AGENDA
MUNICIPAL COUNCIL
WORKSESSION MEETING
October 24, 2016
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 12, 2015 and posted in the Main Lobby of the Municipal Complex on the same date.

4. **ORAL PETITIONS AND REMARKS**

5. **APPROVAL OF MINUTES:**
   a. Worksession Meeting of April 11, 2016
   b. Worksession Meeting of April 25, 2016
   c. Workessssion Meeting of June 20, 2016
   d. Combined Meeting of October 13, 2016

6. **REPORTS FROM ALL COUNCIL COMMITTEES:**

7. **POINTS OF LIGHT**

8. **FROM THE BUSINESS ADMINISTRATOR:**
   a. Resolution adopting corrections to the Township Employee Handbook.
   b. Resolution authorizing the submission of New Jersey Department of Environmental Protection through the Pays to Plug grant program.
   c. Resolution authorizing the submission of grant application titled TA-2016-Amboy Avenue Streetscape -00100.
   d. Resolution authorizing the Township's entering of a three (3) year Chlorofluorocarbon Recovery Agreement with the County of Middlesex.
   e. An Ordinance authorizing a month to month lease of storage of Township Vehicles and equipment.
   f. Ordinance Authorizing A Special Emergency Appropriation In The Amount Of $830,000 For Contractually Required Severance Liabilities In Connection With The Layoff Or Retirement Of Township Employees, In And By The Township Of Edison, In The County Of Middlesex, New Jersey.
   g. Resolution authorizing a Shared Services Agreement with County of Middlesex for the recovers of Edison's Hazmat response costs.

9. **FROM THE DEPARTMENT OF FINANCE:**
   a. Report of Disbursements through October 20, 2016.

b. Resolution authorizing refund in the amount of $ 21,173.73 for redemption of tax sale certificates.
c. Resolution authorizing the refund of sewer charge overpayments totaling $123.57.
d. Resolution requesting approval of Items of Revenue and Appropriations per N.J.S.A. 40A:4-87.
e. Resolution authorizing Overpayments refund caused by Successful Tax Court Appeal.
f. Resolution authorizing refund for tax overpayments, totaling $854.10.

10. **FROM THE DEPARTMENT OF LAW:**
a. Resolution increases the budget for Legal fees to be paid Roth D'Aquanni, LLC for professional services as Township Labor Counsel.
c. An Ordinance amending Chapter 37 of the Township of Edison, Code of Ordinances to amend the G-B General Business District to include a convenience store with fuel station as a permitted use
d. Resolution accepting a Grant from the Hazardous Discharge Site remediation Fund Pubic Entity program through the New Jersey Economic Development Authority and the Department of Environmental Protection.
e. Resolution increases the budget for Community Planning Consulting fee to be paid to Heyer, Gruel and Associates for it s professional services.

11. **FROM THE DEPARTMENT OF PLANNING AND ENGINEERING:**
a. Resolutions releasing of Tree Maintenance Bonds.
b. Resolution releasing of Performance Bond and Cash Performance bonds.

12. **FROM THE DEPARTMENT OF PUBLIC WORKS:**
a. Award of Contract for Public Bid No. 16-10-03 – Generator Maintenance and Repair
b. Award of Contract for Public Bid No. 16-09-07 – Truck Transmission Repair/Rebuild

13. **FROM THE DEPARTMENT OF RECREATION:**
a. Resolution authorizing the Township of Edison to purchase snack through an Interlocal Service Agreement with the Edison Board of Education.

14. **FROM THE CHIEF OF FIRE:**
a. Approval of Volunteer Firefighter.
b. Resolution approves the internal development and submission of the Township of Edison Division of Fire web-based online application to the 2016 USDHS FEMA Assistance to Firefighter Grant.
c. Award of a Non-fair and Open Contract/Purchase for Rescue Equipment.

15. **FROM THE TOWNSHIP CLERK:**
a. Resolution awarding a new Plenary Retail Distribution.

16. **FROM THE COUNCIL MEMBER OF THE PLANNING BOARD:**

17. **UNFINISHED BUSINESS:**
ORDINANCES FOR FURTHER CONSIDERATION, PUBLIC HEARING, AND FINAL ADOPTION:

O.1945-2016 THIS ORDINANCE ADOPTS THE "OUR LADY OF PEACE REDEVELOPMENT PLAN" FOR BLOCK 748, LOT 36 (aka 635 Amboy Avenue) PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW

O.1949-2016 AN ORDINANCE AMENDING THE TOWNSHIP'S AFFORDABLE HOUSING DEVELOPMENT FEE ORDINANCE IN ITS ENTIRETY.

18. **COMMUNICATIONS:**
None

19. **DISCUSSION ITEMS:**

Council President Lombardi
None

Councilmember Coyle
None

Councilmember Diehl
None

Councilmember Gomez
None

Councilmember Patil
None

Councilmember Sendelsky
None

Councilmember Shah
None

20. **ADJOURNMENT**

RESOLUTION

APPROVAL OF DISBURSEMENT OF FUNDS BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EDISON FOR THE PERIOD ENDING OCTOBER 20, 2016

WHEREAS, the Director of Finance of the Township of Edison has transmitted to the Township Council a Report of Disbursements made through October 20, 2016.

FUND	AMOUNT
Current	$4,264,563.39
Affordable Housing	5,660.68
Capital	0.00
Cash Performance	7,499.20
CDBG	11.00
Developers Escrow	27,864.49
Dog (Animal Control)	13,548.71
Federal Forfeited	0.00
Grant Funds	5,918.27
Law Enforcement	0.00
Open Space	0.00
Park Improvements	0.00
Payroll Deduction	498,024.85
Sanitation Fund	211,479.22
Sewer Utility	82,601.98
Tax Sale Redemption	0.00
Tree Fund	0.00
Tree Planting	60,719.12
Trust	95,784.25
TOTAL	$5,270,675.16

/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.

EXPLANATION: A Resolution adopting corrections to the Township Employee Handbook.

RESOLUTION

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

WHEREAS, the Township Municipal Council previously approved the updated Township Employee Handbook via Resolution R.509-072016 on July 27, 2016; and

WHEREAS, four ministerial errors were discovered after adoption that have since been corrected; and

WHEREAS, the ministerial errors were corrected prior to distribution to Township employees and this Council wishes to formally recognize the updated Township Employee Handbook as corrected.

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

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The corrections annexed to as Exhibit A, incorporated into the updated Township Employee Handbook prior to distribution to employees are approved.

Section 3. The Handbook is intended to provide guidelines covering public service by Township employees and is not a contract.

Section 4. This Resolution shall take effect immediately.

RESOLUTION R.

WHEREAS, the New Jersey Department of Environmental Protection is making grant funding available to municipalities within the State of New Jersey through the Pays to Plug In grant program; and,

WHEREAS, funding provided through the Pays to Plug In grant program is designed to support the purchase and installation of electric vehicle charging stations at municipally owned facilities; and,

WHEREAS, municipalities may apply for up to $5,000 in funding per charging station to cover any and all costs associated with the purchase and installation of electric vehicle charging stations; and,

WHEREAS, the Township of Edison is desirous to make application through the Pays to Plug In grant program in order to implement a pilot electric vehicle program; and,

WHEREAS, the Township of Edison will submit an application requesting $10,000 in grant funding for the purchase/installation of two (2) electric vehicle charging stations.

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

1. The Township of Edison is hereby authorized to make said grant application to the New Jersey Department of Environmental Protection through the Pays to Plug In grant program.
2. Upon the receipt of a grant award Mayor Thomas Lankey is hereby authorized to sign the grant agreement and that his or those in said title's signature constitutes acceptance of the terms and conditions of the grant agreement.

THIS IS TO CERTIFY that this is a true and compared copy of a Resolution adopted by the Municipal Council of the Township of Edison at their Regular Meeting of October 26, 2016.

_____

Cheryl Russomanno, RMC
Municipal Clerk

RESOLUTION R.

WHEREAS, the New Jersey Department of Transportation is making grant funding available to municipalities within the State of New Jersey through the Transportation Alternatives Program; and,

WHEREAS, funding provided through the Transportation Alternatives Program is designed to support community based "non-traditional" surface transportation projects that will help to strengthen the cultural, aesthetic, and environmental aspects of the nation's intermodal system; and,

WHEREAS, the Township of Edison is desirous to make application through the Transportation Alternatives Program for the completion of the Amboy Avenue Streetscape project; and,

WHEREAS, the proposed project that funding is being sought for is directly related to surface transportation; correlates with other local/regional plans; will have a regional/community impact; and will help to increase and improve upon the local economy/tourism, user mode of choice and cultural/historical resources within the Township of Edison.

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

1. The Township of Edison is hereby authorized to submit said grant application titled *TA-2016-Amboy Avenue Streetscape-00100*.
2. The Township of Edison must designate a full time municipal employee as the *responsible charge* for the purposes of administering the grant award, should funding be provided for this project, as per grant guidelines. The Township hereby designates Mr. Mark Kataryniak, P.E., Director of the Township of Edison Department of Planning and Engineering, as the *responsible charge* for this project.
3. The Township of Edison is committed to the continual *ownership and maintenance* for the useful life of the project following the completion of project related activities.
4. The Township of Edison will complete all project related construction in conformance with the *Americans with Disabilities Act (ADA)* guidelines.

THIS IS TO CERTIFY that this is a true and compared copy of a Resolution adopted by the Municipal Council of the Township of Edison at their Regular Meeting of October 26, 2016.

_____

Cheryl Russomanno, RMC
Municipal Clerk

EXPLANATION: A Resolution authorizing the Township's entering of a three (3) year Chlorofluorocarbon Recovery Agreement with the County of Middlesex.

EDISON TOWNSHIP

RESOLUTION

WHEREAS, the County of Middlesex (the "County") and the Township of Edison (the "Township") recognize the importance of being proactive in addressing environmental issues such as the propose recycling of consumer electronics and depletion of the ozone layer known to be caused by manmade chemicals such as chlorofluorocarbons ("CFCs") that can be found in white goods; and

WHEREAS, effective November 17, 2007, recycling of white goods including those that contain CFCs is mandatory in Middlesex County; and

WHEREAS, the Parties have mutually agreed to a three (3) year contract wherein the County shall provide a subsidy to the Township up to fifty percent (50%) of the cost of each properly documented CFC recovery from a residential appliance as provided in the contract attached hereto as *Exhibit A* ("Agreement"); and

WHEREAS, the Agreement is exempt from public bidding pursuant to *N.J.S.A.* 40A:11-5(2) of the Local Public Contracts Law, *N.J.S.A.* 40A:11-1 *et seq*. as the Agreement is between public entities; and

WHEREAS, the Township shall provide the County Division of Solid Waste Management, on a quarterly basis, an invoice with proper supporting documentation indicating, amongst other information, the number of appliances from which CFCs were recovered and the CFC recovery cost per unit; and

WHEREAS, the total amount of subsidy available to the Township cannot be determined at this time as annual funding level and/or percentages will be established upon determination of the amount of available funding, subject to notice provided by the County to the Township in January of each year; and

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

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

Section 2. The Agreement between the Township and the County is hereby approved. The Mayor is hereby authorized to execute the Agreement, substantially in the form as attached hereto as *Exhibit A*, and all other necessary documents, and undertake all actions reasonably necessary to effectuate the Agreement and the intent of this Resolution.

Section 3. A copy of this Resolution and the Agreement shall be kept on file and made available for public inspection at the office of the Township Clerk.

Section 4. This Resolution shall take effect immediately.

EXPLANATION: An Ordinance authorizing a month to month lease for storage of Township vehicles and equipment

EDISON TOWNSHIP

ORDINANCE O.

ORDINANCE OF THE TOWNSHIP OF EDISON AUTHORIZING A MONTH TO MONTH LEASE OF CERTAIN PREMISES LOCATED AT 212 DURHAM AVENUE, IN THE BOROUGH OF METUCHEN, NEW JERSEY, FOR STORAGE OF MUNICIPAL VEHICLES AND EQUIPMENT, AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT ASSOCIATED THEREWITH

WHEREAS, Metuchen Acquisition Realty, LLC is the owner of certain premises located at 212 Durham Avenue, in the Borough of Metuchen (the "Premises); and

WHEREAS, the Premises consists of approximately 9,975 square feet of space; and

WHEREAS, the Township of Edison (the "Township") has an immediate, emergent need of temporary storage for its vehicles and equipment during the winter season, and wishes to acquire an interest in the Premises by way of a month to month lease agreement with Metuchen Acquisition Realty, LLC, effective on or about December 1, 2016, in order to provide for storage for such vehicles and equipment; and

WHEREAS, the Lease Agreement shall be on a month to month basis, not to exceed four (4) months, at a monthly rental amount of $8,911.00 gross for the Premises, which includes all utilities; and

WHEREAS, the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., and specifically, N.J.S.A. 40A:12-5(a)(1), authorizes a municipality, by ordinance, to provide for the acquisition of any real property by purchase or lease; and

WHEREAS, consistent with the foregoing, the Mayor and Township Council wish to authorize the execution of a Lease Agreement, effective on or about December 1, 2016, with Metuchen Acquisition Realty, LLC, on behalf of the Township, for the public purposes set forth above, in a form satisfactory to the Township Attorney.

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

1. That the Mayor is hereby authorized and directed to execute, and the Township Clerk to attest, a Lease Agreement between the Township of Edison and Metuchen Acquisition Realty, LLC regarding the Premises, so that the Township may rent the Premises for the public purposes referenced above. Said Lease Agreement shall be consistent with the representations referenced above, and shall be in a form satisfactory to the Township Attorney.

2. The Lease Agreement shall be effective on or about December 1, 2016.

3. That this Ordinance shall take effect in accordance with all applicable laws.

O.

ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF **$830,000 FOR CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES IN CONNECTION WITH THE LAYOFF OR RETIREMENT OF TOWNSHIP EMPLOYEES, IN AND BY THE TOWNSHIP OF EDISON, IN THE COUNTY OF MIDDLESEX, NEW JERSEY.**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EDISION, IN THE COUNTY OF MIDDLESEX, NEW JERSEY AS FOLLOWS:

Section 1. **A special emergency appropriation is hereby authorized pursuant to N.J.S.A. 40A:4-53(h), in the amount of $830,000 to provide for contractually required severance liabilities incurred in connection with the layoff or retirement of various Township employees.**

Section 2. **A copy of this ordinance as finally adopted shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.**

Section 3. **This ordinance shall take effect in accordance with applicable law.**

EXPLANATION: A Resolution authorizing a Shared Services Agreement with the County of Middlesex for the recovery of Edison's Hazmat response costs.

RESOLUTION

WHEREAS, the County of Middlesex proposes a shared service agreement for the County to recover Hazmat (hazardous materials) response costs incurred by the Township of Edison for the 2016, 2017 and 2018.

WHEREAS, the County will be the lead agency for recovery of all Hazmat response costs incurred by the Township of Edison when the Township responds to Hazmat spills coordinated by the County, and the Township will not be charged for the County's services in this regard as the County will recoup their administrative expenses for this service from the party responsible for the Hazmat spill; and

WHEREAS, the Township of Edison wishes to enter into a Shared Services Agreement with the County of Middlesex, attached hereto, for the provision of the recovery of Hazmat response costs as permitted by the "Uniform Shared Services and Consolidation Act" N.J.S.A. 40A:65-1, et seq.

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

1. The attached Shared Services Agreement between the Township of Edison and the County of Middlesex for the provision of the recovery of Hazmat response costs is hereby approved by the Township Council.

2. The Mayor, Township Clerk, Township Attorney and other necessary Township Officials and Employees are hereby authorized to execute and deliver the Shared Services Agreement between the Township of Edison and the County of Middlesex for the provision of the recovery of Hazmat response costs attached hereto and all other documents and undertake all actions reasonably necessary to effectuate and implement this Resolution and the terms of the Shared Services Agreement.

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 **$21,173.73.**

October 26, 2016

RESOLUTION
Authorizing the refund of sewer charge overpayments to certain property owners in the Township

WHEREAS, the Tax Collector of the Township of Edison, Lina Vallejo, reports and advises that certain property owners in the Township have overpaid for sewer use charges due to erroneous or duplicate payments totaling amounts greater than that assessed to them for the year **2016**; and

WHEREAS, applications have been made to the Tax Collector for refunds of the aforesaid overpayments, and the Tax Collector advises that the property owners are entitled to refunds as provided for below; and

WHEREAS, the Municipal Council of the Township of Edison desires to authorize the refund of these sewer charge overpayments.

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

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

2. The Municipal Council hereby authorizes the appropriate official of the Township to draw and issue checks to the person(s) in the amounts provided for below, in satisfaction of sewer charge overpayments:

Property Owner Property Location: Block/Lot/Qualifier Sewer Account: Amount to be Refunded:	Josh Schuck 27 Trenton Ave 375.D/52 8108-0 $ 123.57
GRAND TOTAL:	**$ 123.57**

3. This Resolution shall take effect immediately.

10/26/16

TOWNSHIP OF EDISON
MIDDLESEX COUNTY, NEW JERSEY
RESOLUTION

FORM OF RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION PER NJSA 40A:4-87

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Township has received a grant in the amount of $ 15,256.54 from State of New Jersey and wishes to amend its CY 2016 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Edison in the County of Middlesex, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Current Fund Budget for the CY 2016 in the amount of $ 15,256.54 which is now available as revenue under:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services: Public & Private Programs Off-Set with Appropriations:

Body Armor Fund 2016 ……. …….. **$ 15,256.54**

BE IT FURTHER RESOLVED that a like sum of $15,256.54 be and the same is hereby appropriated under the caption of:

General Appropriations:

Body Armor Fund 2016……. ……**$ 15,256.54**

BE IT FURTHER RESOLVED, that a certified copy of the required certification will be filed in the office of the Director of Local Government Services for certification.

RESOLUTION
Authorizing Overpayment Refund caused by
Successful Tax Court Appeal

WHEREAS, The Office of the Tax Collector has received a successful tax appeal judgment from the Tax Court of New Jersey for the case below**:**

TAXPAYER	**H & K REALTY, LLC**
PROPERTY LOCATION	**62 ETHEL RD**
BLOCK / LOT / QUALIFIER	**21/5.E**

WHEREAS, in accordance with the Tax Court of New Jersey, the assessed value of the property has been reduced for the tax years below, as follows:

DOCKET NUMBER	TAX YEAR	OLD ASSESS	NEW ASSESS	ASSESS CHANGE
014829-2013	2013	773,300	736,300	(37,000)
013908-2014	2014	773,300	736,300	(37,000)
012350-2015	2015	773,300	736,300	(37,000)
010726-2016	2016	773,300	736,300	(37,000)

WHEREAS, the reduction in assessed value has caused a real estate tax overpayment in the amount of **$7,419.24** for the years as follows:

TAX YEAR	TAX AMOUNT
2013	$1,767.12
2014	$1,822.62
2015	$1,877.38
2016	$1,952.12

WHEREAS, pursuant to N.J.S.A. 54:3-27.2, "in the event a taxpayer is successful in an appeal from an assessment on real property, the respective taxing district shall refund any excess paid within 60 days of final judgment."

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Edison, that the Chief Financial Officer of the Township of Edison, shall and is hereby authorized to draw checks to the property owner or legal representative in the amounts of **$7,419.24**.

October 26, 2016

RESOLUTION

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 **$854.10.**

October 26, 2016

Explanation: This Resolution increases the budget for legal fees to be paid Roth D'Aquanni, LLC for its professional services as Township Labor Counsel.

RESOLUTION

WHEREAS, the Municipal Council ("Municipal Council") of the Township of Edison ("Township") has entered a professional services contract ("Contract") with Roth D'Aquanni, LLC ("Labor Counsel") to act as the Township's labor counsel, pursuant to the Local Public Contracts Law, *N.J.S.A.* 40A:11-1 *et seq*.; and

WHEREAS, the Resolution of the Municipal Council approving the Contract established the budget for legal services for calendar year 2016; and

WHEREAS, the Municipal Council finds that the services provided under the Contract are important to the Township and that Labor Counsel was required to commit more time to the performance of its legal services than initially expected; and

WHEREAS, the Municipal Council desires to increase the Budgeted Amount to an additional amount not to exceed $60,000 and authorizes the payment to Labor Counsel for legal services under the Contract.

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. The Budgeted Amount to be paid Labor Counsel for its legal services pursuant to the terms of the Contract is hereby increased an additional amount not to exceed $60,000. The Chief Financial Officer or is designee is hereby authorized to make payments to Labor Counsel under the Contract up to said amount.

3. The Mayor is hereby authorized to execute any amendments to the Contract to memorialize the increase of the Budget Amount, as may be required, in a form acceptable to the Township Attorney.

4. Labor Counsel shall continue to provide legal services under the Contract at the rates provided for therein.

5. A certificate showing the availability of funds for the Contract 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 2016 calendar year.

6. A copy of this Resolution and the Contract, and any amendments thereto, shall be available for public inspection at the offices of the Township Clerk.

7. This resolution shall take effect immediately.

CERTIFICATION

I hereby certify that, contingent upon the adoption of a temporary and/or permanent budget for the 2016 calendar year, funds in the amount of an additional $60,000.00 are available in Account No: 6-01-20-0155-001-027 for Labor Services.

_____

Nick Fargo
Chief Financial Officer

EXPLANATION: An Ordinance amending Chapter 37 of the Township of Edison Code of General Ordinances to amend the G-B General Business District to include a convenience store with fuel station as a permitted use.

EDISON TOWNSHIP

ORDINANCE _____

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

WHEREAS, due to the desire to ensure uniformity throughout the Township's Code of General Ordinances (the "**Code**") regarding the Township's G-B General Business Districts and the addition of convenience stores with a fuel station to be permitted within same; and

WHEREAS, the Township seeks to maintain the health, safety and welfare of the citizens and visitors to the Township, the Township desires to amend the Code in accordance with the terms provided for herein and;

WHEREAS, prior to the Municipal Council hearing on the adoption of this Ordinance it shall be referred to the Planning Board as required by *N.J.S.A.* 40:55D-64 and *N.J.S.A.* 40:55D-26 of the Municipal Land Use Law; and

WHEREAS, within thirty (30) days of the adoption of this Ordinance the Township Clerk shall provide notice, pursuant to *N.J.S.A.* 40:55D-15 of the Municipal Land Use Law, by personal service or certified mail to the county planning board which notice shall state the effective date of this Ordinance and include a copy of this Ordinance; and

WHEREAS, the Township Council has determined to amend Chapter 37 of the Code to read as follows (additions are <u>underlined</u> and deletions are in [brackets]):

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

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

Section 2. The Municipal Council hereby amends Chapter 37 "Zoning" of the Code to read as follows:

37-21.2 Permitted Uses.

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

p. Fuel Only Service Station with Convenience Store

The following shall apply to this use:

1. Minimum lot size: 1.5 acres.
2. Maximum building size: 6,000 square feet.
3. Maximum number of fueling stations: eight dispensers that include gasoline and low-flow diesel sales, with two nozzles/hoses per dispenser.
4. Maximum number of stories: One (1), exclusive of towers, cuppolas, or other architectural elements.
5. Maximum height for principal building: Thirty five (35) feet, exclusive of towers, cuppolas or other architectural elements.
6. Maximum height for fuel area canopy: Twenty five (25) feet, with yard setbacks consistent with Chapter 37-63.
7. Parking: Minimum of one (1) space for each 300 square feet of convenience store building footprint, plus one space for each employee on the most heavily staffed shift. Additional parking may be provided to enhance internal circulation and eliminate stacking at driveways.
8. Signs: One (1) free standing pole sign at the driveway of each street front with fuel pricing, maximum area shall not exceed seventy five (75) square feet, maximum height of twenty (20) feet, and minimum set back of fifteen (15) feet from any street; two (2) façade signs, on the front of the building, not to exceed twenty percent (20%) of the front wall area; and two (2) canopy signs, located below the top of the canopy, on the side of the canopy facing the front or side street.

Section 3. 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.

Section 4. A copy of this Ordinance shall be available for public inspection at the offices of the Township Clerk.

Section 5. 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.

A RESOLUTION ACCEPTING A GRANT FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND PUBLIC ENTITY PROGRAM THROUGH THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

WHEREAS, the Town of Edison has applied for and has been awarded a grant in the amount of $80,773 from the Hazardous Discharge Site Remediation Fund Municipal Grant Program through the Department of Environmental Protection and the New Jersey Economic Development Authority for the Preliminary Assessment and Site Investigation along with report preparation for the Muller Machinery Company property;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Town of Edison that the above referenced grant is hereby accepted and the (Mayor, Administrator, etc.) is hereby authorized to execute grant documents as an authorized representative thereunder, as the representative for the Town of Edison.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the New Jersey Economic Development Authority.

Explanation: This Resolution increases the budget for Community Planning Consulting fees to be paid to Heyer, Gruel & Associates for its professional services.

RESOLUTION

WHEREAS, the Municipal Council ("Municipal Council") of the Township of Edison ("Township") has entered a professional services contract ("Contract") with Heyer, Gruel & Associates ("Community Planning Consultant") to act as the Township's community planning consultants, pursuant to the Local Public Contracts Law, *N.J.S.A.* 40A:11-1 *et seq.*; and

WHEREAS, the Resolution of the Municipal Council approving the Contract established the budget for community planning services for calendar year 2016; and

WHEREAS, the Municipal Council finds that the services provided under the Contract are important to the Township and that Community Planning Consultant was required to commit more time to the performance of its community planning services than initially expected; and

WHEREAS, the Municipal Council desires to increase the Budgeted Amount to an additional $45,000 and authorizes the payment to Community Planning Consultant for community planning services under the Contract.

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

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

9. The Budgeted Amount to be paid Community Planning Consultant for its community planning services pursuant to the terms of the Contract is hereby increased $45,000. The Chief Financial Officer or is designee is hereby authorized to make payments to Community Planning Consultant under the Contract up to said amount.

10. The Mayor is hereby authorized to execute any amendments to the Contract to memorialize the increase of the Budget Amount, as may be required, in a form acceptable to the Township Attorney.

11. Community Planning Consultant shall continue to provide community planning services under the Contract at the rates provided for therein.

12. A certificate showing the availability of funds for the Contract 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 2016 calendar year.

13. A copy of this Resolution and the Contract, and any amendments thereto, shall be available for public inspection at the offices of the Township Clerk.

14. This resolution shall take effect immediately.

CERTIFICATION

I hereby certify that, contingent upon the adoption of a temporary and/or permanent budget for the 2016 calendar year, funds in the amount of an additional $45,000.00 are available in Account No: 6-0121-0816-000-028 for Community Planning Services.

_____

Nick Fargo
Chief Financial Officer

RESOLUTION ACCEPTING BID AND AWARDING CONTRACT TO ATLANTIC SWITCH & GENERATOR, LLC FOR GENERATOR MAINTENANCE AND REPAIR

WHEREAS, bids were received by the Township of Edison on September 21, 2016 for Public Bid No. 16-10-03, Generator Maintenance and Repair for the Department of Public Works; and

WHEREAS, ATLANTIC SWITCH & GENERATOR, LLC, 4108 Sylon Blvd., Hainesport, NJ 08036, submitted the lowest legally responsible, responsive bid; and

WHEREAS, the total amount of this contract, not to exceed $60,000.00, 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 ATLANTIC SWITCH & GENERATOR, LLC, 4108 Sylon Blvd., Hainesport, NJ 08036 for Generator Maintenance and Repair for the Department of Public Works, is determined to be the lowest legally responsible, responsive bid.

2. The Mayor, or his designee, is hereby authorized to execute a contract in the amount not to exceed $60,000.00 and any other necessary documents, with ATLANTIC SWITCH & GENERATOR, LLC as described herein.

RESOLUTION ACCEPTING BID AND AWARDING CONTRACT TO AIR BRAKE AND EQUIPMENT FOR TRUCK TRANSMISSION REPAIR/REBUILD

WHEREAS, bids were received by the Township of Edison on September 17, 2016 for Public Bid No. 16-09-07-Truck Transmission Repair/Rebuild for the Department of Public Works; and

WHEREAS, AIR BRAKE AND EQUIPMENT, 225 Route 22 West, Hillside, NJ 07205, submitted the lowest legally responsible, responsive bid; and

WHEREAS, the total amount of this contract, not to exceed $45,000.00, 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 AIR BRAKE AND EQUIPMENT, 225 Route 22 West, Hillside, NJ 07205 for Truck Transmission Repair/Rebuild for the Department of Public Works, is determined to be the lowest legally responsible, responsive bid.

2. The Mayor, or his designee, is hereby authorized to execute a contract in the amount not to exceed $45,000.00 and any other necessary documents, with AIR BRAKE AND EQUIPMENT as described herein.

RESOLUTION AUTHORIZING THE TOWNSHIP OF EDISON TO PURCHASE SNACKS THROUGH AN INTERLOCAL SERVICE AGREEMENT WITH THE EDISON BOARD OF EDUCATION

WHEREAS, N.J.S.A. 40:8A-1 et seq. - authorizes contracting units to enter into Interlocal Service Agreements; and

WHEREAS, the Edison Township Board of Education, herein referred to as the "Lead Agency", has offered voluntary participation in an Interlocal Service Agreement for the purchase of snacks for the AM & PM Latch Key Program for the 2016/2017 school year; and

WHEREAS, the Township of Edison, County of Middlesex, State of New Jersey, desires to participate in the Middlesex County Food Service Program; and

WHEREAS, COMPASS GROUP D/B/A CHARTWELLS, 498 Ocean Avenue, Sea Bright NJ 07760 is the vendor selected for the Edison Board of Education; and

WHEREAS, the price for these snacks shall be $.80 per snack payable to EDISON BOE CAFETERIA ACCOUNT C/O COMPASS GROUP – CHARTWELLS; and

WHEREAS, the amount of this contract cannot be determined at this time, and the total amount of the award cannot be encumbered; 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 official responsible for issuing the purchase order shall ensure that funds are available for the purchase through either an encumbrance or certification of availability of funds pursuant to N.J.A.C. 5:30-11.10;

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, that the Mayor, or his designee, is hereby authorized to execute a contract (purchase order/s) in the amount not to exceed $165,750.00 and any other necessary documents, with EDISON BOE CAFETERIA ACCOUNT C/O COMPASS GROUP – CHARTWELLS.

EXPLANATION: This resolution approves the internal development and submission of the Township of Edison Division of Fire's web-based, on-line application to the 2016 USDHS FEMA Assistance to Firefighter Grant (AFG) program, for grant of approximately $1,000,000.00, to obtain funds to facilitate the acquisition of up-to-date Self Contained Breathing Apparatus (SCBA), related items and training, for the protection, improved safety and effective performance of active Edison Division of Fire Firefighters, as well as for the protection of the public-at-large and property.

RESOLUTION

WHEREAS, the United States Department of Homeland Security (USDHS) Federal Emergency Management Agency (FEMA) has provided an opportunity to U.S. Municipalities, Territories and Protectorates to apply for grant funding under the 2016 Assistance to Firefighters Grant (AFG) program; and

WHEREAS, the 2016 USDHS FEMA AFG program can provide available grant funds to assist local Fire Fighter Companies to acquire SCBA (Self Contained Breathing Apparatus), related items and training to protect and assist Fire Fighters in their efforts to address fire events and related hazardous activities to protect and save the public-at-large, as well as property; and

WHEREAS, the Township of Edison Division of Fire wishes to apply for grant funding for an approximate amount of $1,000,000.00, available from the 2016 USDHS FEMA AFG program; and

WHEREAS, the 2016 USDHS FEMA AFG program provides 90% in federal grant funds, with a requisite 10% local cost share to awardees, based upon the approved, total project narrative, budget and full application, completed and submitted by November 18, 2016.

NOW, THEREFORE, BE IT RESOLVED, that the Municipal Council of the Township of Edison, Middlesex County, New Jersey, does hereby approve and authorize the development and submission of said grant application, according to current 2016 USDHS FEMA AFG regulations, at a regularly-scheduled Public Meeting, on Wednesday, October 26, 2016.

USDHS FEMA Assistance to Firefighters Grants

The primary goal of the Assistance to Firefighters Grants (AFG) is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical services organizations. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and related hazards. The Federal Emergency Management Agency administers the grants in cooperation with the U.S. Fire Administration.

RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT/PURCHASE ORDER(S) TO ESI EQUIPMENT, INC. FOR HOLMATRO RESCUE EQUIPMENT

WHEREAS, the Township of Edison, Division of Fire, has the need to purchase Holmatro rescue equipment; and

WHEREAS, ESI EQUIPMENT INC., 119 Keystone Drive, Montgomeryville, PA 18936 is the exclusive dealer/distributor of Holmatro and therefore a sole source for this vendor; and

WHEREAS, the amount spent with ESI is approaching $17,500.00 and therefore needs authorization through the provisions of N.J.S.A. 19:44A-20.5 et. seq.; and

WHEREAS, the Purchasing Agent has determined and certified in writing that the value of the acquisition will exceed $17,500.00 in aggregate in a twelve month period; and

WHEREAS, ESI EQUIPMENT INC., will supply Holmatro rescue equipment in the amount not to exceed $60,000.00 (for previous and future purchases) for a twelve month period; and

WHEREAS, prior to entering into a contract, ESI EQUIPMENT INC., 119 Keystone Drive, Montgomeryville, PA 18936, will have completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee in the Township of Edison in the previous one year, and that the contract will prohibit ESI EQUIPMENT INC. from making any reportable contributions through the term of the contract; and

WHEREAS, the total amount of this contract/purchase order, not to exceed $60,000.00, 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.

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(s) and any other necessary documents, in the amount of $60,000.00, with ESI EQUIPMENT INC., 119 Keystone Drive, Montgomeryville, PA 18936 as described herein.
2. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

Explanation: A Resolution awarding a new Plenary Retail Distribution Liquor License to Daryl, LLC, which entity has submitted the winning bid for same in the amount of $412,001.02.

RESOLUTION R.

WHEREAS, pursuant to Resolution R.620-082016 adopted on August 24, 2016 and in conformance with the New Jersey Alcoholic Beverage Control Act, *N.J.S.A.* 33:1-1 *et seq*. ("Act"), the regulations promulgated thereunder at *N.J.A.C.* 13:2-1.1 *et seq*. and the Township Code of General Ordinances ("Code"), the municipal council ("Municipal Council") of the Township of Edison ("Township") authorized the sale of one (1) new Plenary Retail Distribution Liquor License ("License"); and

WHEREAS, as required by, and in accordance with the above-referenced authority, the Township prepared bid specifications for the sale of the License, published notice of the proposed sale by bid and received bid(s) pursuant thereto; and

WHEREAS, two (2) bid packages were received by the Township from a prospective bidder by the bid submission deadline of 1:00 p.m. on Friday, October 7, 2016 and said bids were found to be in compliance with the bid application requirements; and

WHEREAS, on Wednesday, October 12, 2016, the bids were opened and found to be in excess of the minimum required bid and submitted with a certified check for the required 20% bid deposit; and

WHEREAS, the Municipal Council desires to award the License to Daryl, LLC ("Entity") which has submitted the winning bid for same in the amount of $412,001.02.

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 Entity's bid of $412,001.02 is hereby accepted, and the License is hereby awarded to the Entity, conditioned upon the Entity meeting all the requirements of the Act and related regulations, the Code, the bid specifications and this Resolution.

3. The Entity's 20% bid deposit of $82,400.21 shall be deposited by the Township, and the balance of the bid in the amount of $329,601.81 shall be paid by the Entity to the Township not later than Friday, November 18, 2016. In the event of a default or breach of promise, all deposit monies shall be forfeited to the Township.

4. The Entity shall tender payment of all required State and local application fees and license fees.

5. The issuance of the License to the Entity shall be contingent upon the satisfactory outcome of municipal background checks to investigate the source of funds used to purchase the License; the receipt of favorable State and/or federal criminal background checks; and the compliance with the publication, hearing (if there are objections) and resolution requirement under *N.J.A.C.* 13:2-1.1 *et seq*. for the issuance of a new license.

6. The Township Clerk shall transmit a copy of the Entity's 12-page ABC application (long form) to the Township Police Department along with copies of the remainder of the bid documents, including the bid deposit check, and a certified copy of this Resolution.

7. The Entity must comply with all ordinances of the Township, State laws and regulations in locating the License.

ORDINANCE **O.1945-2016**

EXPLANATION: An Ordinance adopting the "Our Lady of Peace Redevelopment Plan," for the property identified on the Township Tax Maps as Block 748, Lot 36 and also known as 635 Amboy Avenue in the Township, pursuant to the Local Redevelopment and Housing Law.

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.* (the "Act"), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, pursuant to a resolution adopted on January 13, 2016, the municipal council (the "Municipal Council") of the Township of Edison (the "Township") authorized the Township planning board (the "Planning Board") to determine if Block 748, Lot 36 on the tax map of the Township (aka 635 Amboy Avenue) (the "Study Area") met the statutory criteria for designation as an "area in need of redevelopment" pursuant to the Act; and

WHEREAS, Heyer, Gruel & Associates (the "Planning Consultant"), prepared a preliminary investigation of the Study Area (the "Preliminary Investigation Study") which concluded that the Study Area met the statutory requirements to be determined an "area in need of redevelopment" pursuant to the Act; and

WHEREAS, based upon the Preliminary Investigation Study, the Planning Board adopted a resolution on May 24, 2016 determining, among other things, to recommend to the Municipal Council that the Study Area be designated as an "area in need of redevelopment"; and

WHEREAS, on June 8, 2016, the Municipal Council, following the determination of the Planning Board, adopted Resolution R. 425-062016, designating the Study Area as an "area in need of redevelopment" pursuant to the Act (the "Redevelopment Area"); and

WHEREAS, on August 16, 2016, in a memorandum from the Planning Board to the Township Clerk, the Planning Board favorably recommended the redevelopment plan prepared by the Planning Consultant entitled the "Our Lady of Peace Redevelopment Plan" (the "Redevelopment Plan") and unanimously voted to approve the Redevelopment Plan; and

WHEREAS, upon review of the Planning Board's recommendation of the Redevelopment Plan, the Municipal Council has determined to adopt the Redevelopment Plan (in the form attached hereto as *Exhibit A*), to ensure the success of redevelopment within the Redevelopment Area in conformity with the Township's redevelopment objectives.

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

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

Section 2. The Redevelopment Plan, attached hereto as *Exhibit A*, is hereby adopted pursuant to the terms of *N.J.S.A.* 40A:12A-7.

Section 3. A copy of this Ordinance and the Redevelopment Plan shall be available for public inspection at the office of the Township Clerk during regular business hours.

Section 4. This Ordinance shall take effect in accordance with all applicable laws.

O.1949-2016

EXPLANATION: An Ordinance amending the Township's Affordable Housing Development Fee Ordinance, in its entirety.

ORDINANCE

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

WHEREAS, there is a need to amend the Township Affordable Housing Development Fee Ordinance, codified at Chapter 30, Subchapter 1 (the "**Development Fee Ordinance**"), in the Township's Code of General Ordinances (the "**Code**") to reflect certain statutory changes; and

WHEREAS, the municipal council of the Township (the "**Township Council**") has determined to replace Chapter 30, Subchapter 1 of the Development Fee Ordinance in its entirety,

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 Township Council hereby amends Chapter 30, Subchapter 1 of the Code, in its entirety, to read as follows:

30-1 AFFORDABLE HOUSING DEVELOPMENT FEES.

30-1.1 Findings and Purpose.

a. In Holmdel Builder's Ass'n v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b. Pursuant to P.L.2008, c.46 Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or a Court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.

c. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's prior round rules on development fees, codified at N.J.A.C. 5:93-8. and P.L.2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7).

30-1.2 Basic Requirements.

a. This ordinance shall not be effective until approved by the Court.

b. The Township of Edison shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-5.1(c).

30-1.3 Definitions

The following terms, as used in this ordinance, shall have the following meanings:

"**Affordable housing development**" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

"**COAH**" or the "**Council**" means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

"**Development fee**" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

"**Developer**" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"**Equalized assessed value**" means the assessed value of a property divided by the current average ration of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5 and 6 of P.L.1973, c.123 (C. 54:1-35a through C. 54:1-35c).

"**Green building strategies**" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

30-1.4 Residential Development Fees

a. Imposed fees

i. Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one percent of the equalized assessed value for residential development provided no increased density is permitted.

ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b. Eligible exactions, ineligible exactions and exemptions for residential development

i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved or replaced structure as compared to the previous structure.

iv. Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

30.1-5 Non-residential Development fees

a. Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. Eligible exactions, ineligible exactions and exemptions for non-residential development

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the

exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Edison as a lien against the real property of the owner.

30-1.6 Collection Procedures

a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g. Should the Township of Edison fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h. Except as provided in Section 30.1-5a.iii. above, fifty (50) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i. Appeal of development fees

i. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Edison. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax

Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

ii. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Edison. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

30-1.7 Affordable Housing Trust Fund

a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Township of Edison Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

i. payments in lieu of on-site construction of affordable units;
ii. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
iii. rental income from municipally operated units;
iv. repayments from affordable housing program loans;
v. recapture funds;
vi. proceeds from the sale of affordable units; and
vii. any other funds collected in connection with the Township of Edison's affordable housing program.

c. Within seven days from the opening of the trust fund account, the Township of Edison shall provide the State of New Jersey, Department of Community Affairs, Division of Local Government Services with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and NJDCA-LGS to permit NJDCA-LGS to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8.15, 8.18 and 8.19. This requirement shall be deemed to have been satisfied by a previously executed three-party escrow agreement with COAH, provided the bank remains the same as in the original agreement.

d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court..

30-1.8 Use of funds

a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the

Township of Edison's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.

b. Funds shall not be expended to reimburse the Township of Edison for past housing activities.

c. At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.

iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d. The Township of Edison may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.

e. No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the reporting and monitoring requirements that have been approved by the Court. Legal or other fees related to litigation opposing affordable housing sites or objecting to or appealing Court's approval of Edison's Housing Element and Fair Share Plan are not eligible uses of the affordable housing trust fund.

30-1.9 Monitoring

a. On an annual basis commencing with the first anniversary of the entry of the Order granting a Final Judgment of Compliance and Repose to Edison, the Township of Edison shall report all activity in connection with its Affordable Housing Trust Fund to the New Jersey Department of Community Affairs (either the Division of Local Government Services or the Council on Affordable Housing (COAH), whichever entity is designated by the State of New Jersey), with a copy provided to Fair Share Housing Center and to the Intervenors/Defendants IMO the Application of the Township of Edison

for a Final Judgment of Compliance and Repose of its Obligations Under the Fair Housing Act and Approval of its Amended Spending Plan, Docket No.: MID-L-3944-15, and with a posting of same on the municipal website, using forms previously developed for this purpose by COAH. The reporting shall include all sources and amounts collected/earned and the amounts and purposes for which funds have been expended.

30-1.10 Ongoing collection of fees

a. The ability for the Township of Edison to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless the Township of Edison has filed an adopted Housing Element and Fair Share Plan with the Court or with COAH or its successor agency designated by the State of New Jersey, has petitioned for a Judgment of Compliance and Repose or substantive certification, and has received the Court's or COAH's approval of its development fee ordinance. If the Township of Edison fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320). The Township of Edison shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Township of Edison retroactively impose a development fee on such a development. The Township of Edison shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

3. It is the intent of the Township Council to incorporate the additions, amendments and/or supplements contained in this Ordinance into the Code.

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 Township Council, upon approval by the Mayor and publication as required by law.