

**AGENDA  
MUNICIPAL COUNCIL  
REGULAR MEETING  
Wednesday, February 28, 2018  
7:00 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. **APPROVAL OF MINUTES:**
  - a. Combined Meeting of February 14, 2018
5. **COUNCIL PRESIDENT'S REMARKS**
6. **RESOLUTION OF RECOGNITION:**

Resolution R.123-022018 – Ms. Holborow “The Dream Big Challenge for Teachers Award”
7. **PRESENTATION FROM ENVIRONMENTAL COMMISSION**
8. **NEW BUSINESS:**

**PROPOSED ORDINANCES PUBLIC HEARING SET DOWN FOR, WEDNESDAY, MARCH 14, 2018.**

**O.2000-2018      AN ORDINANCE AMENDING THE TOWNSHIP CODE CHAPTER 39-12.19, “GUARANTEES AND RELEASES,” MODIFYING PERFORMANCE AND MAINTENANCE GUARANTEE REQUIREMENTS PURSUANT TO CHANGES IN THE “MUNICIPAL LAND USE LAW.”**

**O.2001-2018      AN ORDINANCE AMENDING THE TOWNSHIP CODE CHAPTER 2-5.5 “CORPORATE SEAL,” SETTING FORTH REQUIREMENTS FOR THE USE OR REPRODUCTION OF OFFICIAL TOWNSHIP EMBLEMS.**
9. **PUBLIC COMMENT ON THE RESOLUTIONS:**

10. **PROPOSED RESOLUTIONS**

Copies of these Resolutions are available for review only and are posted in the Council Chambers. Anyone desiring a copy may contact the Township Clerk after the meeting.

**Consent Agenda**

- R.124-022018 Resolution approving disbursements for the period ending February 22, 2018.
- R.125-022018 Resolution authorizing refund in the amount of \$352,651.56 for redemption of tax sale certificates.
- R.126-022018 Resolution authorizing refund for tax overpayments totaling, 12,152.66.
- R.127-122018 Temporary Budget Appropriations
- R.128-022018 Resolution authorizes the Mayor to execute the attached Quitclaim Deed with respect to the private sale of Block 922, Lot 11.D (located on Nicholson Avenue), as shown on the Township of Edison tax maps.
- R.129-022018 Resolution authorizes adoption of the Central Jersey Municipal Joint Insurance Fund 2018 Safety Incentive Program.
- R.130-022018 This Resolution authorizes a sidewalk wavier for the project commonly known as Open Road of Central Jersey, LLC, concerning Block 228, Lots 6D, 7D, 9E, 10C, 11A, 12B, 13A, 14A, 15A, 16A, 17A, and 18A (located at Woodbridge Avenue, Letson Place, and U.S. Highway 1) as shown on the Township of Edison tax maps, as it pertains to that portion of the Project adjacent to U.S. Highway 1.
- R.131-022018 A Resolution authorizing the entering of a Shared Services Agreement with the Township of Piscataway, for the Township of Edison's provision of animal control services effective January 1, 2018, and continuing for a term of three (3) years.
- R.132-022018 Resolution authorizing the refunding of an over-payment of a residential development fee to Fox and Foxx Development, LLC.
- R.133-022018 Resolution refunding the Developers Escrow to Tiari Monsters for application #Z55-2011, Blk. 265.AA, lot 43-20 in the amount of \$346.25.
- R.134-022018 Resolution the fee schedule at Township Code 24-4.1, regarding certain before/after school child care programs.
- R.135-022018 The Division of Police has an opportunity to apply for an amount not to exceed \$15,000.00 in funding to support officers in overtime hours at a rate of \$55.00 per hour to educate the public, enforce Traffic Laws and Pedestrian Safety of this state. This will be accomplished between the dates of July 1, 2018 to May 31, 2019.
- R.136-022018 The Division of Police has an opportunity to apply for \$6,600.00 in grant funding to support officers in overtime hours at a rate of \$55.00 per hour to crack down on distracted drivers. This will be accomplished between the dates of April 1, 2018- April 21, 2018. This is a reimbursement grant from the NJ Division of Highway Traffic Safety.

R.137-022018 The Division of Police has an opportunity to apply for an undetermined amount of funding not to exceed \$20,000.00 to support officers in overtime hours at a rate of \$55.00 per hour for speed enforcement and to combat distracted driving. This will be accomplished between the dates of October 1, 2018- September 30, 2019.

R.138-022018 Resolution appointing Suzanne O'Neill to fill the unexpired term of Bette Daniele to the Library Board, term expires December 31, 2019.( added to agenda at meeting)

11. **ORAL PETITIONS AND REMARKS**

12. **ADJOURNMENT**

## ORDINANCE O.2000-2018

**EXPLANATION:** An Ordinance amending the Township Code Chapter 39-12.19, “Guarantees and Releases,” modifying performance and maintenance guarantee requirements pursuant to changes in the “Municipal Land Use Law.”

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

**WHEREAS**, the Township Code of General Ordinances (the “**Code**”) currently sets performance and maintenance guarantee requirements for development within the Township, pursuant to Chapter 39-12.19 of the Code; and

**WHEREAS**, the Township desires to amend Chapter 39-12.19 of the Code, entitled “Guarantees and Releases,” to incorporate modifications required pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-53; and

**WHEREAS**, the Municipal Council of the Township (“**Municipal Council**”) has determined to amend Subchapter 39-12.19 of the Code to read as follows (additions are underlined and deletions are in [brackets]):

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

### **39-12.19 [Guaranties and Releases.]**

#### *[a. Performance Guaranty Estimate.]*

[ 1. No final application for development shall be approved by the Board until the satisfactory completion and performance of all required improvements has been certified to the Board by the Municipal Engineer, unless the applicant shall have filed with the municipality a performance guaranty assuring the installation of the improvements on or before the completion date as hereinafter determined.]

[ 2. Except as hereafter provided, the remaining required improvements shall be at least fifty (50%) percent completed as to each category set forth in the performance guaranty, within one year from the date of final approval or by such time as fifty (50%) percent of the lots in the section in question have been conveyed in any manner by the applicant, whichever shall first occur. At least seventy-five (75%) percent of the remaining required improvements shall be completed as to each category as set forth in the performance guaranty, within eighteen (18) months from the date of final approval or at such time as seventy-five (75%) percent of the lots in the section in question have been conveyed in any manner by the applicant, whichever shall first occur. Such improvements shall be one hundred (100%) percent completed and accepted by the municipality within two (2) years from the date of final approval or at such time as all of the lots in question

have been conveyed in any manner by the applicant, whichever shall first occur. It is the intention of the Governing Body that this requirement will provide to those living in each new section of a development a dwelling unit that is as complete as possible with respect to tract and individual lot improvements.]

[3. The performance guaranty estimate shall be prepared by the applicant's engineer and submitted to the Municipal Engineer for review and approval, setting forth all requirements for improvements as required by Board approval and their estimated cost.]

[ b. *Approval by Attorney for the Governing Body.*]

[1. The applicant shall present one (1) original and one (1) copy of the performance guaranty in an amount equal to one hundred twenty (120%) percent of the approved performance guaranty estimate to the administrative officer. The administrative officer shall submit one (1) copy to the attorney for the Governing Body for approval as to form and execution.]

[ 2. The attorney for the Governing Body shall notify the Municipal Clerk prior to a meeting of the Governing Body whether the performance guaranty is properly executed and can be acted upon by that body. The Municipal Clerk shall notify the administrative officer accordingly.]

[ c. *Bonding and Cash Requirements.*]

[ 1. The performance guaranty shall be made payable and deposited to the municipality and shall be in the form of cash or a cashier's or certified check from a bank in Middlesex County or a performance bond in which the applicant shall be principal, the bond to be provided by an acceptable surety company licensed to do business in the State of New Jersey. The municipality shall issue its receipt for such deposits and shall cause the same to be deposited in a bank named by the municipality, in the name of the municipality, to be retained as security for completion of all requirements and to be returned to the applicant upon completion of all required work or, in the event of default on the part of the applicant, to be used by the municipality to pay the cost and expense of obtaining completion of all requirements. Every bond, whether cash or surety, shall contain a clause to the effect that a determination by the Municipal Engineer that the principal has defaulted in the performance of obligations shall be binding and conclusive upon the surety and the principal. Sureties shall be so worded to indicate that the guaranty automatically continues if the work is not completed by the stated expiration date.]

[ 2. Ten (10%) percent of the amount of the approved performance guaranty estimate shall be deposited by the applicant in cash with the municipality. The remaining ninety (90%) percent may be in cash or surety bond. In the event of default, the ten (10%) percent fund herein mentioned shall be first applied to the completion of the requirements, and the cash or the surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The cash or surety bond shall recite the foregoing provisions.]

[d. *Releases.* The Governing Body shall approve, partially approve or reject the improvements on the basis of the report from the Municipal Engineer and shall notify the obligor, in writing, by certified mail, of the contents of the Municipal Engineer's report and the

action of the Governing Body, not later than sixty-five (65) days after the receipt of the notice of the obligor of the completion or substantial completion of the improvements. Failure of the Governing Body to send or provide such notification to the obligor within the sixty-five (65) day period shall be deemed to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability pursuant to the performance guaranty for such improvements.]

[ 1. Where partial approval is granted, the obligor shall be released from all liability pursuant to the performance guaranty for such improvements, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that thirty (30%) percent of the performance guaranty posted may be retained to insure the completion of all improvements, regardless of when completed.]

[ 2. If any portion of the required improvements is rejected, the obligor shall complete such improvements by a date set by the Municipal Engineer and, upon completion, shall again notify the Governing Body as specified in subsection 39-12.22f., and the same procedures shall be followed as in the first instance.]

[ e. *Condition for Acceptance of Improvements.* The approval of any application for development by the municipality shall in no way be construed as acceptance of any street or drainage system or any other improvement, nor shall such approval obligate the municipality in any way to maintain or exercise jurisdiction over such street or drainage system or other improvement. No improvement shall be accepted by the Governing Body unless and until all of the following conditions have been met:

1. The Municipal Engineer shall have certified, in writing, that the improvements are complete and that they comply with the requirements of this chapter.

2. The final application for development shall have been approved by the Board.

3. The applicant shall have filed with the Governing Body a maintenance guaranty in an amount equal to not more than fifteen (15%) percent of the original estimate of the cost of installing the improvements. The maintenance guaranty shall run for a period of two (2) years. The procedures and requirements governing such maintenance guaranty shall be identical with the procedures and requirements for a performance guaranty set forth in this chapter. The requirements for a maintenance guaranty may be waived by the Governing Body only if the Municipal Engineer has certified that the improvements have been in continuous use for not less than two years from the date the Municipal Engineer certified completion of such improvements and that during this period the applicant has maintained the improvements in a satisfactory manner.

4. An as-built plan and profiles of all utilities, roads and other bonded improvements (three (3) black-and-white prints, plus one (1) mylar copy to be received by the Municipal Engineer), with certification signed and sealed by a New Jersey-licensed professional engineer as to the actual construction, as approved by the Municipal Engineer.]

**39-12.19 Guarantees required; Surety; Release.**

a. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit the Township may require and shall accept in accordance with the standards adopted by this ordinance, and regulations adopted pursuant to N.J.S.A.40:55D-53a for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee in accordance with paragraphs (1) and (2) of this subsection. For any successor developer, as a condition to the approval of a permit update under the State Uniform Construction Code, for the purpose of updating the name and address of the owner of property on a construction permit, the Township Council shall accept in accordance with the standards adopted by this ordinance for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee, in accordance with paragraphs (1) and (2) of this subsection.

(1) (A) The developer shall furnish a performance guarantee in favor of the Township in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Township Engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law" (N.J.S.A.46:26B-1 through N.J.S.A. 46:26B-8), water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.

The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

(B) The Township may also require a performance guarantee to include, within an approved phase or section of a development privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval.

At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

(C) In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee.

Upon posting of a “temporary certificate of occupancy guarantee,” all sums remaining under a performance guarantee, required pursuant to subparagraph (a) of this paragraph, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released.

The scope and amount of the “temporary certificate of occupancy guarantee” shall be determined by the Township Engineer. At no time may the Township hold more than one guarantee or bond of any type with respect to the same line item. The temporary certificate of occupancy guarantee shall be released by the Township Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

(D) A developer shall furnish to the Township a “safety and stabilization guarantee,” in favor of the Township. At the developer’s option, a “safety and stabilization guarantee” may be furnished either as a separate guarantee or as a line item of the performance guarantee. A “safety and stabilization guarantee” shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

(i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

(ii) work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township’s intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a “safety and stabilization guarantee” until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements in an amount not exceeding \$100,000.00 shall be \$5,000.00.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements exceeding \$100,000.00 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000.00 for the first \$100,000.00 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000.00 up to \$1,000,000.00, plus one percent of bonded improvement costs in excess of \$1,000,000.00.

The Township shall release a separate “safety and stabilization guarantee” to a developer upon the developer’s furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph, or upon the Township Engineer’s determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

(2) (A) The developer shall post with the Township, prior to the release of a performance guarantee required pursuant to subparagraph (a), subparagraph (b), or both subparagraph (a) and subparagraph (b) of paragraph (1) of this subsection, a maintenance



guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.

(B) If required, the developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4.

(C) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

(3) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Township for such utilities or improvements.

b. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the Township Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.

c. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the Township may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," N.J.S.A. 40A:11-1, et seq.

d. (1) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Township Council in writing, by certified mail addressed in care of the Township Clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Township Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Township Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the Township Council, and shall

simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.

(2) The list prepared by the Township Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory.

The report prepared by the Township Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section.

e. (1) The Township Council, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Township Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the Township Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and "safety and stabilization guarantee" posted may be retained to ensure completion and acceptability of all improvements.

The "safety and stabilization guarantee" shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction. For the purpose of releasing the obligor from liability pursuant to its performance guarantee the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70 percent of the total amount of the performance guarantee, then the Township may retain 30 percent of the amount of the total performance guarantee and "safety and stabilization guarantee" to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a "temporary certificate of occupancy guarantee" has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Township below 30 percent.

(2) If the Township Engineer fails to send or provide the list and report as requested by the obligor pursuant to subsection d. of this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Township Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

If the Township Council fails to approve or reject the bonded improvements determined by the Township Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Township Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

(3) In the event that the obligor has made a cash deposit with the Township as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a "safety and stabilization guarantee," the Township may retain cash equal to the amount of the remaining "safety and stabilization guarantee."

f. If any portion of the required bonded improvements is rejected, the Township Engineer may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.

g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Township Council or the Township Engineer.

h. (1) The obligor shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth in subparagraphs (a) and (b) of this paragraph. The Township may require the developer to post the inspection fees in escrow in an amount:

(A) not to exceed, except for extraordinary circumstances, the greater of \$500.00 or 5% of the cost of bonded improvements that are subject to a performance guarantee under subparagraph (a), subparagraph (b), or both subparagraph (a) and subparagraph (b) of paragraph (1) of subsection a. of this section; and

(B) not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under subparagraph (a) of paragraph (1) of subsection a. of this section, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.

(2) For those developments for which the inspection fees total less than \$10,000.00, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops

to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.

(3) For those developments for which the inspection fees total \$10,000.00 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

(4) If the Township determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to subparagraphs (a) and (b) of paragraph (1) of this subsection, is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

i. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38(a), the provisions of this section shall be applied by stage or section.

j. To the extent that any of the improvements have been dedicated to the Township on the subdivision plat or site plan, the Township Council shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the Township Engineer.

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**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 39-12.19 of the Code, now entitled “Guarantees required; Surety; Release.” to read as follows:

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**39-12.19 Guarantees required; Surety; Release.**

a. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit the Township may require and shall accept in accordance with the standards adopted by this ordinance, and regulations adopted pursuant to N.J.S.A.40:55D-53a for the

purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee in accordance with paragraphs (1) and (2) of this subsection. For any successor developer, as a condition to the approval of a permit update under the State Uniform Construction Code, for the purpose of updating the name and address of the owner of property on a construction permit, the Township Council shall accept in accordance with the standards adopted by this ordinance for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee, in accordance with paragraphs (1) and (2) of this subsection.

(1) (A) The developer shall furnish a performance guarantee in favor of the Township in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Township Engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law" (N.J.S.A. 46:26B-1 through N.J.S.A. 46:26B-8), water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.

The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

(B) The Township may also require a performance guarantee to include, within an approved phase or section of a development privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval.

At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

(C) In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee, required pursuant to subparagraph (a) of this paragraph, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released.

The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the Township Engineer. At no time may the Township hold more than one

guarantee or bond of any type with respect to the same line item. The temporary certificate of occupancy guarantee shall be released by the Township Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

(D) A developer shall furnish to the Township a “safety and stabilization guarantee,” in favor of the Township. At the developer’s option, a “safety and stabilization guarantee” may be furnished either as a separate guarantee or as a line item of the performance guarantee. A “safety and stabilization guarantee” shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

(i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

(ii) work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township’s intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a “safety and stabilization guarantee” until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements in an amount not exceeding \$100,000.00 shall be \$5,000.00.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements exceeding \$100,000.00 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000.00 for the first \$100,000.00 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000.00 up to \$1,000,000.00, plus one percent of bonded improvement costs in excess of \$1,000,000.00.

The Township shall release a separate “safety and stabilization guarantee” to a developer upon the developer’s furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph, or upon the Township Engineer’s determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

(2) (A) The developer shall post with the Township, prior to the release of a performance guarantee required pursuant to subparagraph (a), subparagraph (b), or both subparagraph (a) and subparagraph (b) of paragraph (1) of this subsection, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.

(B) If required, the developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures

of the stormwater management system, if any, which cost shall be determined by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4.

(C) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

(3) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Township for such utilities or improvements.

b. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the Township Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.

c. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the Township may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," N.J.S.A. 40A:11-1, et seq.

d. (1) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Township Council in writing, by certified mail addressed in care of the Township Clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Township Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Township Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the Township Council, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.

(2) The list prepared by the Township Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory.

The report prepared by the Township Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section.

e. (1) The Township Council, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Township Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the Township Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and “safety and stabilization guarantee” posted may be retained to ensure completion and acceptability of all improvements.

The “safety and stabilization guarantee” shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction. For the purpose of releasing the obligor from liability pursuant to its performance guarantee the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70 percent of the total amount of the performance guarantee, then the Township may retain 30 percent of the amount of the total performance guarantee and “safety and stabilization guarantee ” to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a “temporary certificate of occupancy guarantee” has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Township below 30 percent.

(2) If the Township Engineer fails to send or provide the list and report as requested by the obligor pursuant to subsection d. of this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Township Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.



If the Township Council fails to approve or reject the bonded improvements determined by the Township Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Township Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to subsection a. of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

(3) In the event that the obligor has made a cash deposit with the Township as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a "safety and stabilization guarantee," the Township may retain cash equal to the amount of the remaining "safety and stabilization guarantee."

f. If any portion of the required bonded improvements is rejected, the Township Engineer may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.

g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Township Council or the Township Engineer.

h. (1) The obligor shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth in subparagraphs (a) and (b) of this paragraph. The Township may require the developer to post the inspection fees in escrow in an amount:

(A) not to exceed, except for extraordinary circumstances, the greater of \$500.00 or 5% of the cost of bonded improvements that are subject to a performance guarantee under subparagraph (a), subparagraph (b), or both subparagraph (a) and subparagraph (b) of paragraph (1) of subsection a. of this section; and

(B) not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under subparagraph (a) of paragraph (1) of subsection a. of this section, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.

(2) For those developments for which the inspection fees total less than \$10,000.00, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.

(3) For those developments for which the inspection fees total \$10,000.00 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited

in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

(4) If the Township determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to subparagraphs (a) and (b) of paragraph (1) of this subsection, is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

i. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38(a), the provisions of this section shall be applied by stage or section.

j. To the extent that any of the improvements have been dedicated to the Township on the subdivision plat or site plan, the Township Council shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the Township Engineer.

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

3. It is the intent of the Municipal Council to incorporate the additions, amendments and/or supplements contained in this Ordinance into the Code. All of the remaining provisions in Chapter 39-12 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.

**ORDINANCE O.2001-2018**

**EXPLANATION:** An Ordinance amending the Township Code Chapter 2-5.5 “Corporate Seal,” setting forth requirements for the use or reproduction of official Township Emblems.

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

**WHEREAS**, the Township Code of General Ordinances (the “**Code**”) currently regulates the procedure for affixing the Corporate Seal of the Township to any written instruments or other papers, pursuant to Chapter 2-5.5 of the Code; and

**WHEREAS**, the Township desires to amend Chapter 2-5.5 of the Code, entitled “Corporate Seal,” to create subsections (a) and (b), which would further restrict the use or reproduction of the Corporate Seal and other official Township Emblems, depictions of which are attached hereto as Exhibit A; and

**WHEREAS**, the Municipal Council of the Township (“**Municipal Council**”) has determined to amend Subchapter 2-5.5 of the Code to read as follows (additions are underlined and deletions are in [brackets]):

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**2-5.5 Corporate Seal.**

- a. The Township Clerk shall cause the corporate seal of the Township to be affixed to any instruments and writings when authorized to do so by any ordinance or resolution of the Council or when necessary to exemplify any document on record in his or her office or to certify any act or paper which from the records of his or her office shall appear to have been a public act of the Township or a public document. He or she shall not affix the seal or permit it to be affixed to any instrument or writing or other paper except as in this section provided, unless required to do so by law or ordinance.
- b. Reproduction of the Corporate Seal, as well as the official emblems of the Edison Police Department and Edison Fire Department, shall be prohibited without authorization to do by ordinance or resolution of the Council or express written permission of the Mayor.

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**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 2-5.5 of the Code, entitled “Corporate Seal” to read as follows:

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**2-5.5 Corporate Seal.**

a. The Township Clerk shall cause the corporate seal of the Township to be affixed to any instruments and writings when authorized to do so by any ordinance or resolution of the Council or when necessary to exemplify any document on record in his or her office or to certify any act or paper which from the records of his or her office shall appear to have been a public act of the Township or a public document. He or she shall not affix the seal or permit it to be affixed to any instrument or writing or other paper except as in this section provided, unless required to do so by law or ordinance.

b. Reproduction of the Corporate Seal, as well as the official emblems of the Edison Police Department and Edison Fire Department, shall be prohibited without authorization to do by ordinance or resolution of the Council or express written permission of the Mayor.

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

3. It is the intent of the Municipal Council to incorporate the additions, amendments and/or supplements contained in this Ordinance into the Code. All of the remaining provisions in Chapter 2-5 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.

**RESOLUTION R.124-022018**

APPROVAL OF DISBURSEMENT OF FUNDS BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EDISON FOR THE PERIOD ENDING FEBRUARY 22, 2018

**WHEREAS**, the Director of Finance of the Township of Edison has transmitted to the Township Council a Report of Disbursements made through February 22, 2018.

<b>FUND</b>	<b>AMOUNT</b>
Current	\$86,247,537.88
Sewer Utility	59,062.76
Capital	1,212.50
Grant Funds	2,878.38
Dog (Animal Control)	3,485.60
Trust	102,813.76
CDBG	0.00
Tree Fund	0.00
Payroll Deduction	569,044.22
Law Enforcement	0.00
Open Space	0.00
Park Improvements	0.00
Sanitation Fund	96,266.07
Self Insurance	0.00
Affordable Housing	0.00
Cash Performance	224,379.71
Developers Escrow	9,120.08
Tree Planting	3,600.00
Federal Forfeited	0.00
Tax Sale Redemption	249,446.70
Water Operating Fund	0.00
Edison Landfill Closure Trust	0.00
TOTAL	\$87,568,847.66

/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 R.125-022018**

**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 **\$352,651.56**.

**RESOLUTION R.126-022018**

**Authorizing refund for tax overpayments**

**WHEREAS,** the Tax Collector of the Township of Edison, Lina Vallejo, reports and advises that on various properties located within the Township of Edison, overpayments of real estate taxes have been made due to erroneous or duplicate payments, and

**WHEREAS,** applications have been made to the Tax Collector for refunds of the said overpayments, and the Tax Collector advises that the requesters are entitled to refunds as provided the attached listing; and

**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 **\$12,152.66.**

**RESOLUTION R.127-022018**

**TEMPORARY BUDGET APPROPRIATIONS**

**WHEREAS**, the Local Budget Law, specifically N.J.S.A. 40A:4-20, requires that the governing body of a municipality shall by Resolution make appropriations if any contract, commitments or payments are to be made between the beginning of the Calendar year and the adoption of budget; and

**WHEREAS**, the Local budget Law and the Optional Municipal Charter Act of 1950 provide for the adoption of municipal budget by March 20, 2018 unless said budget calendar is extended according to law; and

**WHEREAS**, the date of this Resolution is prior to the adoption of the 2018 Calendar Year Budget,

**NOW, THEREFORE, BE IT RESOLVED**, by the Municipal Council of the Township of Edison, County of Middlesex, New Jersey that the following Temporary Emergency Appropriations be made and that a certified copy of this Resolution be transmitted to the Director of Finance for her record.

<b>CURRENT FUND</b>	<b>AMOUNT</b>
Fire Fighting-Other Expenses	315,000.00
PERS Expense	1,326,232.25
PFRS Expense	7,145,726.83
Municipal Alliance Grant	85,447.00
Highway Safety Fund Grant	39,494.13
<b>TOTAL CURRENT FUND</b>	<b>8,911,900.21</b>



**RESOLUTION R.128-022018**

**EXPLANATION: This Resolution authorizes the Mayor to execute the attached Quitclaim Deed with respect to the private sale of Block 922, Lot 11.D (located on Nicholson Avenue), as shown on the Township of Edison tax maps.**

**WHEREAS**, by Ordinance No. O1964-2017, effective March 28, 2017 (“the **Ordinance**”), the Township of Edison (the “**Township**”) authorized the private sale of Block 922, Lot 11.D, located on Nicholson Avenue in the Township (the “**Property**”), pursuant to N.J.S.A. 40A:12-13(b); and

**WHEREAS**, the Property is a vacant lot situated in the R-BB zoning district, measures 25 feet by 180 feet, and is not needed for public use; and

**WHEREAS**, Samuel and Bernadette Penceal are the current owners of record of the real property (the “**Owners**”) contiguous to the Property; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-13(b) and the Ordinance, the Township is willing to quitclaim, for the fair market value of One Hundred Twenty One Thousand Five Hundred Dollars (\$121,500.00) to the Owners and their successors and assigns, any and all interests the Township has in the Property; and

**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 aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Municipal Council hereby authorizes and approves the execution and delivery of a quitclaim deed to the Owners, their successors and assigns, for the Property for the sum of One Hundred Twenty One Thousand Five Hundred Dollars (\$121,500.00) (the “**Quitclaim Deed**”).
3. The Mayor is hereby authorized to execute the Quitclaim Deed in substantially the form attached hereto as **Exhibit “A”**, with such additions, deletions or modifications as may be necessary in consultation with the Township Attorney.
4. The Mayor is hereby authorized to take such further actions and to execute such additional and ancillary documents or instruments (including but not limited to an Affidavit of Consideration or Exemption) as may be necessary or desirable to effectuate the intent hereof.
5. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
6. A copy of this Resolution shall be available for public inspection at the offices of the Township Clerk.
7. This Resolution shall take effect as provided in law.

**RESOLUTION R.129-022018**

**EXPLANATION: This Resolution authorizes adoption of the Central Jersey Municipal Joint Insurance Fund 2018 Safety Incentive Program.**

**WHEREAS**, the Township of Edison (the “Township”) is a member of the Central Jersey Municipal Joint Insurance Fund (the “Central JIF” or the “Fund”); and

**WHEREAS**, it is the policy of the Central JIF to achieve the best and most practical degree of freedom from accidents and/or injuries; and

**WHEREAS**, the Central JIF endeavors to ensure that all of their members’ employees, volunteers and public are provided with a safe and healthy environment, free from any recognized hazards; and

**WHEREAS**, the Central JIF’s Safety Committee is made up of representatives of the Fund’s municipalities, along with the professionals employed by the Fund; and

**WHEREAS**, the Central JIF has adopted the new 2018 Safety Incentive Program (the “Program”), which should succeed in providing a safe, healthful and pleasant environment; and

**WHEREAS**, this new Program will assist all the Central JIF members in becoming or maintaining compliance with all Public Employees Occupational Safety and Health (“PEOSHA”) requirements.

**NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF EDISON, NEW JERSEY AS FOLLOWS:**

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Municipal Council hereby adopts the Central JIF’s 2018 Safety Incentive Program.
3. This Resolution shall take effect immediately.

**RESOLUTION R.130-022018**

**EXPLANATION:** This Resolution authorizes a sidewalk wavier for the project commonly known as Open Road of Central Jersey, LLC, concerning Block 228, Lots 6D, 7D, 9E, 10C, 11A, 12B, 13A, 14A, 15A, 16A, 17A, and 18A (located at Woodbridge Avenue, Letson Place, and U.S. Highway 1) as shown on the Township of Edison tax maps, as it pertains to that portion of the Project adjacent to U.S. Highway 1.

**WHEREAS**, Block 228, Lots 6D, 7D, 9E, 10C, 11A, 12B, 13A, 14A, 15A, 16A, 17A, and 18A (located at Woodbridge Avenue, Letson Place, and U.S. Highway 1) as shown on the Township of Edison tax maps (the “**Property**”) was the subject of an application before the Zoning Board of the Township of Edison (hereinafter the “**Board**”) made by Open Road of Central Jersey, LLC (“**Developer**”) for preliminary and final site plan approval to develop property for a new vehicle storage lot (the “**Project**”); and

**WHEREAS**, the Board granted final site plan approval for the Project by adoption of a resolution on August 15, 2017 (the “**Resolution**”), and the Municipal Council approved a developer’s agreement concerning the Project on October 11, 2017 (the “**Developer’s Agreement**”); and

**WHEREAS**, prior to the execution of the Developer’s Agreement and upon the recommendation of the Board, on September 22, 2017, Developer submitted a request to the Municipal Council seeking relief from Township Code 19-4.4e3 requiring sidewalks to be installed at the Property since the Property is within a two (2) mile radius from a school property line, specifically, as it pertained that portion of the Project adjacent to U.S. Highway 1, (the “**Sidewalk Waiver Request**,” attached hereto as Exhibit A); and

**WHEREAS**, on December 8, 2017, the Township Engineer prepared a letter to the Township Business Administrator concerning the Township Engineer’s review of the Sidewalk Waiver Request and attendant documents, including the Project’s site dimension plan, and the Township Code, and concluded that while the Project is located within two (2) miles of a school, the Sidewalk Waiver Request can be granted since: 1) Developer proposes to install sidewalk along Letson Place; 2) there currently exists sidewalk along Woodbridge Avenue; and 3) with regard to that portion of the Project adjacent to U.S. Highway 1, because there is no sidewalk connectivity along U.S. Highway 1 on either side of the Project, there is no negative impact from a pedestrian or traffic safety standpoint, at the Project, if no sidewalk is installed along U.S. Highway 1 (the December 8, 2017 letter from the Township Engineer is attached hereto as Exhibit B); and

**WHEREAS**, Municipal Council hereby accepts the recommendation of the Township Engineer and grants the Sidewalk Waiver Request, pursuant to Township Code 19-4.4e3, since the literal enforcement of Chapter XIX of the Township Code in this instance is impractical and would exact an undue hardship to Developer since: 1) there is no sidewalk connectivity along U.S. Highway 1 on either side of the Project; 2) there is no negative impact from a pedestrian safety standpoint if no sidewalk is installed along U.S. Highway 1 at the Project; and 3) there is no negative impact to traffic safety standpoint if no sidewalk is installed along U.S. Highway 1 at the Project.

**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 Municipal Council hereby accepts the recommendation of the Township Engineer and grants the Sidewalk Waiver Request, pursuant to Township Code 19-4.4e3, since the literal enforcement of Chapter XIX of the Township Code in this instance is impractical and would exact an undue hardship to Developer, to require the installation of sidewalks adjacent to U.S. Highway 1, since: 1) there is no sidewalk connectivity along U.S. Highway 1 on either side of the Project; 2) there is no negative impact from a pedestrian safety standpoint if no sidewalk is installed along U.S. Highway 1 at the Project; and 3) there is no negative impact to traffic safety standpoint if no sidewalk is installed along U.S. Highway 1 at the Project.

2. The Township Clerk is hereby authorized to forward the original and certified copies of the Agreement to the Township Zoning Board of Adjustment Secretary and to counsel for Developer.

3. This Resolution shall take effect immediately.

**RESOLUTION R.131-022018**

**EXPLANATION: A Resolution authorizing the entering of a Shared Services Agreement with the Township of Piscataway, for the Township of Edison's provision of animal control services effective January 1, 2018, and continuing for a term of three (3) years.**

**WHEREAS**, the Township of Edison (the "**Township**") is a municipal corporation of the State of New Jersey authorized under the Uniform Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1 et seq.* ("**Shared Services Act**") to enter into an agreement with other local units to provide jointly (or through the agency of one of them on behalf of the other) any service which such entity may legally perform for itself; and

**WHEREAS**, in the spirit of mutual cooperation, the Township has the capacity to and seeks to provide animal control services, including the regulation, collection and housing of stray animals, to the Township of Piscataway, (collectively, with the Township, the "**Parties**") for the purpose of promoting efficiency in government and reducing respective expense for such services; and

**WHEREAS**, in furtherance, the Parties desire to enter a Shared Services Agreement ("**Agreement**," in the form substantially similar to that attached hereto as *Exhibit A*) pursuant to the Shared Services Act to establish the terms of the Township's provision of animal control services to be charged as a monthly amount of \$5,772.65, effective January 1, 2018, and continuing for a term of three (3) years; and

**WHEREAS**, the Agreement provides for and shall be subject to cancellation by either Party upon thirty (30) days' written notice; and

**WHEREAS**, the Municipal Council of the Township ("**Municipal Council**") seeks to hereby authorize the Township's entering and execution of the Agreement.

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

Section 1. The foregoing recitals are hereby incorporated by reference as if fully repeated herein.

Section 2. The form of the Agreement is hereby approved, and the Municipal Council hereby authorizes and directs the Mayor to execute the Agreement on behalf of the Township. A copy of this Resolution and the executed Agreement shall be maintained on file with the Township Clerk.

Section 3. The Township shall provide animal control services to Piscataway Township pursuant to the Agreement at a rate of \$5,772.65 per month, terminable upon thirty (30) days' notice.

Section 4. The Township Clerk is hereby instructed to forward a copy of the signed Agreement to the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs, for informational purposes, in accordance with the Shared Services Act, as well as the Business Administrator for the Township of Piscataway.

Section 5. This Resolution shall take effect immediately.

**RESOLUTION R.132-022018**

**EXPLANATION:** A Resolution authorizing the refunding of an over-payment of a residential development fee to Fox and Foxx Development, LLC.

**WHEREAS**, the Township of Edison (“**Township**”) is required under Chapter 30-30.4 of the Township Code of Ordinances (“**Township Code**”) to collect residential development fees with regard to new residential construction projects; and

**WHEREAS**, Fox and Foxx Development, LLC (the “**Developer**”) overpaid the residential development fee required for their project located at 228 Loring Avenue, Edison (“**Project**”); and

**WHEREAS**, the Township and the Developer agree that an over-payment was made, and that a refund is due to the Developer in the amount of \$1,682.00, which represents the total over-payment made by the Developer to the Township with respect to the residential development fee for the Project; and

**WHEREAS**, the refunded amount will be paid from the Township’s Affordable Housing Trust Fund.

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

1. The recitals are hereby incorporated as if restated herein in full.
2. The Township’s Finance Department is authorized to issue a refund check in the amount of \$1,682.00 to the Developer as a result of the over-payment made with respect to the residential development fee for the Project.
3. An original Resolution must be provided to the Township’s Municipal Housing Liaison upon adoption.
4. This Resolution shall take effect immediately.

**RESOLUTION R.133-022018**

**EXPLANATION: THIS RESOLUTION PROVIDES FOR THE REFUND OF THE UNUSED PORTION OF DEVELOPERS ESCROW FEES POSTED BY TIARI MONSTERS FOR THE PLANNING BOARD APPLICATION NO. Z55-2011**

**WHEREAS**, The Township Planning Board Secretary advises that the Developer Escrow Fees posted by Tiari Monsters for a project located at 775 Route One South., Edison, N.J.in Block 265.AA, Lot 43-20 and Application No Z55-2011 ; and

**WHEREAS**; the applicant was required to Post developers escrow fees, pursuant to Township Ordinance; and

**WHEREAS**; on September 8, 2011, Tiari Monsters posted fees on deposit with the Township of Edison in the account # 7760296155 for Developers Escrow Fees; and

**WHEREAS**; the applicant has requested the return of the unused portion of Developers Escrow Fees, as provided by law; and

**WHEREAS**; it is now in order that the sum \$ 346.25 plus accrued interest, if applicable, which represents the amount due and owing the applicant, be returned to Tiari Monsters and

**NOW THEREFORE, BE IT RESOLVED** BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF EDISON that the sum of \$346.25 plus accrued interest, if applicable be refunded to Tiari Monsters, 29 Emmons Drive , Princeton N.J 08840

**BE IF FURTHER RESOLVED** that the Director of Finance be and is hereby authorized to refund the sum of \$ 346.25, plus accrued interest, if applicable, in account #7760296155 to the applicant.

**RESOLUTION R.134-022018**

**EXPLANATION: A resolution the fee schedule at Township Code 24-4.1, regarding certain before/after school child care programs.**

**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**”) at Section 24.4.1 provides for the establishment of fees for certain before/after school child care programs, by resolution; and

**WHEREAS**, the municipal council of the Township (“**Municipal Council**”) has determined to amend Subchapter 24-4.1 of the Code to update the following programs, as follows (additions are underlined and deletions are in [brackets]):

**“24-4 PARK AND RECREATION FEES**

**24-4.1 Fee Schedule**

The fees for the usage of Township parks, recreation areas and facilities and programs offered therein or by the Township shall be set by resolution.

**Fee Schedule**

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

PROGRAMS	FEE	PAYMENT DUE
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... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

A.B.C. – Elementary School		
Morning Session	[\$120.00] <u>\$130.00</u>	Monthly (10)
Afternoon Session	[\$180.00] <u>\$190.00</u>	Monthly (10)
Both Sessions	[\$300.00] <u>\$320.00</u>	Monthly (10)

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

Y.A.P. – Middle School		
Afternoon Session Only	[\$180.00] <u>\$190.00</u>	Monthly (10)

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Edison, in the County of Middlesex, and State of New Jersey that the following before/after school fees are hereby established and shall remain in force and effect until superseded by a subsequent resolution:

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

**“24-4 PARK AND RECREATION FEES**

**24-4.1 Fee Schedule**



The fees for the usage of Township parks, recreation areas and facilities and programs offered therein or by the Township shall be set by resolution.

**Fee Schedule**

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

A.B.C. – Elementary School		
Morning Session	\$130.00	Monthly (10)
Afternoon Session	\$190.00	Monthly (10)
Both Sessions	\$320.00	Monthly (10)

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

Y.A.P. – Middle School		
Afternoon Session Only	\$190.00	Monthly (10)

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

2. The Township Clerk shall forward this Resolution to the Supervisor of Recreation.
3. All other recreation fees are hereby as established and shall remain in force and effect until superseded by a subsequent resolution.
4. This Resolution shall take effect immediately.

**RESOLUTION R.135-022018**

**2019 Pedestrian Safety Enforcement and Education  
Grant Application and Initiative**

**WHEREAS**, the Division of Police wishes to apply for grant funding not to exceed the amount of \$15,000.00 to provide additional manpower hours to educate the public in pedestrian laws and increased enforcement of traffic laws; and

**WHEREAS**, in 2016, almost 6,000 pedestrians were killed in traffic accidents in the United States and more than 66,000 pedestrians were injured; and

**WHEREAS**, between 2009 – 2016, over 20 pedestrians have lost their lives on Edison roadways, and

**WHEREAS**, an enforcement crackdown is planned to combat traffic violations related to pedestrian laws; and

**WHEREAS**, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the State to participate in the Pedestrian Safety Grant; and

**WHEREAS**; the project will involve increased enforcement and education from July 1, 2018 through May 31, 2019; and

**WHEREAS**; an increase in education and enforcement will save pedestrians lives on our roadways;

**THEREFORE**, be it resolved that the Edison Township Council and the Division of Police declares its support for the grant application and participation in *The Pedestrian Safety Grant Program FY 2019* from July 1, 2018 through May 31, 2019 and pledges to increase awareness of pedestrian safety laws.

**BE IT FURTHER RESOLVED**, that the Business Administrator be and is hereby authorized to sign the aforesaid grant application for and on behalf of the Township of Edison.

**RESOLUTION R.136-022018**

**2018 Distracted Driving Statewide Crackdown  
Grant Application and Initiative**

**WHEREAS**, the Division of Police wishes to apply for grant funding in the amount of \$6600.00 to provide additional manpower hours to crack down on distracted drivers; and

**WHEREAS**, the number of people killed nationwide in distraction-affected crashes were 3,477 in 2015. An estimated 421,000 people were injured in motor vehicle crashes involving a distracted driver; and

**WHEREAS**, an enforcement crackdown is planned to combat violations related to distracted driving; and

**WHEREAS**, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the State to participate in the grant; and

**WHEREAS**; the project will involve increased enforcement from April 1-21, 2018; and

**WHEREAS**; an increase in enforcement will save lives on our roadways;

**THEREFORE**, be it resolved that the Edison Township Council and the Division of Police declares our support for the grant application and participation in the 2018 Distracted Driving Statewide Crackdown Grant between April 1-21, 2018 and pledges to increase awareness of laws pertaining to distracted drivers.

**BE IT FURTHER RESOLVED**, that the Business Administrator be and is hereby authorized to sign the aforesaid grant application for and on behalf of the Township of Edison.

**RESOLUTION R.137-022018**

**Federal Highway Safety Fund 2019  
Grant Application and Initiative**

**WHEREAS**, the Division of Police wishes to apply for grant funding not to exceed \$20,000.00 to provide additional manpower hours for speed enforcement as well as to combat distracted driving; and

**WHEREAS**, an enforcement crackdown is planned to reduce violations related to speeding and distracted driver's to reduce the number of crashes and potential fatalities related to these offenses; and

**WHEREAS**, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the State to participate in the grant; and

**WHEREAS**; the project will involve increased enforcement from October 1, 2018 through September 30, 2019; and

**WHEREAS**; an increase in enforcement will reduces accidents and save lives on our roadways;

**THEREFORE**, be it resolved that the Edison Township Council and the Division of Police declares it's support for the grant application and participation in the Federal Highway Safety Fund Grant Program 2019.

**BE IT FURTHER RESOLVED**, that the Business Administrator be and is hereby authorized to sign the aforesaid grant application for and on behalf of the Township of Edison.

**RESOLUTION R.138-022018**

**WHEREAS**, Suzanne Cason O'Neill has been appointed by Mayor Thomas Lankey as a member of the Library Board of Trustees; and

**WHEREAS**, Ms. O'Neill will be filling the unexpired term of Bette Daniele.

**WHEREAS**, this resolution requests the advice and consent of council;

**NOW, THEREFORE, BE IT RESOLVED**, by the Municipal Council, Township of Edison that Suzanne Cason O'Neill, 135 Vineyard Road, Edison, New Jersey 08817, be appointed as a member of the Library Board of Trustees with a term to expire on December 31, 2019.