Edison, NJ 08820, which amount represents the amount the an initial Rental Reoccupancy Inspection

CERTIFICATION OF AVAILABILITY OF FUNDS

I hereby certify that funds in the amount not to exceed **\$75.00** are available for the above refund in Account No. **8-01-55-0291-000-000**.

Chief Financial Officer

Date

RESOLUTION

Explanation: A Resolution of Support from the Municipal Council of the Township of Edison, authorizing the development and submission of a viable application to the 2018 Sustainable Jersey™ Small Grant Program, funded by the PSE&G Foundation, to support local green/sustainable, environmental and ecological initiatives, activities, projects and programs.

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Township of Edison strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the Township of Edison is a certified, Bronze Level participant of the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues and therefore created a public initiative titled: the *2018 Sustainable Jersey Small Grants Program*, funded by the PSE&G Foundation; and

WHEREAS, no matching funds are required of the Township of Edison in order to participate in the *2018 Sustainable Jersey Small Grants Program*, funded by the PSE&G Foundation; and

WHEREAS, the Municipal Council of the Township of Edison has determined that the Township of Edison should develop and submit a viable application to the *2018 Sustainable Jersey Small Grants Program*, funded by the PSE&G Foundation in order to support local green/sustainable, environmental and ecological initiatives.

NOW, THEREFORE, BE IT RESOLVED, that the Municipal Council of the Township of Edison, State of New Jersey, authorizes the development and submission of an application to the *2018 PSE&G Foundation Sustainable Jersey Small Grants Program*, funded by the PSE&G Foundation, for an amount not to exceed \$20,000.00, at a regularly-scheduled, public meeting, on January 24, 2018.

Sustainable Jersey

The Sustainable Jersey Program is the product of a coalition of public and private organizations and agencies, throughout New Jersey, working together to identify the actions municipalities need to pursue in order to become green and sustainable, develop the guidance resources that will be needed in order to initiate such efforts, as well as to assist them to progress and build upon their successes. The Small Grants Program is one of the first incentives to be provided to municipalities through Sustainable Jersey.

RESOLUTION

EXPLANATION: This Resolution authorizes the Mayor to execute the attached Developer's Agreement with K-Land No. 66, LLC, with respect to Block 762, Lot 1.A (property located at Jackson Avenue and Gibian Street), as shown on the Township of Edison tax maps.

WHEREAS, Block 762, Lots 1.A (located at Jackson Avenue and Gibian Street) as shown on the Township of Edison tax maps (the "**Property**") was the subject of an application before the Planning Board of the Township of Edison (hereinafter the "**Board**") made by K-Land No. 66, LLC ("**Developer**") to construct a 220 unit multi-family inclusionary development at the Property, which will include fourteen (14) three-story apartment buildings (the "**Project**"); and

WHEREAS, the Board granted approval for the Project by adoption of a resolution on December 18, 2017 (the "**Resolution**"); and

WHEREAS, the Township of Edison (the "**Township**") and Developer desire to enter this Developer's Agreement to establish the terms pursuant to which the Developer shall undertake construction on the Project, and related matters; and

WHEREAS, the Resolution and the Code of the Township of Edison require the developer to enter into a Developer's Agreement with the Township in connection with the Project; and

WHEREAS, the Developer's Agreement attached hereto between the Township and Developer (the "**Agreement**") has been prepared by the Township Attorney and has been reviewed and approved by the Township Engineer and by the attorney for the Developer.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Edison, in the County of Middlesex and State of New Jersey as follows:

1. The Mayor is hereby authorized to execute the Agreement substantially in the form as attached hereto as Exhibit A, subject to such additions, deletions, modifications or amendments deemed necessary by the Mayor in his discretion in consultation with counsel, which additions, deletions, modifications or amendments do not alter the substantive rights and obligations of the parties thereto, and to take all other necessary and appropriate action to effectuate the Agreement.

2. The Township Clerk is hereby authorized to forward the original and certified copies of the Agreement to the Township Attorney for recording with the Clerk of the County of Middlesex.

3. This Resolution shall take effect immediately.

RESOLUTION

EXPLANATION: This Resolution amends the award of a Professional Services Contract to Apruzzese, McDermott, Mastro & Murphy, P.C. for special labor counsel services to set the correct hourly rate to be billed for services rendered.

WHEREAS, the Municipal Council (“**Municipal Council**”) of the Township of Edison (“**Township**”) has determined that it is in its best interests and those of Township residents to engage qualified legal counsel, and the Township is authorized pursuant to the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* (“**Local Contracts Law**”) to contract for “professional services” as it may require; and

WHEREAS, Apruzzese, McDermott, Mastro & Murphy, P.C. (“**Counsel**”) has an excellent reputation in the area of employment law and has sufficient legal staff to handle employment law matters which may arise from time to time in the Township; and

WHEREAS, Counsel has an excellent reputation in the area of labor law, has practiced law for many years, has knowledge of the Township and has available supporting attorney staff at and through Counsel; and

WHEREAS, for these reasons the Mayor and the Municipal Council recommend Counsel for the position of Special Labor Counsel and seek to enter a contract for legal services with Counsel for 2018 (“**Services Contract**”) to provide for the representation of the Township with respect to collective bargaining negotiations; and

WHEREAS, the Local Contracts Law, more specifically *N.J.S.A. 40A:11-5*, allows for the awarding of a contract for “professional services” without public advertising for bids; and

WHEREAS, prior to the execution of the Services Contract, Counsel will have completed and submitted a Business Entity Disclosure Certification, which certifies that no individual with a ten percent (10.0%) interest or larger in Counsel has made any reportable contributions to a political or candidate committee of the Municipal Council in the previous year, and that the Services Contract will prohibit an individual with a ten percent (10.0%) interest or larger in Counsel from making any reportable contributions through the term of the Services Contract, pursuant to *N.J.S.A. 19:44A-20.5, et seq.*; and

WHEREAS, the Services Contract is not awarded through a “fair and open process” pursuant to *N.J.S.A. 19:44A-20.5, et seq.*; and

WHEREAS, the legal services under the Services Contract may include, but are not limited to, representation as to collective bargaining negotiations, subject to the discretion and direction of the Township Attorney; and

WHEREAS, on January 10, 2018, the Municipal Council adopted Resolution R. 021-012018, which authorized execution of the Services Contract with Counsel for services to be rendered at the hourly rate of \$165.00 per hour for partners and counsel and \$150.00 per hour for associates; and

WHEREAS, compensation for Counsel’s services included under this Services Contract should have been set at the blended hourly rate of \$200.00 per hour, payable monthly, and as set forth in the Services Contract; and

WHEREAS, the Local Contracts Law requires that contracts awarded without competitive bid be authorized by resolution of the municipal governing body and that notice of the award of such contract be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison, County of Middlesex, State of New Jersey, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.

2. Resolution R.021-012018 is amended to reflect the correct hourly rate to be billed for services rendered.
3. The Mayor and Township Clerk are hereby authorized and directed to execute the Services Contract with Counsel for its representation of the Township as Special Labor Counsel.
4. The Services Contract is awarded without competitive bidding as a “professional service” under the provisions of the Local Contracts Law, more specifically *N.J.S.A. 40A:11-5*, because the services in question are of a specialized, technical and professional nature.
5. A certificate showing the availability of funds for the Services Contract authorized hereby has been provided by the Chief Financial Officer of the Township and is made a part hereof indicating that the appropriation for the within expenditure is charged to the applicable accounts and is contingent upon the adoption of a temporary and/or permanent budget for the 2018 calendar year.
6. No payments in excess of the “not-to-exceed” amount of \$10,000.00 will be approved, unless such services/expenditures are negotiated and agreed upon in advance of service delivery.
7. Any modification to the Services Contract shall be in writing and signed by both parties, and upon obtaining said signatures shall immediately become a part of the contract.
8. The Mayor of the Township may, upon ten (10) days written notice, and without cause, terminate the Services Contract.
9. In accordance with *N.J.S.A. 40A:11-5* of the Local Contracts Law, the Municipal Council hereby directs the Township Clerk to publish once in the official newspaper of the Township, a brief notice, substantially in the form attached hereto as Exhibit A, stating the nature, duration, service and amount of the Services Contract authorized for execution herein, which notice shall state that a copy of this Resolution and the Services Contract are on file and available for public inspection in the office of the Township Clerk.
10. The Services Contract shall, for all purposes, be deemed a New Jersey contract and the provisions of the Services Contract shall be governed and interpreted according to the laws of the State of New Jersey.
11. Counsel shall report directly to the Township Attorney, who will be the chief contact at the Township.
12. Counsel shall notify the Township Attorney when eighty percent (80%) of the “not-to-exceed” amount is attained.
13. This Resolution shall take effect immediately.

CERTIFICATION

I hereby certify that, contingent upon the adoption of a temporary and/or permanent budget for the 2018 calendar year, funds in the amount of \$10,000.00 are available in Account No____

ORDINANCE

EXPLANATION: An Ordinance amending the Township Code to revise and update the Street Excavation Ordinance.

WHEREAS, the Township of Edison (“**Township**”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Township’s Code of General Ordinances (“**Code**”) currently provides standards and regulations for the excavation of streets within the Township; and

WHEREAS, the Township has been advised by the Township Engineer of necessary updates to the Code that would allow for more effective and efficient enforcement of the required standards and regulations so as to continue to provide the best possible service to residents and business owners; and

WHEREAS, the Township Municipal Council (“**Municipal Council**”) has determined to update Subchapter 19-1 of the Code to reflect the necessary updates; and

WHEREAS, the Municipal Council has determined to amend Subchapter 19-1 of the Code to read as follows (additions are underlined and deletions are in [brackets]):

19-1 STREET EXCAVATIONS AND OCCUPATION.

19-1.1 Permit Required.

a. No person (defined to mean any corporation, company, association, firm, partnership or individual) shall make an excavation in or tunnel under any street for the laying of gas, water or sewer or for any other purpose without first obtaining a permit from the Director of the Department of Public Works. [supervisor of the Division of Licenses and Permits.]

b. A tunnel or excavation may be commenced without a permit where an emergency has arisen which makes it necessary to start work immediately, provided that the application for permit shall be retroactive to the date on which the work was begun and that the Police Department and the Department of Public Works be notified before work commences. The permit shall be applied for within 24 hours of the known emergency or on the next business day, whichever is more practical.

c. The Director of the Department of Public Works or the Township Engineer shall be notified within 24 hours of a road opening for an emergency situation. If a road opening commences on a Saturday or Sunday as a result of emergency work, the Police Department shall be notified prior to the start of work, and the Director of the Department of Public Works or the Township Engineer shall be notified on the morning of the first business day thereafter.

d. No person shall encumber or obstruct any street or public place in the Township of Edison by placing therein or thereon any building materials or any articles whatsoever without first obtaining the written permission from the Director of Public Works.

e. The Director of Public Works shall have the power to grant permits to builders and others to occupy space not to exceed one-third (1/3) of the width of a vehicular lane of any street with building material if, in his

opinion, the public interest or inconvenience will not suffer thereby. The fee for a permit to occupy the street shall be seventy-five (\$75.00) dollars.

f. The Director of the Department of Public Works [supervisor of the Division of Licenses and Permits] may issue permits to municipal public bodies without fee.

19-1.2 Application.

a. Applications for a permit shall be made to the Director of the Department of Public Works [supervisor of the Division of Licenses and Permits] and shall contain the following information:

1. The name and address of the applicant;
2. The name of the street where the opening is to be made and the street number, if any, of the abutting property;
3. The nature of the surface in which the opening is to be made (whether sewer, water or gas and whether new construction or the repair of an existing street);
4. The character and purpose of the work proposed;
5. The date when the work is to be commenced and date when work is to be completed.
6. A plan or sketch in proper scale indicating the size and location of the proposed opening(s) which shall include:
 - (i) The distance in feet from the nearest intersection and from the nearest curbline;
 - (ii) The dimensions of the opening including length and width; and
 - (iii) The type of pavement or surface to be opened.
7. Any applicant for a permit shall provide to the Township proof of general liability insurance coverage
8. A utility mark-out within the area affected
9. Traffic Control Plan
10. A written agreement to completely restore the area affected within a specified number of calendar days after the first disruption thereof to the condition it was in at the time it was first completed. The selected period of time is subject to the approval of the Director of the Department of Public Works and the Township Engineer.

b. Each application shall state the identity and address of the applicant, the party responsible for [the company] performing such construction, the location where the excavation or tunnel is to be made, the [approximate] dimensions of the opening and [period during which the permit shall be valid. The original of each permit shall remain on file with the supervisor of the Division of Licenses and Permits with a copy to remain on file with the Department of Public Works.] the date when the work is to be commenced and completed.

c. The Department of Public Works shall issue a permit to the applicant when it determines that (i) the necessary documents are acceptable in form and substance, (ii) the applicant has paid the review and inspection fee,

(iii) the applicant has posted sufficient security, (iv) the applicant has satisfied all other requirements applicable to the issuance of permits in the Township of Edison.

19-1.3 Fees and Deposits.

a. An administrative application fee must be paid in the form of a check or money order when the application is made. The applicant shall be charged an administrative application fee of two hundred (\$200.00) [thirty (\$30.00)] dollars for each permit. [In addition, the applicant shall post cash or certified check deposit according to the following schedule:]

[1. For each opening in unimproved streets, two dollars and fifty (\$2.50) cents per square foot or portion thereof; minimum charge, twenty-five (\$25.00) dollars.]

[2. For each opening in streets paved with macadam (F.A.B.C. No. 1) or similar type of finished pavement, eight (\$8.00) dollars per square foot or portion thereof; minimum charge, one hundred (\$100.00) dollars.]

[3. For each opening on streets paved with reinforced concrete, fifteen (\$15.00) dollars per square foot or portion thereof; minimum charge, one hundred fifty (\$150.00) dollars.]

[4. For tunneling operation, a deposit of twenty (\$20.00) dollars per running foot.]

b. [In the event that any person shall make an application for a permit after the excavation shall have been made or the tunneling operation shall have been performed, the application fee shall be increased to sixty (\$60.00) dollars.] A deposit must be paid in form of a check or money order when the application is made. For each opening made in any unimproved street, street paved with macadam, street paved with reinforced concrete, or any similar type of finished pavement, or tunneling the applicant shall be charged twenty (\$20.00) dollars per square foot or portion thereof; minimum charge, two hundred (\$200.00) dollars in the Township's escrow account maintained by the Chief Financial Officer. There shall be filed with the posted security a written consent that if the restoration work is not completed by the date specified then the Township may retain a private contractor to perform the restoration work and draw upon the security to the contractor. Security shall be returned upon final inspection.

c. [Refunds of deposits will be made upon satisfactory completion of street opening restoration] In the event that any person shall make an application for a permit after the excavation shall have been made or the tunneling operation shall have been performed, the administrative application fee shall be increased to five hundred (\$500.00) dollars.

d. The deposit shall be retained by the Township for the duration of one (1) year after the surface has been restored. Refunds of deposits will be made upon satisfactory completion of street opening restoration.

e. Qualified Utilities.

1. Qualified utilities shall be exempt from the individual permit schedule but must notify the Department of Public Works before any excavations are made. In lieu of individual permits, a company/security bond shall serve as a guaranty of fee payments. Such bonds shall have a duration of one (1) year.

2. Qualified utilities are defined as utilities regulated by New Jersey Board of Regulatory Commissions.

3. Qualified utilities shall make payment to the Director of the Department of Public Works [supervisor of the Division of Licenses and Permits] on a quarterly basis for all permits obtained in the preceding quarter.

f. Indemnification.

1. Every permittee, as a condition of accepting any permit issued hereunder, shall save and hold harmless the Township of Edison and indemnify the Township of Edison, its officials, agents, servants and employees for and against any and all loss, damage, claim, expense or demand whatsoever arising out of any matter or resulting from the opening or excavation of any street and the issuance of a permit therefor as provided in this section.

2. Notice of Failure to Make Progress. If the permittee, in installing the permanent pavement shall fail to make progress satisfactory to the Director of the Department of Public Works, the Township may give written notice of such failure to the permittee. If, within twenty (20) days after the receipt of such notice, the permittee shall fail to make progress at a rate satisfactory to the Superintendent of the Department of Public Works, the Township shall have the right to complete the installation of such pavement, in which event the permittee shall be charged for the cost thereof at the rate the Township is billed by the contractor who performs the work, or at the rate it costs the Township to perform such work itself, which charges shall be billed after the receipt of the bill therefore.

19-1.4 Additional Deposits.

If the Department of Public Works [Supervisor of Streets] determines that an excavation for which a permit has been issued is of greater dimensions than those stated in the permit, the Department of Public Works [Supervisor of Streets] shall notify the [Supervisor of Licenses and Permits who shall then notify the] permittee that an additional deposit shall be required.

19-1.5 Insurance.

a. No permit shall be issued until the applicant has furnished the Director of the Department of Public Works [supervisor of the Division of Licenses and Permits] with satisfactory proof that he or she is insured against injury to persons and damage to property caused by any act or mission of the applicant, his or her agents, employees or subcontractors done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the policy of insurance shall be two hundred fifty thousand (\$250,000.00) dollars for injury to any one (1) person, five hundred thousand (\$500,000.00) dollars for injuries to more than one (1) person in the same accident and an aggregate of one hundred thousand (\$100,000.00) dollars for property damage for a single incident.

b. Qualified utilities, as defined under subsection 19-1.3(d)(2), shall be exempt from this subsection, provided that proof of liability insurance is on file with the Department of Public Works. [Supervisor of the Division of Licenses and Permits.]

19-1.6 Rules and Regulations for Excavations.

All permits issued under this section shall be subject to the following rules and regulations:

a. All excavations shall be kept properly barricaded at all times and, during the hours of darkness, shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.

b. All work shall be done in such manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Department of Public Works. It shall be the responsibility of the Department of Public Works to notify the Department of Public Safety of any such street closing. The Department of Public Works shall be informed of all street closings at least twenty-four (24) hours in advance when practical.

c. The Department of Public Works may, upon application by the permittee, extend the time limit during which the permit shall be valid.

d. If the Department of Public Works or Engineering Department determines that any backfilled excavation has settled or caved in, it shall so notify the permittee, who shall promptly continue backfilling with the materials specified until the Department of Public Works or Engineering Department determines that settlement is complete.

e. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable State laws and regulations.

f. Utilities shall notify the Department of Public Works [Division of Streets] a minimum of one (1) week in advance of scheduled street openings.

g. Street openings shall be straight cut by saw/jackhammer.

h. All work shall be done in accordance with Edison Township standard details and specifications.

Permittee and owners of underground facilities shall comply with the State of New Jersey's standards relating to construction, excavation and demolition operations at or near underground facilities.

Permittees shall take the precautions necessary to protect such pipes, mains, conduits, and other appurtenances at their own expense.

All work shall be done in accordance with the specifications and provisions of the New Jersey Department of Transportation (NJDOT).

All debris on the street shall be removed at the expiration of the permit unless otherwise stipulated.

19-1.7 Restoration of Surface.

In all cases the permittee shall restore the surface of the street in accordance with the following rules, regulations and requirements:

a. No permittee shall commence the restoration of any street foundation or surface until the Department of Public Works or Engineering Department has determined that settlement of the subsurface is complete and the area is properly prepared for restoration. The Department of Public Works or the Engineering Department will determine, prior to restoration of the surface, if a pre-construction meeting is necessary in order to review the scope of the improvements, limits of construction and timeframe necessary to complete said restoration.

b. [The street surface shall be restored so as to extend nine (9) inches beyond the excavation of all sides.] The extent of surface restoration will be determined based on the following criteria. However, the exact area of restoration will be considered on a case by case basis as approved by the Department of Public Works or Engineering Department.

1. Roadways Under Five-Year Roadway Disturbance Moratorium

- i. For the installation of a residential service, the minimum restoration work required will be to mill and resurface (minimum of two inches as determined by the Engineering Department) the roadway from the lane line nearest lane or curb line beyond the furthest point of the excavation for the entire width of the property.
- ii. For an excavation running roughly parallel with the roadway and within the paved limits of the roadway, the minimum restoration work required will be to mill and resurface (minimum of two inches as determined by the Engineering Department) the roadway from the nearest striped lane line (furthest from the curb) to the nearest curb line, for a minimum of 100 feet in each direction or to the nearest cross street beyond the limit of effected roadway, as determined by the Engineering Department. Should at any time, the excavation extend beyond the centerline of the roadway, the entire roadway width will be required to be milled and resurfaced (minimum of two inches as determined by the Engineering Department) for the distance previously described.
- iii. For an excavation running roughly perpendicular with the roadway and within the paved limits of the roadway, the minimum restoration work required shall follow the prescribed limits as described in section 19-17.b.1.i.
- iv. For any scenario not covered above, the pavement restoration required will be the milling and paving of any lane occupied by the excavation, for a length to be determined by the Department of Public Works or Engineering Department. If at any point, the excavation crosses the centerline of the roadway, full width paving of the roadway will be required.

2. Roadways Not Currently Under Roadway Disturbance Moratorium

- i. For the installation of residential services, the street surface shall be restored to extend at a minimum, two (2) foot beyond the excavation on all sides. The distance along the curb line shall be no less than ten (10) feet in width and extend to the nearest lane line beyond the excavation.
- ii. For an excavation running roughly parallel with the roadway and within the paved limits of the roadway the minimum restoration work required will be to mill and resurface the roadway (minimum of two inches as determined by the Engineering Department) from the nearest striped lane line (furthest from the curb) to the nearest curb line, for the entire length of the excavation, or for a distance of fifty (50) feet in each direction, whichever is greater.
- iii. For an excavation running roughly perpendicular with the roadway and within the paved limits of the roadway, the minimum restoration work required shall following the prescribed limits as described in section 19-17.b.2.a.
- iv. For any scenario not covered above, the pavement restoration required will be the milling and paving of any lane occupied by the excavation, for a length to be determined by the Department of Public Works or Engineering Department. If at any point, the excavation crosses the centerline of the roadway, full width paving of the roadway will be required.

c. When any foundation is restored by the use of portland cement concrete, the same shall consist of a mixture by volume of one (1) part of portland cement, two (2) parts of sand and four (4) parts of gravel or stone, so as to attain a compressive strength of four thousand (4,000) pounds per square inch after twenty-eight (28) days.

d. The permittee shall clean up and promptly remove from the site of work all surplus excavated material and debris, and shall leave the site of the work in a neat and orderly condition.

1. Where top soil, seeded areas or sod are disturbed in the course of the work, the permittee shall restore the ground surface to its original condition.

2. Upon completion of repairs in a street, permittees shall backfill street openings and excavations in a manner in accordance with the specifications. All materials used for backfill shall be free from bricks, blocks, excavated pavement materials and/or organic material or other debris.

3. Backfill material shall be deposited in horizontal layers not exceeding twelve (12) inches in thickness prior to compaction. A minimum of ninety-five (95%) percent of Standard Proctor Maximum Density will be required after compaction.

4. When placing fill or backfill around pipes, layers shall be deposited to progressively bury the pipe to equal depths on both sides. Backfill immediately adjacent to pipes and conduits shall not contain particles larger than three (3) inches in diameter.

5. Compaction shall be attained by the use of impact rammers, plate or small drum vibrators, or pneumatic button head compaction equipment. Hand tamping shall not be permitted except in the immediate area of the underground facility, where it shall be lightly hand tamped with as many strokes as required to achieve maximum density. The definition of the "immediate area" shall be a maximum of eighteen (18) inches from the facility.

6. Where sheeting has been used for the excavation, it shall be pulled when the excavation has been filled or backfilled to the maximum unsupported depth allowed by the New Jersey Department of Transportation guidelines.

7. As a measure of maximum density achieved for temporary restoration, the pavement surface shall not sink more than two (2) inches from the surrounding existing surface during the life of the temporary restoration. More than two (2) inches of settlement shall be deemed a failure of the compaction of the backfill and cause the removal of said backfill to the subsurface facility and new fill installed and properly compacted.

e. Temporary Asphaltic Pavement.

1. Immediately upon completion of the compaction of the backfill of any street opening, the permittee shall install a temporary pavement of an acceptable stabilized asphalt paving mixture, course size one and one-half (1.5) to two (2) inches, not less than four (4) inches in thickness after compaction, flush with the adjacent surfaces.

2. The permittee has the option of installing full depth pavement using an acceptable asphalt paving mixture immediately upon completion of the compaction of the backfill excluding reconstructed protected streets and full-depth concreted roadways.
3. Upon the expiration of the permit, all equipment, construction materials and debris shall be removed from the site, unless otherwise stipulated.
4. When final restoration is to be done the materials are to be removed with hand tools to a depth necessary to accomplish the final restoration.
5. In the event that two or more unconnected road openings are requested and dug only ten (10) feet or less apart, the restoration requirements shall include the milling and paving of a continuous area including the undisturbed area between the trenches.

f. *Plating and Decking.*

1. All plating and decking installed by the permittee shall be made safe for vehicles and/or pedestrians and shall be adequate to carry the load. Plates must be designed by a Professional Engineer and be rated for traffic. A corresponding certification signed and sealed by a Licensed Professional Engineer in the state of New Jersey must be submitted to the Township for each plate, prior to use.
2. The size of the plate or decking shall be large enough to span the opening, be firmly placed to prevent rocking and shall overlap the edges of trenches and openings and be sufficiently ramped to provide smooth riding and a safe condition.
3. All plating and decking shall be fastened by splicing, countersinking or otherwise protected to prevent movement.
4. Where deflections are more than three-fourths (3/4) inches, heavier sections of plates or decking or intermediate supports shall be installed.
5. All plating and decking shall have a skid-resistant surface equal to or greater than the adjacent existing street or roadway surface.
6. Plating of open excavation is not allowed during winter months.

g. *Base.*

1. Concrete and asphalt base material shall conform to specifications.
2. Concrete for base shall be plated in a driving lane and intersections or barricaded in accordance with the Federal Manual on Uniform Traffic Control Devices in a parking lane for a minimum of three (3) days to permit proper cure of concrete, unless otherwise specified.

3. Hot asphalt binder materials may be used in place of concrete for non-protected and/or resurfaced streets at a thickness ratio of one and one-half (1 1/2) inch of asphalt for every inch of concrete.
4. The concrete base shall be restored at the same grade as the existing base.
5. At no time will asphalt other than binder be permitted as a base course. Conduit or pipes shall be installed at a minimum depth of eighteen (18) inches from the surface of the roadway, or below the base, whichever is greater. Where conduits and pipes cannot be installed at the required minimum depth, protective plating shall be installed over the facilities upon written request from the permittee and receipt of written approval by the Township Engineer.

h. *Guarantee Period.* Permittees shall be responsible for permanent restoration and maintenance of street openings and excavations for a period of three (3) years on unprotected streets, and up to five (5) years on protected streets commencing on the restoration completion date. This period shall be the guarantee period.

1. Permittees shall comply with all applicable sections of these rules, the specifications, and all other applicable laws or rules.
2. The Township Engineer may require the use of infrared pavement repair technology in order to repair the pavement roadway. Coordination on the use of this method will be required for any roadway within the five (5) year roadway moratorium.
3. Any street opening in connection with the installation of telecommunication equipment that is not confined to within eight (8) feet of the curbline, including the required cut back, on any street, regardless of status—protected or unprotected—or where located within the Township, and/or within any sidewalk area within the Township, shall require full curb-to-curb roadway restoration under all circumstances.

19-1.8 Conditions of Permit.

a. *Transferability.* Every permit shall apply only to the person to whom it is issued and shall not be transferable. Permits issued to utilities shall show the identity of the utility.

b. *Commencement of Work.* Work under a permit shall commence with forty-five (45) days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended, in writing, by the Department of Public Works. [Supervisor of the Division of Licenses and Permits.]

c. *Possession of Permit.* A copy of the permit must be kept in possession of the person actually performing the work and shall be exhibited on demand to any duly authorized employee of the Township.

d. *Revocation of Permit.* The Department of Public Works may revoke a permit for any of the following reasons:

1. Violation of any provision of this section or any other applicable rules, regulations, laws or ordinances;
2. Violation of any condition of the permit issued.

19-1.9 Barricades and Signs.

a. The permit holder shall conform to the requirements in the current manual on Uniform Traffic Control Devices, Part VI, when required by the Township to provide barricades and/or signs.

b. The permittee shall erect and maintain suitable barricades around all work while excavation or other work is in progress and shall arrange work in such a manner as to cause a minimum of inconvenience and delay to vehicular and pedestrian traffic. In the event that such requirement is not complied with by the permittee, the Director of the Department of Public Works may, in his discretion, cause all or part of the work covered by the permit to be backfilled and temporarily resurfaced by the City's own forces or by contract or otherwise. In which case the City shall be reimbursed for any expense incurred thereby.

c. Unless otherwise authorized by the Police Department, vehicular traffic shall be maintained at all times during the progress of the work being performed under the permit.

d. Permittees shall notify the Police Department of the construction and street operations that require street closing permits at least twenty-four (24) hours in advance of the commencement of nonemergency work.

e. The permittee shall be responsible for keeping the construction area as clean and neat as possible during the permit life. No material shall restrict water flow in gutters. All possible arrangements for the safety of the general public shall be maintained. Every effort shall be made to keep the pavement opening dimensions to an absolute minimum.

f. Traffic

1. No more than one (1) lane of traffic may be obstructed, except as provided by Edison Police Department stipulation.

2. It shall be the duty of the permittee to properly guard the excavation by the execution of suitable barriers by day and lights by night and permittee shall be liable for any neglect to safeguard the traveling public.

3. All unattended street openings or excavations in a driving lane, including intersections, shall be plated. In the case of gas or steam leak, barricades in accordance with the New Jersey or Federal Manual on Uniform Traffic Control Devices shall be used until the leak is corrected.

4. Barricades, signs, lights and other approved safety devices shall be displayed in accordance with the New Jersey or Federal Manual on Uniform Traffic Control Devices.

5. The permit may restrict street operations and construction within the critical areas to nights, weekends or off-traffic hours.

6. Flagpersons. Permittees whose work results in the closing of a moving traffic lane, which requires traffic to be diverted to another lane, shall, at all times when actively working at the site, post a flagperson or utilize an authorized plan for the maintenance and protection of traffic at the point where traffic is diverted to assist motorists and pedestrians to proceed around the obstructed lane.

g. Temporary Closing of Sidewalks. A minimum of four (4) feet sidewalk width of unobstructed pedestrian passageway shall be maintained at all times. Where openings and excavations do not allow for four (4) feet of unobstructed pedestrian passageway, a temporary sidewalk closing plan should be submitted to the Department of Public Works.

h. Work Site Maintenance.

1. All excavated material shall be removed from the site or stockpiled at a designated curb, properly barricaded in accordance with the Federal Manual on Uniform Traffic Control Devices and stored to keep gutters clear and unobstructed.
2. All obstructions on the street shall be protected by barricades, fencing or railing, with flags, lights or signs in accordance with the Federal Manual on Uniform Traffic Control Devices placed at proper intervals and during the hours prescribed. During twilight hours the flags shall be replaced with amber lights.

19-1.10 Notice of Street Improvement; Completion Required.

Before any street is improved or paved, the Department of Public Works shall give notice to all persons owning property abutting on the street and to all public utilities and authorities operating in the Township that the street is about to be paved or improved. All connections and repairs to utilities in the street and all other work which requires excavation of the street shall be completed within forty-five (45) days from receipt of notice. The time for the completion of the work may be extended, in writing, by the Director of the Department of Public Works upon application by the person performing the work. This section shall not excuse any person from the requirement of obtaining a permit as provided in subsection 19-1.1.

19-1.11 Special Permission for Excavations in Recently Improved Streets.

a. The Township, in an attempt to preserve the integrity of recently repaved streets, will not issue a street opening permit for a street that has been repaved with the last five (5) years except in an emergency or where the public health or safety requires the performance of the work in question. The five (5) year road moratorium will require the permittee to install the finished pavement surface to like-new conditions by the use of infrared pavement technology, full width milling and paving operations or any other measures as recommended by the Township Engineer. [Except in case of an emergency, no person to whom notice was given as provided in subsection 19-1.10 shall be issued a permit to excavate the street to which the notice related for a period of five (5) years unless its issuance is approved by the Township Council.]

b. In cases where the street has been repaved within the last five (5) years the extent of finished pavement surface repairs will extend beyond the repair limits so that a natural transition will occur, as described in Section 19-1.7.b.1 above. Inspection and bonding requirements specific to this item shall be adjusted per site disturbance and shall be overseen by the Township Engineering Department. The permittee shall post the necessary bonding and escrow inspection fees for the Township Engineering Department to properly oversee the construction improvements. The Township shall pay from the escrow deposit any costs incurred by its designated representative(s) or professional consultant(s) for inspection, other engineering services or legal services required in connection with the proposed opening, excavation, backfilling or final paving at the rate established with the Township. If the escrow deposit fee is or will become insufficient to cover all costs incurred by the designated representative(s) or professional consultant(s) for said services, additional escrow deposit fees shall be estimated by

the Director of the Department of Public Works and the Township Engineer based on the scope of improvements necessary to install the finished pavement surface to like-new conditions. This procedure shall be repeated as often as necessary to guarantee sufficient escrow deposit fees being available. Upon completion and acceptance of the area by the Township, if any escrow balance remains then the balance shall be forthwith returned to the applicant. [Paragraph a. shall not apply in any case where the excavation is made necessary by the occurrence of some event which could not have been foreseen at the time that notice was given or where the public health or safety requires the performance of the work in question.]

19-1.12 Violations; Penalties.

Any person who shall willfully violate any provision of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5, and each day's failure to comply with any such provision shall constitute a separate violation.

In cases where the street has been repaved within the last five (5) years and is under the Five-Year Roadway Disturbance Moratorium, any person who shall willfully violate any provision of this section specific to said moratorium, shall be fined a minimum of \$15,000 if the excavation occurs within the first three (3) years post construction; \$12,500 if the excavation occurs within year four (4) post construction; \$10,000 in excavation occurs within year five (5) post construction. Fines may be increased depending upon the severity of the violation and if the offender does not utilize the guidelines set forth within this ordinance. Each day's failure to comply with any such provision shall constitute a separate violation.

In addition, the Township reserves the right to increase the fine to the equivalent cost for milling and repaving the roadway (minimum of two inches as determined by the Engineering Department) at the time of the disturbance. The extent and limits will be as determined by the Township Engineer. The fine shall be calculated utilizing the most recent public bid prices for paving operations within the Township of Edison.

NOW THEREFORE, BE IT ORDAINED by the Municipal Council of the Township of Edison, County of Middlesex, New Jersey that:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Municipal Council hereby amends Subchapter 19-1 of the Code to read as follows:

19-1 STREET EXCAVATIONS AND OCCUPATION.

19-1.1 Permit Required.

a. No person (defined to mean any corporation, company, association, firm, partnership or individual) shall make an excavation in or tunnel under any street for the laying of gas, water or sewer or for any other purpose without first obtaining a permit from the Director of the Department of Public Works.

b. A tunnel or excavation may be commenced without a permit where an emergency has arisen which makes it necessary to start work immediately, provided that the application for permit shall be retroactive to the date on which the work was begun and that the Police Department and the Department of Public Works be notified before work commences. The permit shall be applied for within 24 hours of the known emergency or on the next business day, whichever is more practical.

c. The Director of the Department of Public Works or the Township Engineer shall be notified within 24 hours of a road opening for an emergency situation. If a road opening commences on a Saturday or Sunday as a result of emergency work, the Police Department shall be notified prior to the start of work, and the Director of the Department of Public Works or the Township Engineer shall be notified on the morning of the first business day thereafter.

d. No person shall encumber or obstruct any street or public place in the Township of Edison by placing therein or thereon any building materials or any articles whatsoever without first obtaining the written permission from the Director of Public Works.

e. The Director of Public Works shall have the power to grant permits to builders and others to occupy space not to exceed one-third (1/3) of the width of a vehicular lane of any street with building material if, in his opinion, the public interest or inconvenience will not suffer thereby. The fee for a permit to occupy the street shall be seventy-five (\$75.00) dollars.

f. The Director of the Department of Public Works [supervisor of the Division of Licenses and Permits may issue permits to municipal public bodies without fee.

19-1.2 Application.

a. Applications for a permit shall be made to the Director of the Department of Public Works and shall contain the following information:

1. The name and address of the applicant;
2. The name of the street where the opening is to be made and the street number, if any, of the abutting property;
3. The nature of the surface in which the opening is to be made (whether sewer, water or gas and whether new construction or the repair of an existing street);
4. The character and purpose of the work proposed;
5. The date when the work is to be commenced and date when work is to be completed.
6. A plan or sketch in proper scale indicating the size and location of the proposed opening(s) which shall include:
 - i. The distance in feet from the nearest intersection and from the nearest curblin;
 - ii. The dimensions of the opening including length and width; and
 - iii. The type of pavement or surface to be opened
7. Any applicant for a permit shall provide to the Township proof of general liability insurance coverage
8. A utility mark-out within the area affected
9. Traffic Control Plan
10. A written agreement to completely restore the area affected within a specified number of calendar days after the first disruption thereof to the condition it was in at the time it was first completed. The selected

period of time is subject to the approval of the Director of the Department of Public Works and the Township Engineer.

b. Each application shall state the identity and address of the applicant, the party responsible for performing such construction, the location where the excavation or tunnel is to be made, the dimensions of the opening and the date when the work is to be commenced and completed.

c. The Department of Public Works shall issue a permit to the applicant when it determines that (i) the necessary documents are acceptable in form and substance, (ii) the applicant has paid the review and inspection fee, (iii) the applicant has posted sufficient security, (iv) the applicant has satisfied all other requirements applicable to the issuance of permits in the Township of Edison.

19-1.3 Fees and Deposits.

a. An administrative application fee must be paid in the form of a check or money order when the application is made. The applicant shall be charged an administrative application fee of two hundred (\$200.00) dollars for each permit.

b. A deposit must be paid in form of a check or money order when the application is made. For each opening made in any unimproved street, street paved with macadam, street paved with reinforced concrete, or any similar type of finished pavement, or tunneling the applicant shall be charged twenty (\$20.00) dollars per square foot or portion thereof; minimum charge, two hundred (\$200.00) dollars in the Township's escrow account maintained by the Chief Financial Officer. There shall be filed with the posted security a written consent that if the restoration work is not completed by the date specified then the Township may retain a private contractor to perform the restoration work and draw upon the security to the contractor. Security shall be returned upon final inspection.

c. In the event that any person shall make an application for a permit after the excavation shall have been made or the tunneling operation shall have been performed, the administrative application fee shall be increased to five hundred (\$500.00) dollars.

d. The deposit shall be retained by the Township for the duration of one (1) year after the surface has been restored. Refunds of deposits will be made upon satisfactory completion of street opening restoration.

e. *Qualified Utilities.*

1. Qualified utilities shall be exempt from the individual permit schedule but must notify the Department of Public Works before any excavations are made. In lieu of individual permits, a company/security bond shall serve as a guaranty of fee payments. Such bonds shall have a duration of one (1) year.

2. Qualified utilities are defined as utilities regulated by New Jersey Board of Regulatory Commissions.

3. Qualified utilities shall make payment to the Director of the Department of Public Works on a quarterly basis for all permits obtained in the preceding quarter.

f. *Indemnification.*

1. Every permittee, as a condition of accepting any permit issued hereunder, shall save and hold harmless the Township of Edison and indemnify the Township of Edison, its officials, agents, servants and employees for and against any and all loss, damage, claim, expense or demand whatsoever arising out of any matter or resulting from the opening or excavation of any street and the issuance of a permit therefor as provided in this section.

2. Notice of Failure to Make Progress. If the permittee, in installing the permanent pavement shall fail to make progress satisfactory to the Director of the Department of Public Works, the Township may give written notice of such failure to the permittee. If, within twenty (20) days after the receipt of such notice, the permittee shall fail to make progress at a rate satisfactory to the Superintendent of the Department of Public Works, the Township shall have the right to complete the installation of such pavement, in which event the permittee shall be charged for the cost thereof at the rate the Township is billed by the contractor who performs the work, or at the rate it costs the Township to perform such work itself, which charges shall be billed after the receipt of the bill therefore.

19-1.4 Additional Deposits.

If the Department of Public Works determines that an excavation for which a permit has been issued is of greater dimensions than those stated in the permit, the Department of Public Works shall notify the permittee that an additional deposit shall be required.

19-1.5 Insurance.

a. No permit shall be issued until the applicant has furnished the Director of the Department of Public Works with satisfactory proof that he or she is insured against injury to persons and damage to property caused by any act or omission of the applicant, his or her agents, employees or subcontractors done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the policy of insurance shall be two hundred fifty thousand (\$250,000.00) dollars for injury to any one (1) person, five hundred thousand (\$500,000.00) dollars for injuries to more than one (1) person in the same accident and an aggregate of one hundred thousand (\$100,000.00) dollars for property damage for a single incident.

b. Qualified utilities, as defined under subsection 19-1.3(d)(2), shall be exempt from this subsection, provided that proof of liability insurance is on file with the Department of Public Works.

19-1.6 Rules and Regulations for Excavations.

All permits issued under this section shall be subject to the following rules and regulations:

a. All excavations shall be kept properly barricaded at all times and, during the hours of darkness, shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.

b. All work shall be done in such manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Department of Public Works. It shall be the responsibility of the Department of Public Works to notify the Department of Public Safety of any such

street closing. The Department of Public Works shall be informed of all street closings at least twenty-four (24) hours in advance when practical.

c. The Department of Public Works may, upon application by the permittee, extend the time limit during which the permit shall be valid.

d. If the Department of Public Works or Engineering Department determines that any backfilled excavation has settled or caved in, it shall so notify the permittee, who shall promptly continue backfilling with the materials specified until the Department of Public Works or Engineering Department determines that settlement is complete.

e. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable State laws and regulations.

f. Utilities shall notify the Department of Public Works a minimum of one (1) week in advance of scheduled street openings.

g. Street openings shall be straight cut by saw/jackhammer.

h. All work shall be done in accordance with Edison Township standard details and specifications.

i. Permittee and owners of underground facilities shall comply with the State of New Jersey's standards relating to construction, excavation and demolition operations at or near underground facilities.

j. Permittees shall take the precautions necessary to protect such pipes, mains, conduits, and other appurtenances at their own expense.

k. All work shall be done in accordance with the specifications and provisions of the New Jersey Department of Transportation (NJDOT).

l. All debris on the street shall be removed at the expiration of the permit unless otherwise stipulated.

19-1.7 Restoration of Surface.

In all cases the permittee shall restore the surface of the street in accordance with the following rules, regulations and requirements:

a. No permittee shall commence the restoration of any street foundation or surface until the Department of Public Works or Engineering Department has determined that settlement of the subsurface is complete and the area is properly prepared for restoration. The Department of Public Works or the Engineering Department will determine, prior to restoration of the surface, if a pre-construction meeting is necessary in order to review the scope of the improvements, limits of construction and timeframe necessary to complete said restoration.

b. The extent of surface restoration will be determined based on the following criteria. However, the exact area of restoration will be considered on a case by case basis as approved by the Department of Public Works or Engineering Department.

1. Roadways Under Five-Year Roadway Disturbance Moratorium

i. For the installation of a residential service, the minimum restoration work required will be to mill and resurface (minimum of two inches as determined by the Engineering

Department) the roadway from the lane line nearest lane or curb line beyond the furthest point of the excavation for the entire width of the property.

- ii. For an excavation running roughly parallel with the roadway and within the paved limits of the roadway, the minimum restoration work required will be to mill and resurface (minimum of two inches as determined by the Engineering Department) the roadway from the nearest striped lane line (furthest from the curb) to the nearest curb line, for a minimum of 100 feet in each direction or to the nearest cross street beyond the limit of effected roadway, as determined by the Engineering Department. Should at any time, the excavation extend beyond the centerline of the roadway, the entire roadway width will be required to be milled and resurfaced (minimum of two inches as determined by the Engineering Department) for the distance previously described.
- iii. For an excavation running roughly perpendicular with the roadway and within the paved limits of the roadway, the minimum restoration work required shall follow the prescribed limits as described in section 19-17.b.1.i.
- iv. For any scenario not covered above, the pavement restoration required will be the milling and paving of any lane occupied by the excavation, for a length to be determined by the Department of Public Works or Engineering Department. If at any point, the excavation crosses the centerline of the roadway, full width paving of the roadway will be required.

2. Roadways Not Currently Under Roadway Disturbance Moratorium

- i. For the installation of residential services, the street surface shall be restored to extend at a minimum, two (2) foot beyond the excavation on all sides. The distance along the curb line shall be no less than ten (10) feet in width and extend to the nearest lane line beyond the excavation.
- ii. For an excavation running roughly parallel with the roadway and within the paved limits of the roadway the minimum restoration work required will be to mill and resurface the roadway (minimum of two inches as determined by the Engineering Department) from the nearest striped lane line (furthest from the curb) to the nearest curb line, for the entire length of the excavation, or for a distance of fifty (50) feet in each direction, whichever is greater.
- iii. For an excavation running roughly perpendicular with the roadway and within the paved limits of the roadway, the minimum restoration work required shall following the prescribed limits as described in section 19-17.b.2.a.
- iv. For any scenario not covered above, the pavement restoration required will be the milling and paving of any lane occupied by the excavation, for a length to be determined by the Department of Public Works or Engineering Department. If at any point, the excavation crosses the centerline of the roadway, full width paving of the roadway will be required.

c. When any foundation is restored by the use of portland cement concrete, the same shall consist of a mixture by volume of one (1) part of portland cement, two (2) parts of sand and four (4) parts of gravel or stone, so as to attain a compressive strength of four thousand (4,000) pounds per square inch after twenty-eight (28) days.

d. The permittee shall clean up and promptly remove from the site of work all surplus excavated material and debris, and shall leave the site of the work in a neat and orderly condition.

1. Where top soil, seeded areas or sod are disturbed in the course of the work, the permittee shall restore the ground surface to its original condition.

2. Upon completion of repairs in a street, permittees shall backfill street openings and excavations in a manner in accordance with the specifications. All materials used for backfill shall be free from bricks, blocks, excavated pavement materials and/or organic material or other debris.

3. Backfill material shall be deposited in horizontal layers not exceeding twelve (12) inches in thickness prior to compaction. A minimum of ninety-five (95%) percent of Standard Proctor Maximum Density will be required after compaction.

4. When placing fill or backfill around pipes, layers shall be deposited to progressively bury the pipe to equal depths on both sides. Backfill immediately adjacent to pipes and conduits shall not contain particles larger than three (3) inches in diameter.

5. Compaction shall be attained by the use of impact rammers, plate or small drum vibrators, or pneumatic button head compaction equipment. Hand tamping shall not be permitted except in the immediate area of the underground facility, where it shall be lightly hand tamped with as many strokes as required to achieve maximum density. The definition of the "immediate area" shall be a maximum of eighteen (18) inches from the facility.

6. Where sheeting has been used for the excavation, it shall be pulled when the excavation has been filled or backfilled to the maximum unsupported depth allowed by the New Jersey Department of Transportation guidelines.

7. As a measure of maximum density achieved for temporary restoration, the pavement surface shall not sink more than two (2) inches from the surrounding existing surface during the life of the temporary restoration. More than two (2) inches of settlement shall be deemed a failure of the compaction of the backfill and cause the removal of said backfill to the subsurface facility and new fill installed and properly compacted.

e. *Temporary Asphaltic Pavement.*

1. Immediately upon completion of the compaction of the backfill of any street opening, the permittee shall install a temporary pavement of an acceptable stabilized asphalt paving mixture, course size one and one-half (1.5) to two (2) inches, not less than four (4) inches in thickness after compaction, flush with the adjacent surfaces.

2. The permittee has the option of installing full depth pavement using an acceptable asphalt paving mixture immediately upon completion of the compaction of the backfill excluding reconstructed protected streets and full-depth concreted roadways.

3. Upon the expiration of the permit, all equipment, construction materials and debris shall be removed from the site, unless otherwise stipulated.

4. When final restoration is to be done the materials are to be removed with hand tools to a depth necessary to accomplish the final restoration.

5. In the event that two or more unconnected road openings are requested and dug only ten (10) feet or less apart, the restoration requirements shall include the milling and paving of a continuous area including the undisturbed area between the trenches.

f. *Plating and Decking.*

1. All plating and decking installed by the permittee shall be made safe for vehicles and/or pedestrians and shall be adequate to carry the load. Plates must be designed by a Professional Engineer and be rated for traffic. A corresponding certification signed and sealed by a Licensed Professional Engineer in the state of New Jersey must be submitted to the Township for each plate, prior to use.
2. The size of the plate or decking shall be large enough to span the opening, be firmly placed to prevent rocking and shall overlap the edges of trenches and openings and be sufficiently ramped to provide smooth riding and a safe condition.
3. All plating and decking shall be fastened by splicing, countersinking or otherwise protected to prevent movement.
4. Where deflections are more than three-fourths (3/4) inches, heavier sections of plates or decking or intermediate supports shall be installed.
5. All plating and decking shall have a skid-resistant surface equal to or greater than the adjacent existing street or roadway surface.
6. Plating of open excavation is not allowed during winter months.

g. *Base.*

1. Concrete and asphalt base material shall conform to specifications.
2. Concrete for base shall be placed in a driving lane and intersections or barricaded in accordance with the Federal Manual on Uniform Traffic Control Devices in a parking lane for a minimum of three (3) days to permit proper cure of concrete, unless otherwise specified.
3. Hot asphalt binder materials may be used in place of concrete for non-protected and/or resurfaced streets at a thickness ratio of one and one-half (1 1/2) inch of asphalt for every inch of concrete.
4. The concrete base shall be restored at the same grade as the existing base.
5. At no time will asphalt other than binder be permitted as a base course. Conduit or pipes shall be installed at a minimum depth of eighteen (18) inches from the surface of the roadway, or below the base, whichever is greater. Where conduits and pipes cannot be installed at the required minimum depth, protective plating shall be installed over the facilities upon written request from the permittee and receipt of written approval by the Township Engineer.

h. *Guarantee Period.* Permittees shall be responsible for permanent restoration and maintenance of street openings and excavations for a period of three (3) years on unprotected streets, and up to five (5) years on protected streets commencing on the restoration completion date. This period shall be the guarantee period.

1. Permittees shall comply with all applicable sections of these rules, the specifications, and all other applicable laws or rules.

2. The Township Engineer may require the use of infrared pavement repair technology in order to repair the pavement roadway. Coordination on the use of this method will be required for any roadway within the five (5) year roadway moratorium.

3. Any street opening in connection with the installation of telecommunication equipment that is not confined to within eight (8) feet of the curbline, including the required cut back, on any street, regardless of status—protected or unprotected—or where located within the Township, and/or within any sidewalk area within the Township, shall require full curb-to-curb roadway restoration under all circumstances.

19-1.8 Conditions of Permit.

a. *Transferability.* Every permit shall apply only to the person to whom it is issued and shall not be transferable. Permits issued to utilities shall show the identity of the utility.

b. *Commencement of Work.* Work under a permit shall commence with forty-five (45) days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended, in writing, by the Department of Public Works.

c. *Possession of Permit.* A copy of the permit must be kept in possession of the person actually performing the work and shall be exhibited on demand to any duly authorized employee of the Township.

d. *Revocation of Permit.* The Department of Public Works may revoke a permit for any of the following reasons:

1. Violation of any provision of this section or any other applicable rules, regulations, laws or ordinances;
2. Violation of any condition of the permit issued.

19-1.9 Barricades and Signs.

a. The permit holder shall conform to the requirements in the current manual on Uniform Traffic Control Devices, Part VI, when required by the Township to provide barricades and/or signs.

b. The permittee shall erect and maintain suitable barricades around all work while excavation or other work is in progress and shall arrange work in such a manner as to cause a minimum of inconvenience and delay to vehicular and pedestrian traffic. In the event that such requirement is not complied with by the permittee, the Director of the Department of Public Works may, in his discretion, cause all or part of the work covered by the permit to be backfilled and temporarily resurfaced by the City's own forces or by contract or otherwise. In which case the City shall be reimbursed for any expense incurred thereby.

c. Unless otherwise authorized by the Police Department, vehicular traffic shall be maintained at all times during the progress of the work being performed under the permit.

d. Permittees shall notify the Police Department of the construction and street operations that require street closing permits at least twenty-four (24) hours in advance of the commencement of nonemergency work.

e. The permittee shall be responsible for keeping the construction area as clean and neat as possible during the permit life. No material shall restrict water flow in gutters. All possible arrangements for the safety of the general public shall be maintained. Every effort shall be made to keep the pavement opening dimensions to an absolute minimum.

f. *Traffic*

1. No more than one (1) lane of traffic may be obstructed, except as provided by Edison Police Department stipulation.
 2. It shall be the duty of the permittee to properly guard the excavation by the execution of suitable barriers by day and lights by night and permittee shall be liable for any neglect to safeguard the traveling public.
 3. All unattended street openings or excavations in a driving lane, including intersections, shall be plated. In the case of gas or steam leak, barricades in accordance with the New Jersey or Federal Manual on Uniform Traffic Control Devices shall be used until the leak is corrected.
 4. Barricades, signs, lights and other approved safety devices shall be displayed in accordance with the New Jersey or Federal Manual on Uniform Traffic Control Devices.
 5. The permit may restrict street operations and construction within the critical areas to nights, weekends or off-traffic hours.
 6. Flagpersons. Permittees whose work results in the closing of a moving traffic lane, which requires traffic to be diverted to another lane, shall, at all times when actively working at the site, post a flagperson or utilize an authorized plan for the maintenance and protection of traffic at the point where traffic is diverted to assist motorists and pedestrians to proceed around the obstructed lane.
- g. *Temporary Closing of Sidewalks.* A minimum of four (4) feet sidewalk width of unobstructed pedestrian passageway shall be maintained at all times. Where openings and excavations do not allow for four (4) feet of unobstructed pedestrian passageway, a temporary sidewalk closing plan should be submitted to the Department of Public Works.
- h. *Work Site Maintenance.*
1. All excavated material shall be removed from the site or stockpiled at a designated curb, properly barricaded in accordance with the Federal Manual on Uniform Traffic Control Devices and stored to keep gutters clear and unobstructed.
 2. All obstructions on the street shall be protected by barricades, fencing or railing, with flags, lights or signs in accordance with the Federal Manual on Uniform Traffic Control Devices placed at proper intervals and during the hours prescribed. During twilight hours the flags shall be replaced with amber lights.

19-1.10 Notice of Street Improvement; Completion Required.

Before any street is improved or paved, the Department of Public Works shall give notice to all persons owning property abutting on the street and to all public utilities and authorities operating in the Township that the street is about to be paved or improved. All connections and repairs to utilities in the street and all other work which requires excavation of the street shall be completed within forty-five (45) days from receipt of notice. The time for the completion of the work may be extended, in writing, by the Director of the Department of Public Works upon

application by the person performing the work. This section shall not excuse any person from the requirement of obtaining a permit as provided in subsection 19-1.1.

19-1.11 Special Permission for Excavations in Recently Improved Streets.

a. The Township, in an attempt to preserve the integrity of recently repaved streets, will not issue a street opening permit for a street that has been repaved with the last five (5) years except in an emergency or where the public health or safety requires the performance of the work in question. The five (5) year road moratorium will require the permittee to install the finished pavement surface to like-new conditions by the use of infrared pavement technology, full width milling and paving operations or any other measures as recommended by the Township Engineer.

b. In cases where the street has been repaved within the last five (5) years the extent of finished pavement surface repairs will extend beyond the repair limits so that a natural transition will occur as described in Section 19-1.7.b.1 above. Inspection and bonding requirements specific to this item shall be adjusted per site disturbance and shall be overseen by the Township Engineering Department. The permittee shall post the necessary bonding and escrow inspection fees for the Township Engineering Department to properly oversee the construction improvements. The Township shall pay from the escrow deposit any costs incurred by its designated representative(s) or professional consultant(s) for inspection, other engineering services or legal services required in connection with the proposed opening, excavation, backfilling or final paving at the rate established with the Township. If the escrow deposit fee is or will become insufficient to cover all costs incurred by the designated representative(s) or professional consultant(s) for said services, additional escrow deposit fees shall be estimated by the Director of the Department of Public Works and the Township Engineer based on the scope of improvements necessary to install the finished pavement surface to like-new conditions. This procedure shall be repeated as often as necessary to guarantee sufficient escrow deposit fees being available. Upon completion and acceptance of the area by the Township, if any escrow balance remains then the balance shall be forthwith returned to the applicant.

19-1.12 Violations; Penalties.

Any person who shall willfully violate any provision of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5, and each day's failure to comply with any such provision shall constitute a separate violation.

In cases where the street has been repaved within the last five (5) years and is under the Five-Year Roadway Disturbance Moratorium, any person who shall willfully violate any provision of this section specific to said moratorium, shall be fined a minimum of \$15,000 if the excavation occurs within the first three (3) years post construction; \$12,500 if the excavation occurs within year four (4) post construction; \$10,000 in excavation occurs within year five (5) post construction. Fines may be increased depending upon the severity of the violation and if the offender does not utilize the guidelines set forth within this ordinance. Each day's failure to comply with any such provision shall constitute a separate violation.

In addition, the Township reserves the right to increase the fine to the equivalent cost for milling and repaving the roadway (minimum of two inches as determined by the Engineering Department) at the time of the disturbance. The extent and limits will be as determined by the Township Engineer. The fine shall be calculated utilizing the most recent public bid prices for paving operations within the Township of Edison.

3. It is the intent of the Municipal Council to incorporate the additions, amendments and/or supplements contained in this Ordinance in to the Code. All of the remaining provisions in Chapter 19 of the Code shall remain unchanged and have full force and legal effect.

4. If any section, paragraph, subdivision, clause, sentence, phrase or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

5. A copy of this Ordinance shall be available for public inspection at the offices of the Township Clerk.

6. This Ordinance shall take effect after twenty (20) days of its final passage by the Municipal Council, upon approval by the Mayor and publication as required by law.

EXPLANATION: An Ordinance amending the Township Code Chapter 11-35 “Clothing Donation Bins” setting forth requirements for placement and maintenance of Clothing Donation Bins.

EDISON TOWNSHIP

ORDINANCE _____

WHEREAS, the Township of Edison (the “**Township**”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Township desired to amend the Township Code of General Ordinances (the “**Code**”) to include certain requirements concerning the placement and maintenance of clothing donation bins within the jurisdiction and control of the Township; and

WHEREAS, the Township adopted Chapter 11-35 “Clothing Donation Bins” on August 24, 2017; and

WHEREAS, the Township now desires to amend Chapter 11-35 “Clothing Donation Bins,” to read as follows (additions are underlined and deletions are in [brackets]):

11-35 CLOTHING DONATION BINS.

11-35.1 Regulations.

Notwithstanding any other provision to the contrary, no person shall place, use or employ a donation clothing bin, for solicitation purposes, unless all [of the following requirements are met:] requirements of this Chapter are met.

Textile recycling bins currently located on Township property including Edison parkland, libraries, community centers, schools and public works properties are exempt from this ordinance provided the owner of the bin has received permission from the Township Zoning Department. No textile recycling bin will be allowed on Township land without prior authorization. Any person or charity not given previous approved authorization or that does not adhere to the other provisions of this zoning permit in this ordinance will be subject to the regulations in this ordinance. The township will provide a color-coded zoning permit specific for those with prior approvals. Textile recycling bins located on state or federal owned property are exempt from this ordinance but are still required to provide tonnage reports yearly.

- a. The donation clothing bin [is] must be owned by a non-profit, I.R.C. 501 (c) (3) charitable organization registered with the Attorney General of the State of New Jersey pursuant to P.L. 1994, c.16; and
 1. The textile donation bin is defined as any receptacle or container made of metal, steel, or other material designed or intended for the collection and temporary storage of donated clothing or other materials.

2. A textile recycling bin must be similar in size or smaller than a refrigerator box, or any container smaller than 45 x 45 by 80 inches.

b. The registered charitable organization or the person has obtained a zoning permit valid for a period of one (1) year, from the Zoning Department in accordance with the following:

1. In applying for such a zoning permit, the registered charitable organization or person shall include:

(a) The location where the bin would be situated, as precisely as possible;

(b) The manner in which the charitable organization or person anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) The name and telephone number of the bona fide office of the applicant and of any entity which may share or profit from any clothing or other donations collected via the bin;

(d) The schedule of pickups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the scheduled date of pickup;

(e) Written consent from the property owner, or the owner's authorized representative, to place the bin on his/her property.

(f) The owners of textile clothing bins in the Township of Edison, NJ must provide annual tonnage reports, with information sufficient to support these reports, to the Township of Edison. Collectors must provide annual tonnage reports as required by the New Jersey Statewide Mandatory Source Separation and Recycling Act. (N.J.S.A. 13:1E-99.16), which mandates the governing body of each municipality to submit an annual Recycling Tonnage Report summarizing the amount of material recycled during the previous year.

(g) All charities must provide liability insurance, insurance for all vehicles and a valid driver's license for any driver servicing the textile recycling bins. Valid policies must be presented for any drivers for the charity providing pickup services. Additionally, background checks for any charities, their employees, or drivers must be done within one year of the permit being issued.

(h) All non-profit charitable organizations must provide at no cost tax-deductible receipts for any person or family that has donated to the charity and requests it. The receipt should include all necessary tax identification numbers and the name and address of the charity in accordance with Internal Revenue Code (IRC) regulations.

(i) No garbage or waste of any kind is allowed to be left outside of textile recycling bins. The charitable organization or owner, once notified, must address overflowing bins and rectify problem. Charity must address dumping any waste within 10 feet of their bins within 72 hours of notification by the Township, after which they will be subject to dumping or littering fines. Before a complaint can be filed, there must be a good faith attempt to reach the charity or their agent and give them 72 hours to correct the problem.

2. The Zoning Department shall not grant an application for a zoning permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin is either in the front yard setback or could constitute a safety hazard. Such hazards shall include, but are not limited to, the placement of a donation clothing bin in handicapped parking spaces, in any area that interferes with pedestrian or vehicular traffic, [or any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.] or on top of or within 20 feet to large amounts of fuel or other flammable liquids or gases.

3. [The fee for such application for the zoning permit shall be twenty-five (\$25.00) dollars.] The fee for such application for the zoning permit shall be twenty-five (\$25.00) dollars. Charitable organizations as defined by I.R.C. 501(c) (3) non-profit organization can receive a waiver of the fee provided they provide proof of their federal tax exempt status.

4. An expiring zoning permit for a donation clothing bin may be renewed by a charitable organization or person upon payment of the twenty-five (\$25.00) dollar renewal fee or approval of fee waiver and by application that shall include the following information:

(a) The location where the bin is situated, as precisely as possible, and, if applicant intends to move it, the new location where the bin would be situated after the renewal is granted;

(b) The manner in which the person has used, sold or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal;

(c) The name, and telephone number of the bona fide office of the applicant and any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal;

(d) The schedule of pickups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the date of pickup; and

(e) Written consent from the property owner or the owner's authorized representative, to place the bin on his/her property;

5. The following information shall be clearly and conspicuously affixed to the exterior of the donation clothing bin by means of paint, vinyl sticker or protective, water-resistant sleeve:

(a) The name and address of the registered charitable organization or person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(b) The telephone number of the organization's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin. The telephone number of an answering machine or service unrelated to the charitable organization does not satisfy this requirement; and

(c) The charitable organization's registration number, permit number and its date of expiration.

(d) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(e) A statement, indicating the manner in which the charitable organization or person anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

c. The Division of Planning and Zoning shall receive and investigate, within forty-five (45) days, any complaints from the public about the bin.

1. Whenever it appears to the Township that an organization or a person has engaged in or is engaging in any act or practice in violation of this section, the organization or person who placed the bin shall be issued a warning, stating that if the violation is not rectified or an appeal taken within fifteen (15) days, then the bin, any clothing or other donations collected via the bin will be sold at public auction. In addition to any other means used to notify the person who placed the bin, a warning shall be affixed to the exterior of the bin itself.

2. In the event that the person who placed the bin does not rectify the violation or request a hearing within fifteen (15) days of the posting of the warning, the Township may seize the bin, remove it or have it removed, at the expense of the person who placed the bin, and sell it at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Township.

3. In addition to any other penalties or remedies under this section, any person who violates any provision which results in the seizure of the donation clothing bin shall be subject to a penalty of up to one hundred (\$100.00) dollars for each violation.

d. Clothing bins shall be permitted on all Board of Education properties. Said clothing bins must comply with all other provisions delineated in Section 11-35 of the Revised General Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Township of Edison, Middlesex County, State of New Jersey, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.

2. The Municipal Council hereby amends Chapter 11 “General Licensing and Business Regulations” of the Code to read as follows:

11-35 CLOTHING DONATION BINS.

11-35.1 Regulations.

Notwithstanding any other provision to the contrary, no person shall place, use or employ a donation clothing bin, for solicitation purposes, unless all [of the following requirements are met:] requirements of this Chapter are met.

Textile recycling bins currently located on Township property including Edison parkland, libraries, community centers, schools and public works properties are exempt from this ordinance provided the owner of the bin has received permission from the Township Zoning Department. No textile recycling bin will be allowed on Township land without prior authorization. Any person or charity not given previous approved authorization or that does not adhere to the other provisions of this zoning permit in this ordinance will be subject to the regulations in this ordinance. The township will provide a color-coded zoning permit specific for those with prior approvals. Textile recycling bins located on state or federal owned property are exempt from this ordinance but are still required to provide tonnage reports yearly.

b. The donation clothing bin [is] must be owned by a non-profit, I.R.C. 501 (c) (3) charitable organization registered with the Attorney General of the State of New Jersey pursuant to P.L. 1994, c.16; and

3. The textile donation bin is defined as any receptacle or container made of metal, steel, or other material designed or intended for the collection and temporary storage of donated clothing or other materials.

4. A textile recycling bin must be similar in size or smaller than a refrigerator box, or any container smaller than 45 x 45 by 80 inches.

b. The registered charitable organization or the person has obtained a zoning permit valid for a period of one (1) year, from the Zoning Department in accordance with the following:

1. In applying for such a zoning permit, the registered charitable organization or person shall include:

(a) The location where the bin would be situated, as precisely as possible;

(b) The manner in which the charitable organization or person anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) The name and telephone number of the bona fide office of the applicant and of any entity which may share or profit from any clothing or other donations collected via the bin;

(d) The schedule of pickups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the scheduled date of pickup;

(e) Written consent from the property owner, or the owner's authorized representative, to place the bin on his/her property.

(f) The owners of textile clothing bins in the Township of Edison, NJ must provide annual tonnage reports, with information sufficient to support these reports, to the Township of Edison. Collectors must provide annual tonnage reports as required by the New Jersey Statewide Mandatory Source Separation and Recycling Act. (*N.J.S.A. 13:1E-99.16*), which mandates the governing body of each municipality to submit an annual Recycling Tonnage Report summarizing the amount of material recycled during the previous year.

(g) All charities must provide liability insurance, insurance for all vehicles and a valid driver's license for any driver servicing the textile recycling bins. Valid policies must be presented for any drivers for the charity providing pickup services. Additionally, background checks for any charities, their employees, or drivers must be done within one year of the permit being issued.

(h) All non-profit charitable organizations must provide at no cost tax-deductible receipts for any person or family that has donated to the charity and requests it. The receipt should include all necessary tax identification numbers and the name and address of the charity in accordance with Internal Revenue Code (IRC) regulations.

(i) No garbage or waste of any kind is allowed to be left outside of textile recycling bins. The charitable organization or owner, once notified, must address overflowing bins and rectify problem. Charity must address dumping any waste within 10 feet of their bins

within 72 hours of notification by the Township, after which they will be subject to dumping or littering fines. Before a complaint can be filed a good faith attempt to reach the charity or their agent and give them 72 hours to correct the problem.

2. The Zoning Department shall not grant an application for a zoning permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin is either in the front yard setback or could constitute a safety hazard. Such hazards shall include, but are not limited to, the placement of a donation clothing bin in handicapped parking spaces, in any area that interferes with pedestrian or vehicular traffic, [or any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.] or on top of or within 20 feet to large amounts of fuel or other flammable liquids or gases.

3. [The fee for such application for the zoning permit shall be twenty-five (\$25.00) dollars.] The fee for such application for the zoning permit shall be twenty-five (\$25.00) dollars. Charitable organizations as defined by I.R.C. 501(c) (3) non-profit organization can receive a waiver of the fee provided they provide proof of their federal tax exempt status.

4. An expiring zoning permit for a donation clothing bin may be renewed by a charitable organization or person upon payment of the twenty-five (\$25.00) dollar renewal fee or approval of fee waiver and by application that shall include the following information:

(a) The location where the bin is situated, as precisely as possible, and, if applicant intends to move it, the new location where the bin would be situated after the renewal is granted;

(b) The manner in which the person has used, sold or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal;

(c) The name, and telephone number of the bona fide office of the applicant and any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal;

(d) The schedule of pickups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the date of pickup; and

(e) Written consent from the property owner or the owner's authorized representative, to place the bin on his/her property;

5. The following information shall be clearly and conspicuously affixed to the exterior of the donation clothing bin by means of paint, vinyl sticker or protective water-resistant sleeve:

(a) The name and address of the registered charitable organization or person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(b) The telephone number of the organization's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin. The telephone number of an answering machine or service unrelated to the charitable organization does not satisfy this requirement; and

(c) The charitable organization's registration number, permit number and its date of expiration.

(d) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(e) A statement, indicating the manner in which the charitable organization or person anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

c. The Division of Planning and Zoning shall receive and investigate, within forty-five (45) days, any complaints from the public about the bin.

1. Whenever it appears to the Township that an organization or a person has engaged in or is engaging in any act or practice in violation of this section, the organization or person who placed the bin shall be issued a warning, stating that if the violation is not rectified or an appeal taken within fifteen (15) days, then the bin, any clothing or other donations collected via the bin will be sold at public auction. In addition to any other means used to notify the person who placed the bin, a warning shall be affixed to the exterior of the bin itself.

2. In the event that the person who placed the bin does not rectify the violation or request a hearing within fifteen (15) days of the posting of the warning, the Township may seize the bin, remove it or have it removed, at the expense of the person who placed the bin, and sell it at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Township.

3. In addition to any other penalties or remedies under this section, any person who violates any provision which results in the seizure of the donation clothing bin shall be subject to a penalty of up to one hundred (\$100.00) dollars for each violation.

d. Clothing bins shall be permitted on all Board of Education properties. Said clothing bins must comply with all other provisions delineated in Section 11-35 of the Revised General Ordinances.

3. If a court of competent jurisdiction shall declare any section, paragraph, subsection, clause or provision of this Ordinance invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof, and the remaining provisions shall be construed to give effect to the intent thereof.

4. All ordinances or parts of ordinances of the Township of Edison heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

5. This Ordinance shall take effect after final passage and publication as provided by law.

EXPLANATION: An Ordinance amending the promotional process in the Fire Division.

EDISON TOWNSHIP

ORDINANCE O.

WHEREAS, the Township Council wishes to amend the promotional process in the Fire Division.

BE IT ORDAINED, by the Township Council of the Township of Edison, County of Middlesex, State of New Jersey that Chapter II titled Administration, Article III entitled Departments, Section 33 entitled Division of Fire of the Township Code is hereby amended as follows:

SECTION I. Section 2-33.6 of the Township Code is hereby deleted in its entirety.

SECTION II. The following new Code Sections are hereby adopted:

2-33 DIVISION OF FIRE.

2-33.6 Firefighters; Promotion Procedures.

A. *Criteria for Promotion to Captain* shall be made pursuant to the following examination criteria, which shall consist of one hundred (100) total points:

1. *Qualifications.* A candidate must have completed a minimum of ten (10) years of active service as a full-time Division fire fighter on the date of the written examination with certifications or licenses from an accredited agency in:

- (a) Instructor Level 1
- (b) Drill Ground Instructor
- (c) Incident Management Systems - Level 1 Certification issued by DCA
- (d) Incident Safety Officer

Note: Equivalent educational certificates in the above areas must be approved by the Chief of the Division of Fire.

2. *Written examination.*

- (a) Written examination will be prepared, administered and graded by an appropriate outside testing service. The scoring for these examinations will be from zero to one hundred (100). Only those candidates who achieve a score of seventy-five (75%) percent or higher will be allowed to move to the next phase.
- (b) Study guides will be made available prior to the examination.
- (c) The written test shall constitute sixty (60%) percent of the fire fighter's score.
- (d) The testing agency shall place the names and grades of the passing candidates into a sealed envelope and placed with the Township Administrator. At the end of the process, the Township Administrator shall submit the sealed envelope to the Chief of Fire.

3. *Oral Test.* The oral test shall constitute thirty (30%) percent of the fire fighter's score and shall be conducted by the Oral board. The board shall include the Director of Public Safety or their designee, Chief of Fire, Deputy Chief and two Senior Battalion Chiefs; one selected by the Director of Public Safety and one selected by the Chief of Fire. The Director of Public Safety may assign one additional designee in the event one (1) of the aforementioned positions is vacant. Candidates shall be interviewed as to their knowledge of Edison Division of Fire Standard Operating Procedures, Incident Command System, equipment and practices, knowledge of Division of Fire stations, response areas, fire ground operations and safety, building construction, Uniform Fire Code and Emergency Scene Strategy and Tactics. The board shall not discuss their evaluations with other board members. The Chief of Fire and Director of Public Safety or their designee shall remove the highest and lowest scores of each candidate and average the remaining scores.

4. *Veterans.* Anyone who 1) is a veteran as defined in N.J.S.A. 11A:5-1(b); 2) who has a minimum of two (2) years' service; and 3) has been honorably discharged, shall receive 1 point for said service.

5. *College Credit.* Anyone who possess an Associates' degree or higher in the Fire Sciences Field, shall receive 0.5 points.
6. *Seniority.* Points will be given for fully completed years of service on the Edison Fire Department as of the announced closing date for eligibility to take the written test as follows:

Years	Points
10-12	0.5
13-14	1.0
14-15	1.5
16-17	2.0
18-19	2.5
20+	3.0

7. *Disciplinary History.*
 - a. If a candidate has no disciplinary history in the five (5) years prior to the date of the of the written exam, said candidate shall receive five and one-half (5.5) points.
 - b. If a candidate has two (2) written reprimands or three (3) suspension days or less, in the five (5) years prior to the date of the written exam, said candidate shall receive two and one-half (2.5) points. If a candidate has a combination of two (2) written reprimands and one (1) or more suspension days, the candidate will receive zero (0) points.
 - c. If a candidate has one (1) discipline of four (4) suspension days or more; more than three (3) written reprimands; or a demotion in rank in the five (5) years prior to the date of the written exam, said candidate shall receive zero (0) points.
8. *Compiling the Ranking List of Candidates.*
 - a. The Chief of Fire shall obtain from the Township Administrator the sealed envelope which contains the results of the written test.
 - b. The Chief of Fire and the Director of Public Safety or their designee shall compute the scores and issue the list of rankings.
 - c. The Chief of Fire shall maintain the scores and all evaluation sheets until the next promotional test is conducted.
9. *Appointment to Position.*
 - a. Vacancies shall be filled utilizing the "Rule of Three." Should the scoring result in a tie in any position but the first rank, the list shall be expanded to include all those candidates eligible in those positions. If there is a tie in the number one (1) position, all of those candidates will be included on the list; however, if there is also a tie in a lower rank necessary to establish the "Rule of Three," all said candidates will be included to establish the "Rule of Three."
 - b. A review committee designated by the Mayor, which shall include at least the Chief of Fire, shall review the list comprising the candidates contained in the "Rule of Three" and issue recommendations to the Mayor.
 - c. The Mayor shall appoint the candidate pursuant to the "Rule of Three."
10. *Duration of List of Candidates.*
 - a. Upon the completion of the ranking of candidates, the list will be certified by the Township Clerk.
 - b. The list will be in force for two (2) years from the date it is certified, and a new list shall be established within ninety (90) days of the expiration of any list. The list shall not be extended.
11. *Miscellaneous.*
 - a. Violation of any Edison Fire Department rules and regulations, departmental policy and procedure or violation of any State or Federal statute occurring after the list is certified may result in the candidate being removed from the promotional list or having his or her position lowered on the list. If a candidate is lowered on the list, the procedure utilized shall be consistent with paragraph 7 of this subsection.
 - b. The removal of a candidate, pursuant to paragraph 11a of this subsection will be at the ultimate discretion of the Mayor.

B. *Criteria for Promotion to Battalion Chief* shall be made pursuant to the following examination criteria, which shall consist of one hundred (100) total points:

1. *Qualifications.* A candidate must have completed a minimum of two (2) years of active service as a full-time Division Fire Captain on the date of the written examination with certifications or licenses from an accredited agency in:

- (a) Incident Management Systems – Level 2 Certification issued by DCA
- (b) Level 2 Fire Instructor
- (c) Certified NJ Uniform Fire Code Inspector

Note: Equivalent educational certificates in the above areas must be approved by the Chief of the Division of Fire.

2. *Written examination.*

- (a) Written examination will be prepared, administered and graded by an appropriate outside testing service. The scoring for these examinations will be from zero to one hundred (100). Only those candidates who achieve a score of seventy-five (75%) percent or higher will be allowed to move to the next phase.
- (b) Study guides will be made available prior to the examination.
- (c) The written test shall constitute forty-five (45%) percent of the fire fighter's score.
- (d) The testing agency shall place the names and grades of the passing candidates into a sealed envelope and placed with the Township Administrator. At the end of the process, the Township Administrator shall submit the sealed envelope to the Chief of Fire.

3. *Oral Test.* The oral test shall constitute forty-five (45%) percent of the fire fighter's score and shall be conducted by the Oral board. The board shall include the Director of Public Safety or their designee, Chief of Fire, Deputy Chief and two Senior Battalion Chiefs; one selected by the Director of Public Safety and one selected by the Chief of Fire. The Director of Public Safety may assign one additional designee in the event one (1) of the aforementioned positions is vacant. Candidates shall be interviewed as to their knowledge of Edison Division of Fire Standard Operating Procedures, Incident Command System, equipment and practices, knowledge of Division of Fire stations, response areas, fire ground operations and safety, building construction, Uniform Fire Code and Emergency Scene Strategy and Tactics. The board shall not discuss their evaluations with other board members. The Chief of Fire and Director of Public Safety or their designee shall remove the highest and lowest scores of each candidate and average the remaining scores.

4. The final score shall consist of the written examination score forty-five (45%) percent and the oral examination score forty-five (45%) percent. Candidates will receive one-half (0.5) point for each full year of time in grade as a permanent Captain in the Edison Fire Department to a maximum of five (5) points.

5. *Disciplinary History.*

- a. If a candidate has no disciplinary history in the five (5) years prior to the date of the written exam, said candidate shall receive five (5) points.
- b. If a candidate has two (2) written reprimands or three (3) suspension days or less in the five (5) years prior to the date of the written exam, said candidate shall receive two and one-half (2.5) points. If a candidate has a combination of two (2) written reprimands and one (1) or more suspension days, the candidate will receive zero (0) points.
- c. If a candidate has one (1) discipline of four (4) suspension days or more; more than three (3) written reprimands; or a demotion in rank in the five (5) years prior to the date of the written exam, said candidate shall receive zero (0) points.

6. *Compiling the Ranking List of Candidates.*

- a. The Chief of Fire shall obtain from the Township Administrator the sealed envelope which contains the results of the written test.
- b. The Chief of Fire and the Director of Public Safety or their designee shall compute the scores and issue the list of rankings.
- c. The Chief of Fire shall maintain the scores and all evaluation sheets until the next promotional test is conducted.

7. *Appointment to Position.*

- a. Vacancies shall be filled utilizing the "Rule of Three." Should the scoring result in a tie in any position but the first rank, the list shall be expanded to include all those candidates eligible in those positions. If there is a tie in the number one (1) position, all of those candidates will be included on the list; however, if there is also a tie in a lower rank necessary to establish the "Rule of Three," all said candidates will be included to establish the "Rule of Three."

- b. A review committee designated by the Mayor, which shall include at least the Chief of Fire, shall review the list comprising the candidates contained in the "Rule of Three" and issue recommendations to the Mayor.
 - c. The Mayor shall appoint the candidate pursuant to the "Rule of Three."
8. *Duration of List of Candidates.*
- a. Upon the completion of the ranking of candidates, the list will be certified by the Township Clerk.
 - b. The list will be in force for two (2) years from the date it is certified, and a new list shall be established within ninety (90) days of the expiration of any list. The list shall not be extended.
9. *Miscellaneous.*
- a. Violation of any Edison Fire Department rules and regulations, departmental policy and procedure or violation of any State or Federal statute occurring after the list is certified may result in the candidate being removed from the promotional list or having his or her position lowered on the list. If a candidate is lowered on the list, the procedure utilized shall be consistent with paragraph 5 of this subsection.
 - b. The removal of a candidate, pursuant to paragraph 9a of this subsection will be at the ultimate discretion of the Mayor.

C. Criteria for Promotion to Deputy Chief of Fire

1. Any individual, fire fighter or candidate to be promoted to the position of Deputy Chief of Fire shall have served in the position of Battalion Chief for a period of at least two (2) years or Captain for a period of at least three (3) years in a permanent capacity in the Edison Fire Department. In lieu of the aforementioned service credit in each rank, a candidate may have a combined amount of service credit in the ranks of Captain and Battalion Chief, totaling three (3) years, to be eligible for promotion to the position of Deputy Chief of Fire. In addition to the service credit, a candidate must have all certifications required of a Battalion Chief as well possess the Incident Management Level 3 Certification from DCA to be eligible for promotion to the position of Deputy Chief of Fire.
2. The Chief of Fire shall give his written recommendations to the Mayor.
3. The Mayor shall select the Deputy Chief of Fire.

D. Criteria for Promotion to Chief of Fire

1. Any individual, fire fighter or candidate to be promoted to the position of Chief of Fire shall have served in the position of Deputy Chief of Fire for a period of at least two (2) years or Battalion Chief for a period of at least three (3) years in a permanent capacity in the Edison Fire. In lieu of the aforementioned service credit in each rank, a candidate may have a combined amount of service credit in the ranks of Battalion Chief and Deputy Chief of Fire, totaling three (3) years, to be eligible for promotion to the position of Chief of Fire.
2. The Mayor shall select the Chief of Fire.

E. All promotional lists established by this section shall be posted in a time and manner prescribed by appropriate collective bargaining agreements.
(1999 Code § 2.20.260)

SECTION III. This ordinance shall take effect twenty (20) days after adoption and approval by the Mayor in accordance with N.J.S.A. 40:69A-181(b).

SECTION IV. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

EXPLANATION: This Resolution authorizes the Mayor to appoint Punita Amin Esq. as Alternate/Conflict Municipal Prosecutor for a one (1) year term, beginning on January 1, 2018 and concluding December 31, 2018.

EDISON TOWNSHIP

RESOLUTION _____

WHEREAS the Township of Edison (the "Township"), pursuant to N.J.S.A. 2B:25-4b, may employ an attorney-at-law as a Municipal Court Prosecutor for the term of one (1) year from the date of appointment and until a successor is appointed; and

WHEREAS, in the event of a conflict of interest or in the absence of an appointed Municipal Prosecutor, an Alternate/Conflict Municipal Prosecutor would be required; and

WHEREAS, Punita Amin Esq. has the necessary experience and qualifications to perform the duties of Township Alternate/Conflict Prosecutor, and the Mayor so nominates, and the Township Council so advises and consents, to her appointment as a Township Alternate/Conflict Municipal Prosecutor for a one (1) year term; and

WHEREAS, funds will be available for this purpose as the Alternate/Conflict Prosecutor will be compensated on a *per diem* basis by the Municipal Prosecutor for whom they substitute.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Township Council of the Township of Edison, County of Middlesex, State of New Jersey as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. That the Mayor and Township Council hereby appoint Punita Amin Esq. as a Township Alternate/Conflict Municipal Prosecutor for a one (1) year term, beginning on January 1, 2018 and concluding December 31, 2018 in accordance with N.J.S.A. 2B:25-4, to be assigned in the discretion of the Chief Municipal Prosecutor.

RESOLUTION

EXPLANATION: This resolution provides refund of the construction permit fee, less the DCA fee, posted for a residential construction permit. The work was never performed.

WHEREAS, on April 7, 2017 , a Construction Permit fee, check #2013844, permit #2017-1331, was posted in the total amount of \$352.00 by the contractor, SunRun, having offices at 26 Worlds Fair Dr., Somerset, NJ 08873 ; and

WHEREAS, the application was submitted for a Solar Installation at 6 Annette Dr. Edison, NJ 08817, by the hired contractor; SunRun

WHEREAS, appropriate documents have been submitted to the Township indicating that the contract was cancelled therefore appropriate that the municipal permit fee in the amount of \$281.00, derived from the \$352.00 total construction permit fee less the \$1.00 DCA fee, and less the 20% plan review fee of \$70.00 be refunded to the contractor SunRun.; and

WHEREAS, the Township Engineer recommends the refund of the municipal permit fee, on Construction Permit #2017-1331, in the amount of \$352.00 for the referenced application;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison that the sum not to exceed \$352.00 on construction permit fees posted by SunRun for 6 Annette Dr. be refunded to the contractor;

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the said amount of \$352.00 from the Refund of Revenue Fund to the Contractor, SunRun, 26 Worlds Fair Dr., Somerset, NJ 08873.

RESOLUTION

EXPLANATION: This resolution provides refund of the construction permit fee, less the DCA fee, posted for a residential construction permit. The work was never performed.

WHEREAS, on August 19 ,2016 , a Construction Permit fee, check #2013291, permit #2016-3387, was posted in the total amount of \$420.00 by the contractor, SunRun, having offices at 26 Worlds Fair Dr., Somerset, NJ 08873 ; and

WHEREAS, the application was submitted for a Solar Installation at 21 Richmond Rd. Edison, NJ 08817, by the hired contractor; SunRun

WHEREAS, appropriate documents have been submitted to the Township indicating that the contract was cancelled therefore appropriate that the municipal permit fee in the amount of \$320.00, derived from the \$420.00 total construction permit fee less the \$20.00 DCA fee, and less the 20% plan review fee of \$80.00 be refunded to the contractor SunRun.; and

WHEREAS, the Township Engineer recommends the refund of the municipal permit fee, on Construction Permit #2016-3387, in the amount of \$320.00 for the referenced application;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison that the sum not to exceed \$320.00 on construction permit fees posted by SunRun for 21 Richmond Rd. be refunded to the contractor;

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the said amount of \$320.00 from the Refund of Revenue Fund to the Contractor, SunRun, 26 Worlds Fair Dr., Somerset, NJ 08873.

RESOLUTION

EXPLANATION: This resolution provides refund of the construction permit fee, less the DCA fee, posted for a residential construction permit. The work was never performed.

WHEREAS, on October 2 ,2015 , a Construction Permit fee, check #2011403, permit #2015-4182, was posted in the total amount of \$365.00 by the contractor, SunRun, having offices at 26 Worlds Fair Dr., Somerset, NJ 08873 ; and

WHEREAS, the application was submitted for a Solar Installation at 44 Elizabeth Ave. Edison, NJ 08817, by the hired contractor; SunRun

WHEREAS, appropriate documents have been submitted to the Township indicating that the contract was cancelled therefore appropriate that the municipal permit fee in the amount of \$280.00, derived from the \$365.00 total construction permit fee less the \$15.00 DCA fee, and less the 20% plan review fee of \$70.00 be refunded to the contractor SunRun.; and

WHEREAS, the Township Engineer recommends the refund of the municipal permit fee, on Construction Permit #2015-4182, in the amount of \$280.00 for the referenced application;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison that the sum not to exceed \$280.00 on construction permit fees posted by SunRun for 44 Elizabeth Ave. be refunded to the contractor;

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the said amount of \$280.00 from the Refund of Revenue Fund to the Contractor, SunRun, 26 Worlds Fair Dr., Somerset, NJ 08873.

RESOLUTION

EXPLANATION: This resolution provides refund of the construction permit fee, less the DCA fee, posted for a residential construction permit. The work was never performed.

WHEREAS, on October 2 ,2015 , a Construction Permit fee, check #2011403, permit #2015-4182, was posted in the total amount of \$365.00 by the contractor, SunRun, having offices at 26 Worlds Fair Dr., Somerset, NJ 08873 ; and

WHEREAS, the application was submitted for a Solar Installation at 44 Elizabeth Ave. Edison, NJ 08817, by the hired contractor; SunRun

WHEREAS, appropriate documents have been submitted to the Township indicating that the contract was cancelled therefore appropriate that the municipal permit fee in the amount of \$280.00, derived from the \$365.00 total construction permit fee less the \$15.00 DCA fee, and less the 20% plan review fee of \$70.00 be refunded to the contractor SunRun.; and

WHEREAS, the Township Engineer recommends the refund of the municipal permit fee, on Construction Permit #2015-4182, in the amount of \$280.00 for the referenced application;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison that the sum not to exceed \$280.00 on construction permit fees posted by SunRun for 44 Elizabeth Ave. be refunded to the contractor;

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the said amount of \$280.00 from the Refund of Revenue Fund to the Contractor, SunRun, 26 Worlds Fair Dr., Somerset, NJ 08873.

RESOLUTION

EXPLANATION: This resolution provides refund of the construction permit fee, less the DCA fee, posted for a residential construction permit. The work was never performed.

WHEREAS, on January 28, 2016 , a Construction Permit fee, check #2012288, permit #2016-0348, was posted in the total amount of \$498.00 by the contractor, SunRun, having offices at 26 Worlds Fair Dr., Somerset, NJ 08873 ; and

WHEREAS, the application was submitted for a Solar Installation at 134 Orange St. Edison, NJ 08817, by the hired contractor; SunRun

WHEREAS, appropriate documents have been submitted to the Township indicating that the contract was cancelled therefore appropriate that the municipal permit fee in the amount of \$380.00, derived from the \$498.00 total construction permit fee less the \$23.00 DCA fee, and less the 20% plan review fee of \$95.00 be refunded to the contractor SunRun.; and

WHEREAS, the Township Engineer recommends the refund of the municipal permit fee, on Construction Permit #2016-0348, in the amount of \$380.00 for the referenced application;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Edison that the sum not to exceed \$380.00 on construction permit fees posted by SunRun for 134 Orange St. be refunded to the contractor;

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the said amount of \$380.00 from the Refund of Revenue Fund to the Contractor, SunRun, 26 Worlds Fair Dr., Somerset, NJ 08873.

RESOLUTION

WHEREAS, On March 20, 2013, YMCA of Metuchen posted Tree Maintenance Bond fees in the amount of \$1,875.00, with Check No. 230 on deposit with the Township of Edison in account #7762575640 to guarantee the installation of trees per the Municipal Code of the Township of Edison for designated Tree Maintenance Bond Permit, on the property identified as 1787 Oak Tree Road, Block 643.Z, Lot 16, Edison, NJ, 08820;

WHEREAS, confirmation by the Division of Engineering, under the supervision of the Township Engineer, has revealed that the maintenance period for the trees planted have exceeded the required two year maintenance period; and

WHEREAS, it is the recommendation of the Township Engineer that a Tree Maintenance Bond refund in the amount \$1,875.00 be refunded to the applicant; and

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF EDISON, that the Tree Maintenance Bond in the amount of \$1,875.00 hereinabove mentioned be refunded to the applicant; and

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the sum of \$1,875.00, plus any accrued interest as applicable, on deposit in Account #7762575640 to YMCA of Metuchen, 483 Middlesex Avenue, Metuchen, NJ 08820, for the referenced property at 1787 Oak Tree Road, Edison, NJ, 08820, Block 643.Z, Lot 16

RESOLUTION

WHEREAS, On December 8, 2015, Vishal Patel posted Tree Maintenance Bond fees in the amount of \$2,025.00, with Check No. 266 on deposit with the Township of Edison in account #7763927456 to guarantee the installation of trees per the Municipal Code of the Township of Edison for designated Tree Maintenance Bond Permit, on the property identified as 180 Edison Avenue, Block 625, Lot 65.A, Edison, NJ, 08820;

WHEREAS, confirmation by the Division of Engineering, under the supervision of the Township Engineer, has revealed that the maintenance period for the trees planted have exceeded the required two year maintenance period; and

WHEREAS, it is the recommendation of the Township Engineer that a Tree Maintenance Bond refund in the amount \$2,025.00 be refunded to the applicant; and

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF EDISON, that the Tree Maintenance Bond in the amount of \$2,025.00 hereinabove mentioned be refunded to the applicant; and

BE IT FURTHER RESOLVED, that the Director of Finance be and is hereby authorized to refund the sum of \$2,025.00, plus any accrued interest as applicable, on deposit in Account #7763927456 to Vishal Patel , 180 Edison Avenue, Edison NJ 08820, for the referenced property at 180 Edison Avenue, Edison, NJ, 08820, Block 625, Lot 65.A

RESOLUTION

EXPLANATION: A Resolution authorizing the grant of \$5,200.00 from the Township's Affordable Housing Weatherization/Energy Assistance Program to Edwardean MacDougall for replacement HVAC unit.

WHEREAS, by Resolution the Township Council approved, authorized and established an Emergency Repairs Program pursuant to N.J.A.C. 5:97-8.8(a), to assist eligible owner or rental property, sponsors of permanent supportive housing, shared living arrangements (group homes) and certain public housing units in the Township of Edison, to make eligible repairs/replacements to systems or items, that if neglected, pose threats to the health and/or safety of the current of prospective tenants, and committed \$500,000 from the Township's Affordable Housing Trust Fund for this purpose; and

WHEREAS, the Township Council also approved and adopted a Manual at that time for the Emergency Repairs Program in accordance with COAH's directives, which set forth the application process for applicants to comply with in order to participate in the Program and receive a grant for such repairs under the Program; and

WHEREAS, an application to participate in the Program was submitted by New Jersey Institute for Disabilities, was reviewed and deemed complete and in compliance with the Program requirements; and

WHEREAS, the Township Council desires to award a grant to Edwardean MacDougall for the replacement of his HVAC system unit in the amount of \$5,200.00 for the purposes set forth herein under the Township's Weatherization/Energy Assistance Program and to authorize the execution of an Agreement between the Township and Edwardean MacDougall, with respect to such grant.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Edison, Middlesex County, as follows:

1. The Township Council hereby approves and authorizes a grant in the amount of \$5,200.00 from the Township's Affordable Housing Trust Fund with respect to the Township's Emergency Repairs Program, to Edwardean MacDougall for the replacement of a HVAC system unit, for the purposes set forth herein and authorizes the execution of an Agreement with Mr. Edwardean MacDougall, 139 Liddle Avenue, Building B, Edison NJ 08837 with respect to such grant.
2. That an original certified copy of this resolution shall be forwarded to the Municipal Housing Liaison.

