

March 23, 2021

A Regular Meeting of the Township Council of the Township of Toms River was held in the L. Manuel Hirshblond Meeting Room, Municipal Complex, 33 Washington Street, and Toms River, New Jersey at 6:00 PM.

The meeting was called to order by Council President Geoghegan and opened with the salute to the Flag.

A moment of silence was held for Pastor Healy of Grace and Peace Church who passed away recently.

Council President Geoghegan read the following statement pursuant meeting notice to the Open Public Meetings Act:

OPEN PUBLIC MEETINGS ACT
STATEMENT

This meeting is convened in accordance with the provisions of the Open Public Meetings Act of New Jersey. Let the official Minutes reflect that adequate notice of this meeting has been provided by publishing a notice in the Asbury Park Press on Friday, January 8, 2021, the Press of Atlantic City and the Star Ledger and also forwarded to the Toms River Times, Toms River Patch and WOBN News on Wednesday, January 6, 2021, and thereafter posting same on the Town Hall bulletin board for such notices, and filing same with the Township Clerk, pursuant to a resolution adopted by the Township Council on Tuesday, January 5, 2021. The meeting dates have also been posted on the Township web page.

Roll Call:

Council Member Huryk	- Present
Council Member Kopp	- Present
Council Member Lotano	- Present
Council Member Rodrick	- Present
Council Member Turnbach	- Present
Council Vice-President Maruca	- Present
Council President Geoghegan	- Present

APPROVAL OF MINUTES

A motion was made by Council Member Kopp, seconded by Council Member Huryk, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, and Turnbach and with Council President Geoghegan voting yes, to approve the **Regular Meeting of March 9, 2021**. The reading of these Minutes was dispensed with, as each member of the Township Council has reviewed a certified copy hereof

HONORING RESOLUTIONS AND PRESENTATIONS

A motion was made by Council Member Huryk, seconded by Council Member Turnbach, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes, to make the following honoring proclamations a part of the Minutes.

Council Members came down to presented proclamation to Jessica Albert and Clarion Dannell for Stigma-Free recognition for mental illness.

Township of Toms River

Proclamation

March 23, 2021

WHEREAS, the National Institute of Mental Health reports that 1 in 4 adults experiences mental illness in a given year and 1 in 17 adults live with a serious mental illness such as schizophrenia, major depression, or bipolar disorder; and

WHEREAS, approximately 20% of youth ages 13 to 18 and 13% of youth ages 8 to 15 experience severe mental disorders in a given year; and

WHEREAS, the stigma associated with the disorder of mental illness is identified as the primary reason individuals fail to seek the help they need to recover from the disorder; and

WHEREAS, the Stigma-Free Campaign aims to inspire the public interest and open dialogues about stigma, raise awareness of the disorder of mental illness, and create a culture wherein residents who have the disorder of mental illness feel supported by their community and neighbors and feel free to seek treatment for the disorder without fear of stigma; and

WHEREAS, promoting awareness that there can be no “health” without mental health will break down barriers and encourage residents of all ages to be mindful of their mental health and ask for help when needed; and

WHEREAS, local resources are available to treat the disorder of mental illness so no one resident needs to suffer alone or feel hopeless; and

WHEREAS, establishing Stigma-Free Zones will raise awareness of resources and encourage residents to engage in care as soon as the need is identified so recovery can begin, hope is inspired and tragedies are avoided; and

NOW THEREFORE IT BE RESOLVED that Toms River Township recognizes the community needs and supports the efforts of the County of Ocean in designating Toms River Township as a Stigma-Free Zone.

NOW, THEREFORE, We, Mayor Maurice B. Hill Jr. and Council President Kevin M. Geoghegan of the Township of Toms River in the County of Ocean and State of New Jersey, with the full concurrence of the Township Council, do hereby proclaim the Township of Toms River a Stigma- Free Town.

Mayor Maurice B. Hill, Jr.

*Kevin M. Geoghegan
Council President*

Laurie A. Huryk

Joshua D. Kopp

Matthew W. Lotano

Maria L. Maruca

Daniel T. Rodrick

Terrance L. Turnbach

Council President Geoghegan presented a proclamation to Rabbi Moshe Gousarie for Education Day.

Township of Toms River

Proclamation

March 23, 2021

WHEREAS, a quality education is one of the significant foundations for the continuing success of our state, our country, and our society at large; and in the township of Toms River we strive for the betterment of all of our citizens through an increased focus on education and sharing; and

WHEREAS, through providing the possibility of an excellent education for all, especially children, with which to gain knowledge through rigorous study, we can create hope for a brighter, kinder and more united and prosperous future in the lives of so many; and

WHEREAS, one of the leading global advocates for the advancement of education, the Lubavitcher Rebbe, Rabbi Menachem Schneerson, of righteous memory, stressed the importance of moral and ethical education as the bedrock of humanity and the hallmark of a healthy society, and strongly urged that education be reinforced by the inculcation of strong moral values; and

WHEREAS, in recognition of the Rebbe's outstanding and lasting contributions toward improvements in world education, morality, and acts of charity, he was awarded the Congressional Gold Medal, and the United States Congress has established his birthdate as a national day to raise awareness and strengthen the education of our children; and

WHEREAS, for more than forty years the President of the United States has recognized and honored the Rebbe's vision each year on that day by proclaiming it "Education & Sharing Day USA"; and

WHEREAS, we presently battle a global pandemic which has disrupted traditional models of education across our nation, while concurrently motivating a focus on the stronger core values we wish to impart to children and adults, beyond academic achievement; and

WHEREAS, we can nurture the unity of diverse peoples through encouraging increased acts of goodness and kindness, imbued with awareness that even a single positive act of an individual can make a major impact in this world; and

NOW, THEREFORE, We, Mayor Maurice B. Hill Jr. and Council President Kevin M. Geoghegan of the Township of Toms River in the County of Ocean and State of New Jersey, with the full concurrence of the Township Council, do hereby proclaim Wednesday, March 24, 2021, to be: EDUCATION AND SHARING DAY, TOMS RIVER in the Township of Toms River and call upon government officials, educators, volunteers, and citizens to reach out to those within your communities and work to create a better, brighter, and more hopeful future for all.

Mayor Maurice B. Hill, Jr.

*Kevin M. Geoghegan
Council President*

Laurie A. Huryk

Joshua D. Kopp

Matthew W. Lotano

Maria L. Maruca

Daniel T. Rodrick

Terrance L. Turnbach

Township Clerk Carlisle introduced the following Ordinance of which the title only was read in full:

**ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AMENDING AND
SUPPLEMENTING SECTION 348-9.32 OF THE TOWNSHIP CODE TO
REVISE THE REGULATIONS GOVERNING “WIRELESS
COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY”**

WHEREAS, the purpose of this Ordinance is to provide for reasonable regulations concerning the placement of small cell wireless facilities within the Township, consistent with state and federal law through the implementation of a right-of-way approval and permitting procedure; and

WHEREAS, the Township of Toms River (“Township”) is aware that the telecommunications industry is rapidly developing and there is a strong desire among telecommunications companies to look for areas within municipalities for the placement of small cell wireless facilities, herein known as “small cells,” “5G towers” and “personal wireless service facilities” (aka “Small Wireless Facilities”) by accessing rights-of-way within municipalities; and

WHEREAS, the rights-of-way are municipal properties and provide a valuable resource to its citizens by permitting the public to travel freely over and across these designated properties without unreasonable encroachments or interference; and

WHEREAS, the Township recognizes that the use of these properties must be managed carefully with the utmost consideration given to general welfare and best interest of its citizens; and

WHEREAS, the Federal Telecommunications Act (FTA) preserves a local government’s ability to “manage the public rights-of-way...on a competitively neutral and non-discriminatory basis” (47 U.S.C. §253 (c)); and

WHEREAS, the FTA further preserves a local government’s authority over the “placement construction and modification of personal wireless service facilities” (47 U.S.C. §332(c)(7)(A)); and

WHEREAS, the FTA makes it unlawful for a local government to prohibit or have the effect of prohibiting the provisions of personal wireless service (47 U.S.C. 332(c)(7)(B)(i)(II)); and

WHEREAS, the FTA provides that municipalities “shall not unreasonably discriminate among providers of functionally equivalent services” (47 U.S.C. §332(c)(7)(B)(i)(I)); and

WHEREAS, recent developments in wireless technology, specifically the development of 5G technology, involve the placement of small cells, cabinets and equipment in municipal rights of-way; and

WHEREAS, pursuant to N.J.S.A. 48:3-19 and N.J.S.A. 48:17-10 New Jersey municipalities must give consent before a small cell including a small antenna can be placed on existing poles or new poles erected within public rights-of-way; and

WHEREAS, the erection of new poles and ground level cabinets in the public right-of-way raises aesthetic and safety concerns including, but not limited to, concerns related to sight triangles and other safety related issues; aesthetic concerns and safety concerns associated with the use of roadways by the public such as the public’s ability to pass and repass over same, and; the impact on the streetscape and character of residential neighborhoods; and

WHEREAS, pursuant to regulations adopted by the Federal Communications Commission (“FCC”), in order to ensure the safety of its citizens and preserve the aesthetic quality of the Township, the Township may impose regulations on related infrastructure including, but not limited to, small cells, all poles, antennas and cabinets located on municipal rights-of-way provided such aesthetic requirements and/or restrictions are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployment; and 3) published in advanced; and

WHEREAS, the TCA further provides that municipalities may “require fair and reasonable compensation” from telecommunications providers for the use of the public right-of-way, provided

said compensation is applied on a “competitively neutral and nondiscriminatory basis” among providers, and if said compensation is “publicly disclosed”, 47 U.S.C. 253(c); and

WHEREAS, the FCC adopted an Order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment,” (FCC-18-133A or “Carr’s Order”), which was mostly upheld by the Ninth Circuit Court of Appeals on August 12, 2020; and

WHEREAS, in pertinent part, Carr’s Order 1) establishes safe harbors for fees that municipalities can charge for one-time event application processing as well as recurring fees for right-of-way access, which are presumed acceptable under TCA; 2) provides that one-time fees and recurring fees, or rates, above the safe harbor levels may be imposed, and are not considered an effective prohibition of service within the meaning of the TCA (47 U.S.C. 253(c)) provided such fees are a reasonable approximation of actual costs, and the costs themselves are objectively reasonable, and non-discriminatory; and 3) places 60 and 90 day shot clock time limits on the municipal decision making process for applications for the placement of small wireless facilities, the replacement of existing poles and the placement of new poles in the public right-of-way; and

WHEREAS, the Township has determined the most efficient way to effectuate this process is to set forth clear standards in relation to the positioning of poles, cabinets and antennas for the benefit of its citizens and any utilities that use or seek to make use of Toms River’s rights-of-way safely, and to require all technology companies seeking to use municipal rights-of way for the purpose of erecting telecommunication equipment apply for and be granted permits and, furthermore, pay the permitted fees, which may change from time to time, in accordance with legal thresholds established by the FCC, state and federal laws and court orders; and,

WHEREAS, the Township has recommended that such additional provisions be mandatorily imposed within the Township of Toms River’s Revised General Ordinances (“RGO”) as part of the anticipated telecommunication development of municipal rights-of-way; and

WHEREAS, the current antenna code, RGO Chapter 27 Telecommunications Towers and Antennas is intended to govern macro cell sites on rooftops and freestanding towers and, thus, is insufficient to govern the unique circumstances and requirements of small cell facilities in the rights-of-way; and

WHEREAS, this Ordinance is limited to the installation of facilities in the public rights-of-way and shall have no effect on the installation of wireless telecommunications facilities and antennas on private lands pursuant to Chapter 348 section 348-9.31 Personal Wireless Telecommunications Facilities; and

WHEREAS, the FCC Broadband Deployment Advisory Committee (BDAC) formed a Model Code for Municipalities Working Group and, in July 2018, published a Model Code for Municipalities for Small Wireless Facilities deployments. This model code is generally compliant with the Telecommunications Act, and FCC declaratory rulings and orders issued in 2009, 2014 and 2018. Thus, a municipality that adopts this code substantially in its original form will be in compliance with Federal laws and FCC guidelines for cell site deployments; and

WHEREAS, this Ordinance utilizes the FCC Model Code for Municipalities template to ensure compliance with Federal law and FCC regulations; and

WHEREAS, the Township acknowledges that there may already exist a number of small cell facilities in the public rights-of-way that were approved under terms and conditions that would not be in compliance with this proposed ordinance; and

WHEREAS, in the event of any inconsistencies between this Ordinance and any agreements, licenses or franchises in existence, which govern said existing small cell facilities, the provisions of this Ordinance shall control, and shall supersede and replace any conflicting terms in said agreements or licenses, and shall govern all future relationships between the Township and parties in said licenses and agreements; and

WHEREAS, the Township adopted a small cell wireless ordinance in July 2017 entitled Wireless Communications Facilities in Public Rights-of-Way, codified at section 348-9.32 of the Township codebook.

WHEREAS, this 2017 Ordinance was adopted prior to Carr’s Order and the Ninth Circuit ruling pertaining to same, as well as prior to availability of a more accurate assessment of the actual

scope and extent that wireless communications service providers will make use of public rights-of-way to deploy their cellular networks according to recent advances in technology. Therefore, it is the intention of the Township that this Ordinance shall replace the 2017 Ordinance in its entirety.

WHEREAS, the Township of Toms River has appointed a wireless consulting specialist due to the peculiar and technical nature of wireless communications being outside the scope and expertise of Township personnel. The appointed wireless consultant shall be the Township representative and initial point of contact for all matters concerning this section. Applicants shall make initial contact with the wireless consultant for all applications for all required permits and approvals regarding the installation, repair, maintenance and upgrade of Small Wireless Facilities; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Toms River, in the County of Ocean and State of New Jersey, that the Revised General Ordinances be amended as follows:

Chapter 348 of the Land Use and Development Regulations, Article IV, Conditional Uses, of the Revised General Ordinances of the Township of Toms River is hereby amended, supplemented and revised to repeal Section 348-9.32 “Wireless communications facilities in public rights-of-way”, and replace it with a new Section 348-9.32 to provide as follows:

SECTION 348-9.32 – Wireless communications facilities in public rights-of-way

A. Short Title.

This Section is titled the “Telecommunications Facilities in the Public Right-of-Way”, and amends all applicable provisions of the Township of Toms River Revised General Ordinances, and any existing local laws, rules, orders, resolutions and ordinances relating to the subject matter of this Section.

B. Purpose.

It is the intent of this subsection of Chapter 348 Land Use and Development Regulations to regulate the placement of telecommunications equipment, including poles, towers, antennas and other infrastructure located on Municipal Rights-of-Way. The placement of telecommunications equipment outside of the Municipal Right-of-Way shall be governed by Township code section 348-9.31 Personal Wireless Telecommunications Facilities.

It is furthermore intended that this Section shall control in the event of any inconsistency between the provisions of this Section and any existing agreements, licenses or franchises in existence and which govern existing Small Wireless Facilities in the Municipal Right-of-Way, and that the prevailing terms of this Section shall supersede and replace any conflicting terms in said agreements or licenses, and shall govern all future relationships between the Township and the applicable parties in said licenses and agreements.

C. Definitions.

- (1) “Administrative Review” means ministerial review of an Application by the Township relating to the review and issuance of a Permit, including review by the Designee, a wireless consultant with knowledge beyond the expertise of Township personnel, as well as the Construction Official, Zoning Officer, Director of Public Works, engineer, or other Township staff or designees to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Section. Administrative permit issuance is non-discretionary and based on whether an application is in conformity with the provisions of this Section, as well as any other applicable local, state and federal laws and regulations governing small cell deployment. This process does not involve the exercise of discretion.
- (2) “Antenna” means communications equipment that transmits and/or receives over-the-air electromagnetic signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.
- (3) “Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Township or otherwise are applicable in the jurisdiction.
- (4) “Applicant” means a Person or entity who submits an Application under this Section.
- (5) “Application” means a written request submitted by an Applicant to the Township for a Permit (i) to locate or Collocate, or to modify, a Communications Facility underground or

on any existing Support Structure, Pole, or Tower, or (ii) to construct, modify or Replace a new Support Structure, Pole or Tower or any other structure on which a Communications Facility will be Collocated.

- (6) "Township" means the Township of Toms River, or any agency, department, district, subdivision or any instrumentality thereof, including, but not limited to public utility districts, or municipal electric utilities. The term shall not include courts of the State having jurisdiction over the Township or any entities that do not have zoning or permitting authority or jurisdiction. The Township may hereinafter be referred to as the "Township", "the Township of Toms River", "Toms River" or "the Township".
- (7) "Township Pole" means a Pole owned, managed or operated by or on behalf of the Township.
- (8) "Collocate" means to install, mount, maintain, modify, operate and/or replace a Communications Facility on an existing Support Structure, Pole, or Tower or any other structure capable of supporting such Communications Facility. "Collocation" has a corresponding meaning. The term does not include the installation of a new Utility Pole, Tower or Support Structure in the Public Right-of-Way.
- (9) "Communications Facility" means, collectively, the equipment at a fixed location or locations that enables communication between user equipment and a communications network, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.
- (10) "Communications Service Provider" means a cable operator, as defined in 47 U.S.C. §522(5), a provider of information service, as defined in 47 U.S.C. §153(24); or a provider of telecommunications service, as defined in 47 U.S.C. §153(53); or provider of fixed wireless or other wireless services as defined in 47 U.S.C. §332(c)(7)(C)(i).
- (11) "Contract for Professional Services" means a contract through which the Township has entered into an arrangement with an individual, attorney consultant or firm for same to provide professional consulting services pursuant to this Section, said contract being in conformance with New Jersey Public Contracts Law, Pay-to-Play Laws and other applicable laws governing such contracts and agreements.
- (12) "Decorative Pole" means a Township Pole that is specially designed and placed for aesthetic purposes.
- (13) "Deployable" means a portable, self-contained Wireless Facility that can be moved to a specified location or area and provide Wireless Services on a temporary or emergency basis such as a "cell on wheels" or "COW," "cell on light truck" or "COLT," tethered balloon, tethered drone or other unmanned device.
- (14) "Designee" means the wireless consultant appointed by the Township and contracted for professional services to serve as the point-of-contact and primary consultant and specialist for the Township for all matters concerning this Section.
- (15) "Discretionary Review" means review of an Application by the Township relating to the review and issuance of a Permit, that is other than an Administrative Review. Discretionary Review involves discretion on the part of the Township (subject to any applicable limits on such discretion) in determining whether to issue a Permit and may be subject to one or more public hearings or meetings, including appearances before the planning board, zoning board of adjustment and referral to the Historic Preservation Commission for commentary and recommendations. For purposes of this ordinance, Discretionary Review shall mean Minor Site Plan approval.
- (16) "Eligible Facilities Request" means an eligible facilities request as set forth in 47 C.F.R. Section 1.6100(b)(3), as may be amended from time to time.
- (17) "FCC" means the Federal Communications Commission of the United States.
- (18) "Fee" means a one-time, nonrecurring charge, whether a fixed amount or cost- based amount based on time and expense.
- (19) "Historic Property" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the United States Secretary of the Interior (in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C) or established pursuant to state historic preservation law.

- (20) “Laws” means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- (21) “Occupant” means any occupant of the Public Right-of-Way, including any Wireless Provider, Wireless Infrastructure Provider, utility company, or public or private entity with a physical presence or right to maintain a physical presence on, under or across the Public Right-of-Way.
- (22) “Ordinary Maintenance, Repair and Replacement” means (i) with respect to a Communications Facility and/or the associated Support Structure, Pole or Tower, inspections, testing, repair and modifications that maintain functional capacity, aesthetic and structural integrity, and (ii) with respect to a Communications Facility only, the replacement or upgrade of Antennas and/or other components of the Communications Facility (specifically, such as a swap out or addition of small cell Antennas and radio equipment as required by the Applicant), with Antennas and/or other components substantially similar, in color, aggregate size and other aesthetics to that previously permitted by the Township (and/or consistent with the same height and volume limits for Wireless facilities under this Section), so long as the Support Structure, Pole, or Tower will structurally support, or prior to installation will be modified to support, the structural load. Modifications are limited to by the structural load analysis supplied by the Applicant to the Township, and by the volume limits in subsection 2.8 Design Standards. Modifications beyond the foregoing must be requested in writing by the Applicant and are subject to Discretionary Review by the Township.
- (23) “Permit” or “Zoning Permit” means a written authorization (in electronic or hard copy format) required by the Township to initiate, continue, or complete installation of a Communications Facility, or an associated Support Structure, Pole, or Tower.
- (24) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the Township.
- (25) “Pole” means a pole, such as a utility, lighting, traffic, or similar pole, made of wood, concrete, metal or other material, located or to be located within the Public Right of Way or Utility Easement. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached unless the Township grants a waiver for such pole. The term does not include electric transmission poles or structures. A Pole does not include a Tower or Support Structure.
- (26) “Provider” means a Communications Service Provider or a Wireless Provider.
- (27) “Public Right of Way”, “Public ROW” or “Municipal ROW” means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, but not including a federal interstate highway or other area not within the legal jurisdiction, or within the legal ownership or control of the municipality.
- (28) “Rate” means a recurring charge.
- (29) “Replace” or “Replacement” means, in connection with an existing Pole, Support Structure or Tower, or Communications Facility, as the case may be, to replace (or the replacement of) same with a new structure, similar in design, size and scale to the existing structure and in conformance with current Township building code, zoning provisions and other applicable regulations, in order to address limitations of, or change requirements applicable to, the existing structure to structurally support Collocation of a Communications Facility. In connection with replacement of a Pole or Tower to support Collocation of a Wireless Facility, similarity in size and scale shall be evaluated consistent with 47 C.F.R. 1.6100 (b)(7).
- (30) “Small Wireless Facility” means a Wireless Facility that meets both of the following qualifications: (i) each Wireless Provider’s Antenna (including, without limitation, any strand-mounted Antenna) could fit within an enclosure of no more than three (3) cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services. The following additional parameters apply to Small Wireless Facilities: (i) Total height of Small Wireless Facility and supporting structure is less than 50 feet, or the Small Wireless Facility is mounted on structures no more than 10% taller than adjacent

structures, or the Small Wireless Facility does not extend the existing structure to a height of greater than 50 feet or by more than 10% of the original height, whichever is greater.

- (31) "State" means the State of New Jersey.
- (32) "Support Structure" means a building, a billboard, a water tank or any other structure to which a Communications Facility is or may be attached. Support Structure does not include a Pole or a Tower.
- (33) "Tower" means any structure built for the sole or primary purpose of supporting a Wireless Facility, such as a self-supporting Tower, a monopole, a lattice Tower or a guyed Tower. Tower also includes a structure designed to conceal from the general public the Wireless Facility. A Tower does not include a Pole or a Support Structure.
- (34) "Utility Easement" means the area on, below, or above privately-owned property that has been designated for use as or is used for a specific utility purpose (such as for electric, cable or other utility purpose), and is evidenced by a recorded instrument in the public land records pursuant to a recorded plat, easement or right of way or is otherwise a legally enforceable easement, and does not include any portion of a Public Right of Way.
- (35) "Wireless Facility" means a Communications Facility installed and/or operated by a Wireless Provider. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one example of a Wireless Facility.
- (36) "Wireless Infrastructure Provider" means any Person, including a Person authorized to provide telecommunications service in the State, that builds or installs and/or operates Wireless Facilities or Poles, Towers or Support Structures on which Wireless Facilities are or are intended to be used for Collocation, but that is not a Wireless Services Provider.
- (37) "Wireless Provider" means a Wireless Infrastructure Provider or a Wireless Services Provider.
- (38) "Wireless Services" means any wireless services including, without limitation, personal wireless services as that term is defined in 47 U.S.C. § 332(c)(7)(C)(i), fixed wireless and other wireless services.
- (39) "Wireless Services Provider" means a Person who provides Wireless Services.

D. Governance of Deployment in the Public ROW

(1) General Provisions of Agreement for Access to the Public ROW

- (a) Applicability. Except as otherwise provided herein, the placement, installation, modification, replacement, repair and upgrade of any Communications Facilities, including Small Wireless Facilities, as well as the associated Poles, Towers or Support Structures, in the Public Right-of-Way shall be governed by this Section.
- (b) Notice Prior to Any Non-Emergency Work.
 - [1] The Designee will serve as the initial point of contact for the Township for all matters pertaining to this Section.
 - [2] No action, application, installation, upgrade, maintenance, repair, replacement or, modifications by Applicant contemplated by this Section shall be commenced without first giving notice to the Township Designee.
 - [3] This notice requirement pertains to all work, including ordinary maintenance, repairs, upgrades and like-for-like equipment swap outs.
- (c) Master License Agreement. Prior to receiving a Zoning Permit to install a Communications Facility in the Public ROW, each Applicant shall be required to enter into a Master License Agreement (e.g., Right of Way Access Agreement, Pole Attachment Agreement, License Agreement) between the Township and the Applicant, on terms and conditions substantially the same for all Applicants and existing Occupants of the Public ROW. The terms and conditions of such Master License Agreement will include the following, and may be in substantially the form included in Schedule B of this ordinance:
 - [1] Fees and Rates. As consideration to the Township for entering into the Master License Agreement and also as a condition precedent for the issuance of any required permits and approvals to install the applicable Communications Facilities in the public right-of-way, the Applicant shall pay the required fees and rates as set forth in Schedule A of this Section, and which may be amended or modified

from time to time per revision and modification to local, state and federal laws and regulations. Said fees shall include Application or One-Time fees and Recurring Right-of-Way Occupancy Rates.

The Small Cell Permit Application Escrow, as described in Schedule A, shall be paid upon submission of an Application and shall be held in escrow and billed against actual incurred One-Time Fees and costs to process an Application, also as described below and in Schedule A of this Section. If said Small Cell Permit Application Escrow is insufficient to cover incurred One-Time Fees as described below and in Schedule A, then Applicant shall submit an additional amount equal to the initial Small Cell Permit Application Escrow to be further billed against incurred One-Time Fees and costs.

- a. Reasonable Approximation: All one-time event fees will be a reasonable approximation of objectively reasonable costs.
- b. One Time Fees Apply to All Work: One-time fees and event fees apply to the initial installation of facilities as well as to any subsequent upgrade, replacement, modification or alteration of same, with each instance of an upgrade or repair being a separate project subject to One-Time Fees. Maintenance and repair work on an existing Communications Facility does not trigger any One Time Fees.

[2] Annual ROW Occupancy Rate shall be as specified in Schedule A of this Section and shall be paid within thirty (30) days of the issuance of the applicable Permit and annually thereafter, with payment being due on the anniversary of the first payment date for the balance of the Term. However, under no circumstances shall the Rate be remitted later than ninety (90) days after the full execution of the applicable Master License Agreement between Township and Applicant.

[3] Annual Attachment Rate, equal to an amount that represents a reasonable approximation of the objectively reasonable costs incurred by the Township for the attachment of each Small Wireless Facility to Township-owned structures in the Public Right-of-Way. This amount shall be paid within thirty (30) days of issuance of the applicable Permit(s) and annually thereafter. The annual rates in subsection D(1), (c) [1] and [2] combined shall not exceed \$270 annually per Small Wireless Facility location.

[4] All Fees and Rates will be applied in a non-discriminatory manner to all Communications Service Providers.

[5] Make-Ready Fee, shall be determined on a site-specific, engineering basis, for work reasonably necessary to make a particular Township Pole suitable for attachment of the applicable Communications Facility shall be paid upon submission of the Application as more particularly described in subsection F below.

(d) Other Terms.

[1] Term. Unless otherwise agreed to in writing by the Township and Applicant, the Agreement term shall be ten (10) years.

[2] Safety and Accessibility. The Applicant will demonstrate compliance with applicable safety and accessibility requirements, including those under Americans with Disabilities Act ("ADA"), OSHA and similar laws.

[3] The Master License Agreement shall include, as an appendix thereof, a schedule containing the location of all proposed Small Wireless Facilities in the Public Right-of-Way, which the Township and Applicant may update as necessary without the need for additional review. Said locations shall be as specific as possible and shall include, but not be limited to, latitude, longitude, the nearest proximate address, cross streets as well as lot and block numbers, if available. Applicants shall also provide for inclusion in the Master License Agreement information indicating the horizontal and approximate vertical location, relative to the boundaries of the Public ROW, of all equipment which it owns or over which it has control and which is located in any Public Right-of-Way.

Indemnification and Insurance Requirements.

- a. Insurance. The Applicant shall at all times maintain a commercial general liability insurance policy with a single amount of at least One Million

Dollars (\$1,000,000.00) per occurrence and in the aggregate covering liability for any death, personal injury, property damage or other liability arising out of the construction and operation contemplated herein, and an excess liability policy (or "umbrella") policy in the amount of Five Million Dollars (\$5,000,000.00) per occurrence and in the aggregate. The Applicant may use any combination of primary and excess insurance to meet the total limits required. Such coverage shall be primary, non-contributory and shall contain a waiver of subrogation. Evidence of same shall be provided prior to the commencement of any work of any kind by the Applicant. Prior to the commencement of any work pursuant to this Agreement, the Applicant shall file with the Township, a Certificate(s) of Insurance with any required endorsements evidencing the coverage provided by said liability and excess liability policies. The Township shall notify Applicant within fifteen (15) days after the receipt of any claim or demand to the Township, either by suit or otherwise, made against the Township on account of any of Applicant or its sub-contractors, agents, employees, officers, servants, designees, guests and invitees, activities pursuant to the rights granted in this Agreement. Applicant shall notify the Township Clerk within fifteen (15) days of receipt of any claim or demand of Applicant or its subcontractors, agents, employees, officer, servants, designees, guests or invitees by any aggrieved party for any work or action made pursuant to this Ordinance.

- b. Indemnification. Applicant, its successors, assigns, contractors, sub-contractors, agents, servants, officers, employees, designees, guests and invitees, hereby indemnify, defend and hold harmless the Township, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees from and against any and all personal injury and property damage claims, demands, suits, actions at law or equity or otherwise, or related judgments, arbitration determinations, damages, liabilities, decrees of any person(s) or entities claiming to be or being harmed as a result of Applicant's actions under this Agreement and costs in connection therewith except to the extent that such claims, demands, suits, or actions are the result of the negligence or willful misconduct of the Township, its successors, assigns, elected officials, officers, employees, servants, contractors, designees or invitees. This indemnification shall specifically include, but not be limited to, any and all costs, reasonable attorneys' fees, court costs and any other expenses that may be incurred by the Township in connection with any and all claims, demands, suits, actions at law or equity or otherwise and/or arbitration proceedings which may arise in connection with Applicant's activities pursuant to the rights granted in this Agreement. This indemnification shall also specifically include that the Township retains the right to choose its own defense counsel in regard to any action at law or equity pursuant to this section.

[4] Reliable 24/7 Emergency Notification Contact Information will be provided by the Applicant to the Township and incorporated into the Agreement.

[5] Additional Agreement Terms: Additional terms, such as for termination, assignment and sublicensing rights, shall be as negotiated between the Applicant and Township.

[6] Nondiscriminatory. Applications will be processed on a nondiscriminatory basis.

E. Permitted Communications Facility Uses/Administrative Review; Application

- (1) Permitted Use Subject to Master License Agreement and Administrative Approval. The following uses within the Public ROW shall be a permitted use, subject to the entering into of a Master License Agreement between Applicant and Township as set forth in subsection D(1) above, and the completion of Administrative Review and the issuance of a Zoning Permit as set forth in this subsection E. All such uses shall be in accordance with all other applicable provisions of this Section, including without limitation, those set forth in

subsection H below. The Zoning Permit application for administrative review shall be in form and substance substantially similar to Exhibit C of this ordinance:

- (a) Collocation of a Small Wireless Facility
 - (b) Collocation that qualifies as an Eligible Facilities Request and which complies with subsections G, H and K of this Section.
 - (c) Modification of a Pole, Tower or Support Structure or Replacement of a Pole, for Collocation of a Communications Facility that qualifies as an Eligible Facilities Request or involves a Small Wireless Facility that does not exceed the maximum limitations set forth in subsection E(4)(d) below.
 - (d) Construction of a new Pole or a monopole Tower (but no other type of Tower) to be used for Collocation of a Small Wireless Facility that does not exceed the maximum height and other applicable design standards set forth in this Section.
 - (e) Construction of a Communications Facility, other than those set forth in subparagraphs (a), (b) or (c) in this subsection E(1), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more Poles or a Pole and a Tower and/or Support Structure, and related equipment and appurtenances.
 - (f) Ordinary Maintenance, including any upgrade, repair, replacement, modification or alteration of a Communications Facility, with each upgrade, maintenance or repair being a separate instance subject to Administrative Review
 - (g) The Township reserves and retains the right to subject any installation or modification contemplated in this section as well as in this Section to Discretionary Review by the Planning Board subject to the 60 and 90 day Shot Clock guidelines of FCC-18-133A. Discretionary Review by the Planning Board shall require a separate application for Minor Site Plan approval, inclusive of required administrative and escrow fees. The Shot Clock guidelines will be adhered to for Discretionary Reviews unless compelling and extraordinary circumstances suggest otherwise.
 - (h) All other installations, modifications and replacements not subject to Administrative Review and that do not qualify as a Permitted Use are subject to Discretionary Review under Chapter 348 Land Use and Development Regulations as described in Section 2.4 of this Section and which includes Minor Site Plan approval as described in subsection (g) above.
- (2) Permit Required. No Person shall place any facility described in subsection E(1) above in the Public ROW without first filing an Application for same and obtaining a Permit a/k/a Zoning Permit thereof, except as otherwise expressly provided in this Section.
- (3) Proprietary or Confidential Information in Application. The Township shall make accepted Applications publicly available by reasonably available means such as a request pursuant to the Open Public Records Act (“OPRA”). Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the Township shall treat the information as proprietary and confidential, subject to applicable State and local “freedom of information” or “sunshine” Laws and the Township’s determination that the Applicant’s request for confidential or proprietary treatment of an Application material is reasonable. Confidential and proprietary information shall not include any information which is by law, regulation, ordinance, OPRA procedure and regulations or this Section, open and available for public inspection, including proposed Communications Facilities’ site locations.
- (4) Administrative Review Application Requirements. The Application shall be made by the applicable Provider or its duly authorized representative and shall contain the following:
- (a) The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.
 - (b) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
 - (c) A general description of the proposed work and the purposes and intent of the proposed facility or facilities. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.

- (d) Detailed construction drawings regarding the proposed facility, as required by the Uniform Construction Code of the State of New Jersey, or as otherwise stated and required under applicable Township ordinances.
 - (e) Demonstration of compliance with RF health and safety measures, as established by the TCA and FCC, via an RF Health and Safety Report. Applicant may utilize the RF Safety Reports provided in connection with the Master License Agreement, as described in Section 2.1(d)(iv), for its applications for Administrative Review and Permit issuance.
 - (f) Applicant shall demonstrate compliance with the subsection K. "Design Standards" as they pertain to appearance, siting and height of the proposed Communications Facilities and their support poles, towers or other structures.
 - (g) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a qualified engineer evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
- (5) Ordinary Maintenance, Repair and Replacement. Ordinary maintenance and repairs may require administrative review and be subject to the provisions of subsections E(1) of this Section, including notification to the Township Designee of any proposed work, repairs, replacement and modification. This will include coordination with the Township DPW and Police Department for necessary street closures and safety protocols, as well as the payment of any required fees required under subsection D(3) above. Each required police officer and patrol car needed to supervise traffic flow and the construction site will be billed at the rate of \$72/hour.
- (6) Information Updates. Any material change to information contained in an Application shall be submitted in writing to the Township within thirty (30) days after the condition necessitating the change.
- (7) Application Fees. Unless otherwise provided by applicable Laws, all Applications pursuant to this Section shall be accompanied by the Fees required under subsection D(3) above.
- (8) Township Preference for Use of Existing Poles, Towers and Support Structures for Small Wireless Facilities. Notwithstanding anything contained in this Section or Chapter 348 Land Use and Development regulations to the contrary, an Applicant shall always utilize an existing Pole, Tower or Support Structure for a new Small Wireless Facility before requesting approval for the construction of a new Pole, Tower or Support Structure in the Public Right-of-Way. Before applying for the construction of a new Pole, Tower or Support Structure, an Applicant shall demonstrate why existing Poles, Towers and Support Structures in the vicinity cannot be utilized. This may include an evaluation of the lack of structural suitability of same, including consideration of wind and weight loading, as well as a demonstration that existing options do not meet the coverage and capacity requirements of Applicant. This provision for utilization of existing Poles, Towers and Support Structures pertains to the use of existing utility Poles which contain only public utilities, traffic signals and street lighting, as well as to Poles that are already utilized by other Wireless Service Providers for Small Wireless Facilities.

F. Action on Administrative Review Applications

(1) Review of Applications for Administrative Review.

- (a) The Township shall review the Application in light of its conformity with applicable provisions of this Section, and shall issue a Permit on nondiscriminatory terms and conditions, subject to the following requirements:

[1] The Township must act consistent with the following Shot Clock Dates:

- a. Review of an Application to collocate a Small Wireless Facility using an existing structure: 60 days.
- b. Review of an Application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
- c. Review of an Application to deploy a Small Wireless Facility using a new structure: 90 days.
- d. Review of an Application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

- [2] Tolling period: Unless a written agreement between the Applicant and the Township provides otherwise, the tolling period for an Application (if any) is as set forth in sub-paragraphs (a) through (c) of this paragraph.
- a. For an initial application to deploy Small Wireless Facilities, if the Township notifies the Applicant on or before the 10th day after submission that the Application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the Applicant submits all the documents and information identified by the Township to render the Application complete.
 - b. For all other initial Applications, the tolling period shall be the number of days from—
 - (i) The day after the date when the Township notifies the Applicant in writing that the Application is materially incomplete and clearly and specifically identifies the missing documents or information that the Applicant must submit to render the Application complete and the specific rule or regulation creating this obligation; until
 - (ii) The date when the Applicant submits all the documents and information identified by the siting authority to render the Application complete;
 - (iii) But only if the notice pursuant to paragraph [2]b(i) of this section is effectuated on or before the 10th day after the date when the Applicant makes a submission in response to the Township's request under paragraph [2]b(i) of this section; or
 - c. For resubmitted Applications following a notice of deficiency, the tolling period shall be the number of days from—
 - (i) The day after the date when the Township notifies the Applicant in writing that the Applicant's supplemental submission was not sufficient to render the Application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the Township's original request under sub-paragraph [2]a and [2]b of this section; until
 - (ii) The date when the applicant submits all the documents and information identified by the Township to render the Application complete;
 - (iii) But only if the notice pursuant to paragraph [2]b(i) of this section is effectuated on or before the 10th day after the date when the Applicant makes a supplemental submission in response to the Township's request under paragraph [2] b(i) of this section.
- (b) The Township must advise the Applicant in writing of its final decision, and in the final decision document the basis for a denial, including referencing specific code provisions and/or regulations upon which the denial was based, including any federal law, or local or state laws and regulations, provided said local and state laws and regulations do not conflict with federal law. Denial may include lack of conformity with the Township codes, ordinances and regulations, as well as local, state and federal environmental, landmark and historical regulations. A decision to deny an application shall be in writing and supported by clear evidence contained in a written record, publicly released, and sent to the applicant. The written decision, supported by such substantial evidence, shall constitute final action by the Township. The review period or “shot clock” shall run until the written decision, supported by substantial evidence, is released and sent to the Applicant contemporaneously. The subsequent review by the Township shall be limited to the deficiencies cited in the original denial and any material changes to the Application made to cure any identified deficiencies.
- (c) Undergrounding Provisions. The Township shall administer undergrounding provisions in a non-discriminatory manner. It shall be the objective of the Township and all Public ROW Occupants to minimize disruption or discontinuance of service of all kinds to consumers, through mutual obligation to coordinate and timely complete such projects. An Occupant, including the Applicant, as the case may be, shall comply with nondiscriminatory Township undergrounding requirements that 1) are in place and published prior to the date of initial filing of the Application, and 2)

prohibit electric, telecommunications and cable providers from installing above-ground horizontal cables, Poles, or equivalent vertical structures in the Public ROW; and the Township may require the removal of overhead cable and subsequently unused Poles. In areas where existing aerial utilities are being moved underground, Wireless Providers shall retain the right to remain in place, under their existing authorization, by buying out the ownership of the Pole(s), subject to the concurrence of the Pole owner and consent of the Township (which consent may not be unreasonably withheld, conditioned or delayed) or, alternatively, the Wireless Provider may reasonably replace the existing Pole(s) or vertical structure locations for Antennas and accessory equipment, as a permitted use, within 50 feet of the prior location, unless a minimally greater distance is necessary for compelling public welfare. In neighborhoods or areas with existing underground utilities that do not have Small Wireless Facilities deployed as a permitted use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures in the neighboring underground utility area. In neighborhoods or areas with existing underground utilities that do have Small Wireless Facilities deployed as a permitted use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures of Wireless Providers in the neighboring underground utility area. In neighborhoods with underground utilities, whether being converted from overhead utilities or initially underground, micro wireless devices, typically strand-mounted, shall be treated like other Small Wireless Facilities in the Public ROW, requiring permitted use status, and subject to non-recurring and recurring Fees and Rates.

(2) Effect of Permit.

- (a) Authority Granted; No Property Right or Other Interest Created. A Permit from the Township authorizes an Applicant to undertake only certain activities in accordance with this Section, and does not create a property right or grant Township to the Applicant to impinge upon the rights of others who may already have an interest in the Public ROW.
- (b) Duration. Any Permit for construction issued under this Section shall be valid for a period of six (6) months after issuance, provided that the six (6) month period shall be extended for up to an additional six (6) months upon written request of the Applicant (made prior to the end of the initial six (6) month period if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the Applicant).

(3) Removal, Relocation or Modification of a Communications Facility in the ROW.

- (a) Notice. Within ninety (90) days following written notice from the Township, a Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Communications Facility within the Public ROW whenever the Township has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Township improvement in or upon, or the operations of the Township in or upon, the Public ROW, or pursuant to any redevelopment plan made pursuant to the Municipal Land Use Law contained in N.J.S.A. 40:55D, or any council resolution that approves any redevelopment plan for work that is performed by a private company other than the Township. The Township shall apply the same standards to all utilities in the Public ROW.
- (b) Emergency Removal or Relocation of Facilities. The Township retains the right and privilege to cut power to or move any Communications Facility located within the Public ROW of the Township, as the Township may determine to be necessary, appropriate or useful in response to any public welfare emergency, or safety

emergency. If circumstances permit, the Township shall notify the Provider and provide the Provider an opportunity to move its own facilities prior to cutting power to or removing the Communications Facility and in all cases shall notify the Provider after cutting power to or removing the Communications Facility as promptly as reasonably possible.

- (c) Structural reconditioning, repair and replacement. From time to time, the Township may paint, recondition, or otherwise improve or repair the Township Poles in a substantial way (“Reconditioning Work”). The Provider shall reasonably cooperate with the Township to carry out Reconditioning Work activities in a manner that minimizes interference with the Provider’s approved use of the facility.

[1] Prior to commencing Reconditioning Work, the Township will use reasonable efforts to provide the Provider with at least sixty (60) days prior written notice. Upon receiving that notice, it shall be the Provider’s sole responsibility to provide adequate measures to cover, remove, or otherwise protect the Provider’s Communications Facility from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. The Township reserves the right to require the Provider to remove all of the Provider’s Communications Facility from the Township Pole and surrounding premises during Reconditioning Work, provided the requirement to remove same is contained in the written notice required by this Subsection. All cost associated with the protection measures, including temporary removal, shall be the sole responsibility of the Provider. The Township will provide the Provider with a date by which its equipment must be protected or removed. The Provider may request a modification of the Township procedures for carrying out Reconditioning Work in order to reduce the interference with Provider’s operation of its Communications Facility. If the Township agrees to the modification, the Provider shall be responsible for all reasonable incremental cost related to the modification.

[2] If the Township Poles need to be replaced (“Replacement Work”), the Township shall provide Provider with at least sixty (60) days written notice to remove its Communications Facilities. The Township shall also promptly notify Provider when the Township Poles have been replaced and Provider may re-install its equipment. During the Replacement Work, the Provider may maintain a temporary Communications Facility on the property, or after approval by Township, on any land owned or controlled by Township, in the vicinity of the property. If the property will not accommodate the Provider’s temporary Communications Facility or if the parties cannot agree on a temporary location, the Provider, at its sole option, shall have the right to suspend the applicable permit, until the replacement Pole is installed, upon thirty (30) days written notice to the Township.

[3] If the Township Poles need to be repaired due to storm or other damage (“Repair Work”), the Township shall notify the Provider to remove its Communications Facilities as soon as possible. In the event of an emergency, the Township shall contact the Provider by telephone at its emergency contact of record upon or prior to removing the Provider’s equipment. Once the Township Poles have been replaced or repaired, the Township will promptly notify the Provider that it can reinstall its equipment. During Township Repair Work, the Provider may maintain a temporary Communications Facility on the property, or after approval by Provider, on any land owned or controlled by the Township in the vicinity of the property. All cost associated with any removal or protection of Communications Facilities shall be the sole responsibility of the Provider, except to the extent caused by third-parties or the Township.

- (4) Attachment to Township Poles in the Public ROW.

(a) Make-Ready. For any attachment to Township Poles in the Public ROW, the Township shall provide a good faith estimate for any make-ready work necessary to enable the Township Pole to support the proposed facility, including Replacement of the Pole if necessary, within sixty (60) days after receipt of a completed Application requesting attachment to the Township Pole, unless a longer period is required in order to comply with New Jersey law, including, but not limited to, Local Public Contracts Law (“LPCL”) and the New Jersey Local Unit Pay to Play. Make-ready work including any Pole Replacement shall be completed within one hundred and

twenty (120) days of written acceptance of the good faith estimate by the Provider. Township will make all reasonable estimates to complete the work within the stated timeframes. Such acceptance shall be signified by payment via check or other commercially reasonable and customary means specified by the Township. If Township does not indicate it is willing to perform the make-ready work within the sixty (60) days after receipt of a completed Application requesting attachment to the Township Pole, Applicant may perform the work itself consistent with Township approval under this Section.

G. Applications Requiring Discretionary Review and Approval.

(1) Discretionary Review Required. All other uses not expressly set forth or referenced in subsection E(1) above shall require compliance with applicable Township ordinance, including, but not limited to, Chapter 348 Land Use and Development Regulations and the district zoning regulations and any other applicable laws and ordinances of the Township, and which approvals shall include Minor Site Plan approval by the Township Planning Board. If it is determined that approvals are required beyond Minor Site Plan approval, then such approvals may include zoning board of adjustment approval, site plan approval and the issuance of a variance for any deviation from applicable Township land use regulations.

H. Other Public ROW Installation Requirements.

(1) General Principles.

- (a) The Township shall have the power to establish reasonable and non-discriminatory limitations on the placement of new or additional facilities within specific congested segments of the Public ROW if there is insufficient space to accommodate all of the requests of Applicants or other Persons to occupy and use the Public ROW. In making such decisions, the Township shall to the extent possible accommodate all existing users and potential users (i.e. those who have submitted an Application to deploy facilities within the Public ROW) of the Public ROW, and shall be guided primarily by considerations of the public interest, the width and physical condition of the Public ROW, the time of year with respect to essential utilities, the protection of existing facilities in the Public ROW and established plans for public improvements and development projects which have been determined to be in the public's interest.
- (b) Fewest Possible New Poles / Use of Existing Poles: Applicant shall use existing poles when possible for the placement of its Small Wireless Facilities and shall minimize the number of new proposed Poles in the right-of-way to the fewest possible to meet the coverage and capacity requirements.
- (c) Leasing of excess space in ducts, conduits and on a Pole is a matter between interested parties (subject to any applicable Pole Attachment regulations and any other applicable statutory, regulatory or contractual obligations); however, lessees or licensees of such physical facilities must still comply with the terms of this Section, unless otherwise expressly exempted by the Township.
- (d) An Occupant of the Public ROW shall employ due care during the installation and maintenance process, and comply with all safety and Public ROW-protection requirements of applicable Federal, State and local Laws (and any generally applicable Township guidelines, standards and practices), and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws). All facilities under the streets of the Township shall be kept and maintained in a safe and well-ordered condition, and in good order and repair.

[1] Any permittee occupying any portion of the Public ROW shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the Manual on Uniform Traffic Control Devices, and existing procedures, including the Township Work Site Evaluation process by which the construction office refers proposed work to the police department in order to develop safety measures to safeguard pedestrian and vehicular traffic as well as property. In the event of any conflict between the provisions of this subsection and the Work Site Evaluation process, the Work Site Evaluation procedures shall control.

- [2] Occupants of the Public ROW with open excavations awaiting final restoration shall maintain all devices until the Township notifies the Occupant in writing that the Township or the Township's designated contractor is assuming responsibility for traffic control.
 - [3] Each Occupant shall designate a safety officer. The safety officer shall be responsible for safety-related issues affecting both the public and the Occupant's field employees and contractors for all job sites within the Public ROW.
- (e) Location of Existing Facilities.
- [1] An Occupant of the Public ROW shall not place any fixtures or equipment where the same will interfere with any existing facility, and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.
 - [2] In the event that the Township notifies the Occupant in advance that it is expressly interested in sharing the trenches or bores at a specific location area where construction is occurring, then the Occupant shall allow the Township to place its infrastructure in the Occupant's trenches and bores as requested by the Township. In these instances, the Township will bear an incremental share of the costs of trenching, boring and the placement of conduit and infrastructure.
 - [3] Before beginning excavation in any Public ROW, an Occupant shall contact the regional notification center for subsurface installations (One-Number Locator Service) to determine possible conflicts.
- (f) Abandonment of Facilities.
- [1] Any Occupant of the Public ROW, including any Applicant, Wireless Provider or Wireless Infrastructure Provider, that intends to permanently discontinue use of any facilities within the Public ROW shall notify the Township in writing within thirty (30) days prior to abandonment. Such notice shall describe the facilities for which the use is to be discontinued, and the date of discontinuance of use. Upon notification, at its discretion, the Township will choose from the following options within 14 days or any other agreed upon option, and so notify the Occupant of its decision:
 - a. Abandon the facilities in place and the Occupant shall further convey full title and ownership of such abandoned facilities to the Township. The Occupant is responsible for all obligations of the facilities, or other associated liabilities until the conveyance to the Township is completed; or
 - b. The facilities shall be removed and the Occupant shall be liable for removing the facilities at its own cost. If an Occupant fails to remove facilities that the Township requires it to remove, after ninety (90) days' notice to the Occupant, the Township may perform the work and shall be entitled to collect the cost from the Occupant its successors and/or assigns.
- (2) Additional Requirements.
- (a) General. All deployments of Communications Facilities in the Public ROW shall comply with the following:
 - [1] Compliance with ADA and other applicable Federal, State and local Laws and standards.
 - [2] Pedestrian and vehicular traffic and safety requirements established by the Township.
 - [3] Existing Public ROW occupancy or management ordinances, not otherwise inconsistent with this Section.
 - (b) Additional Permits. In addition to obtaining a Permit for installation of a Communications Facility in the Public ROW, an Applicant must obtain the following additional permits and approvals, as well as provide notice where indicated:
 - (a) Notification to Township Designee for all work contemplated in this Section, pursuant to subsection D.
 - (b) Construction Permit (including building and electrical subcodes), per statutory fees established by uniform construction code regulations contained in N.J.A.C. 5:23.
 - (c) Zoning Permit, as applicable, per this Section and the applicable provisions of the Township land use regulations

- (d) Street Opening Permit, if applicable, per Township Code Chapter 450 Streets and Sidewalks.
 - (e) Telecommunications Consultation and Review performed by the Township Designee or other such official of the Township or professional contracted by the Township, to include permit review, construction oversight for code and zoning compliance and post-installation inspection to ensure compliance with the technical specifications.
 - (f) Engineering Review by an outside consultant, as needed
 - (g) Discretionary Review: For Small Wireless Facilities applications not subject to Administrative Review pursuant to this Section.
- (3) Existing Utility Easements in the Public Right of Way.
- [1] Applicants will work with the Township engineer to coordinate and protect existing utilities in the Public ROW.
 - [2] Applicants will coordinate with the Township engineer all public safety considerations prior to and during installation in the Public ROW to ensure public safety response in the case of gas line, water line or electric Township disturbance.

I. Attachment to and Replacement of Decorative Poles.

Notwithstanding anything to the contrary in this Section, the Township may request that Applicant install a Small Wireless Facility on a new Decorative Pole, or Replace an existing Decorative Pole with a new Decorative Pole that is in keeping with the aesthetics of the existing Decorative Pole or the surrounding streetscape only upon satisfaction of the following additional requirements:

- (1) Issuance of a Permit under subsection E(1) above.
- (2) The new Decorative Pole, Small Wireless Facilities attachment and/or the Replacement Decorative Pole is in keeping with the aesthetics of the Decorative Pole and surrounding streetscape in the judgement of the Township.

J. Batch Applications.

An Applicant seeking to construct, modify or replace a network of Communications Facilities may, at the Applicant's discretion and subject to the Township's approval, batch Application requirements and file a consolidated Application and receive multiple permits or a single Permit for multiple Communications Facilities. The Township's denial of any site or sites within a consolidated Application shall not affect other sites submitted in the same Application. The Township shall grant a Permit(s) for any and all sites in a consolidated Application that it does not otherwise deny, subject to the requirements of this Section.

K. Design Standards.

All above-ground Communications Facilities in the Public ROW requiring Administrative Review only shall conform to the following non-discriminatory design guidelines generally applicable to all facilities in the Public ROW:

- (1) Siting and Design Requirements:
 - (a) Pole Siting Standards. New Poles for use as support structures for Small Wireless Facilities shall conform to the following siting standards:
 - [1] Height. No Proposed Pole shall be taller than fifty (50) feet or 110% of the height of Poles in the surrounding streetscape, whichever is higher.
 - [2] Location, Safety and Aesthetics. No Proposed Pole shall be erected in the Right-of-Way unless it:
 - a. Is approved pursuant to the provisions of this Section;
 - b. Replaces an Existing Pole; or
 - c. Does not inhibit any existing sight triangles or sight distances; and
 - d. Allows adequate room for the public to pass and re-pass across, along and through the Right-of-Way; and
 - e. Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.

This includes, but is not limited to (a) utilizing wrought iron pole construction to blend with the surrounding neighborhood and streetscape, (b) utilizing a single shaft of wood that blends with surrounding existing utility facilities and the streetscape for a new Pole structure intended to support a Small Wireless Facility.

The Applicant will make all reasonable efforts to comply with the unique design requirements of the Township for each proposed Small Wireless Facility and Pole, Tower or Support Structure, as the case may be in this regard, as they pertain to preserving the particular character of an affected location, including the streetscape, neighborhood, and surrounding buildings and structures.

- f. Is compliant with Chapter 450 Streets and Sidewalks of the Township Code as well as any applicable local and state laws and regulations pertaining to the installation of utility poles in the right-of-way, including promulgated by the Board of Public Utilities requiring approval of proposed locations prior to installation.

(b) Ground Level Cabinet Siting Standards. Ground level cabinets shall conform to the following siting standards:

- [1] Ground level cabinets are prohibited in the Public Right-of-Way in residential zones and any future residential zones.
- [2] Ground level cabinets are permitted in non-residential zones provided that such Ground Level Cabinet:
 - [3] Is less than twenty-eight (28) cubic feet in volume; and
 - [4] Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
 - [5] Does not inhibit any existing sight triangles or sight distance; and
 - [6] Allows adequate room for the public to pass and repass across, along and through the Municipal Right-of-Way.

(c) Pole Mounted Antenna and Pole Mounted Cabinet Siting Standards.

(d) Pole mounted antennas are permitted on Existing Poles, provided that each pole mounted antenna:

- [1] Does not exceed three (3) cubic feet in volume; and
- [2] Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
- [3] ; and
- [4] Does not inhibit any sight triangles or sight distance; and
- [5] Allows adequate room for the public to pass and repass across, along and through the Public Right-of-Way.
- [6] Pole mounted cabinets are permitted on Existing Poles in all residential zones and non-residential zones provided that each pole mounted cabinet:
 - a. Does not exceed sixteen (16) cubic feet; and
 - b. Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
 - c. Does not inhibit any sight triangles or sight distance; and
 - d. Allows adequate room for the public to pass and repass across the Public Right-of-Way.

(2) Maximum Height Requirements.

(a) Maximum Size of Permitted Use. Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures (subject to the further limitation for Replacement of Support Structures described in subsection C(32) above) to be used for Collocation of Small Wireless Facilities may be placed in the Public Right of Way as a permitted use in accordance with this subsection K, subject to the following requirements.

- [1] Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed the greater of:
 - a. Five (5) feet above the tallest existing Pole, Tower or Support Structure not exceeding 50 feet in the Public ROW, in place as of the effective date of this Section, and located within 500 feet of the new proposed Pole, Support

- Structure; or ten (10') feet on utility distribution poles where required by the electrical utility separation requirements; or
 - b. Fifty (50) feet above ground level.
- [2] Each modified or Replacement Pole, Tower, or Support Structure installed in the Public ROW shall not exceed the greater of:
- a. five (5) feet above the height of the structure being modified or replaced in place as of the effective date of this Section; or ten (10) feet on utility distribution poles where required by the electrical utility separation requirements; or
 - b. the height limit under this sub-section K(2)(a)[1]

L. Preexisting Sites and Master License Agreements.

Any Communications Facilities in the Public Rights-of-Way existing at the time of the adoption of the provisions of this Section, whether or not a Master License Agreement exists or is in force and effect with regard to same, shall be required to comply with the provisions of this Section.

Any Master License Agreements entered into between the Township and any Provider regarding Communications Facilities in the Public Rights-of-Way shall be required to conform to the provisions and standards of this Section. To the extent the provisions of any existing Master License Agreement conflict with this Section, said provisions shall be replaced and superseded by the applicable terms of this Section.

M. New Jersey One Call

Prior to the start of any installation of Poles, Small Wireless Facilities or other Communications Facilities that requires excavation, Applicant shall contact New Jersey One Call at 811 at least three (3) full business days prior to the commencement of work.

N. "Dig Once" Requirements

For all installations of Communications Facilities and Small Wireless Facilities that require the installation of above ground and underground communications and power cabling and conduit, along the Public ROW as well as utility easements and private property, the Township's Department of Public Works or Construction Office may request that the project developer publicly offer to coordinate with Providers who operate, or have applied for facilities in the Township through the Department of Public Works or other applicable department or agency to ensure the Public ROW and any planned utility easements are adequate to accommodate the deployment of both aboveground and underground Communications Facilities. Specifically, planned utility easements should allow for an adequate number of huts, utility Poles and other structures, as well as belowground conduit, to adequately serve current and anticipated Communications Facilities. Access to easements should be provided to Providers on a non-discriminatory basis and at a reasonable cost, or pursuant to applicable Laws.

O. Violation of this Section:

Violation of any of the provisions of this Section shall be a simple citation punishable with a civil penalty of \$500 for each violation which continues more than ten (10) days after written notice of such violation is provided to the Applicant. Each day, after such notice, that a violation occurs or is permitted to exist by the Applicant constitutes a separate offense.

P. Governance of Deployments Outside of the Public Right-of-Way.

This Section is intended to govern the installation, placement, maintenance, modification, upgrade and repair of Communications Facilities, including Small Wireless Facilities, in the Public Right-of-Way. The placement of telecommunications equipment outside of the Public Right-of-Way shall be governed by 348-9.31 Personal Wireless Telecommunications Facilities, as well as by other applicable codes and ordinances of the Township.

Q. Waiver.

The Township Council, or other Township person, agency or department with the authority to do so, may waive any provision or standard set forth in this Section where it is demonstrated that the strict enforcement of said standard:

- (1) Will prohibit or have the effect of prohibiting any telecommunications service pursuant to 47 U.S.C. 253(a); or
- (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
- (3) Will violate any requirement set forth in the FCC Order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," WT Docket No. 17-79; "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," WC Docket No. 17-84; or
- (4) Will prohibit, or have the effect of prohibiting, the ability of an entity to provide wireless service to any prospective customer within the Township.

R. Wireless Consultant Contact Information

As specified in subsection D(1) herein, the Township Designee shall be the initial point of contact for the Township for all matters concerning this Section.

Schedule A

One Time Fees*	Rate*	Frequency	Note
Small Cell Zoning Permit Application Escrow	\$1000, per new installation or \$500 per modification or upgrade. To be held in escrow and billed against actual incurred costs per the below schedule of fees:	Per install or upgrade	Escrow to be used against incurred expenses. Any expense amounts above the escrow shall be invoiced to Applicant directly upon completion of work.
Construction Permit	Per Chapter 252	Per install or upgrade	Building/electrical
General Zoning Permit, if applicable	Per Chapter 348	Per install or upgrade	Structure/addition
Street Opening Permit	Opening not greater than 50 square feet: \$75. Opening up to 100 square feet: \$100. Opening up to 200 square feet: \$125. Opening up to 400 square feet: \$175.	Per street opening	Pursuant to Chapter 450 Streets and Sidewalks Article VI Street Excavations
Telecommunications Consultation and Review by Township Designee	\$350/hour, per agreement	Per install or upgrade	Up to 3 hours/site
Engineering Review	\$152/hour		Review of proposed plans, drawings and design documents, as applicable
Recurring Fees*			
ROW Access Fee (including attachment fee to Township Pole, if applicable)	\$270	Annual Access Rate	Per small cell site

*The fees described in this Schedule A are the fees in effect at the time of the adoption of this ordinance. All fees are subject to change as existing ordinances are amended and future ordinances adopted and future contracts and agreements entered into and effectuated by resolution. Any amendment, revision or addition to a Township ordinance supersedes any prior inconsistent ordinances.

1. All other provisions set forth in §348-9.32 of the Township Code remain in full force and effect.
2. All ordinances or parts of ordinances which are inconsistent herewith are repealed, but only to the extent of the inconsistency.
3. If any part of this ordinance is invalidated for any reason by competent authority, that part is severed and the remaining provisions shall remain in full force and effect.
4. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

A motion was made by Council Member Council member Maruca, seconded by Council Member Huryk and carried, with Council Members Maruca, Huryk, Kopp, Lotano, Rodrick, Turnbach, and with Council President Geoghegan voting yes, that the foregoing Ordinance be adopted on first reading with publication notice as follows:

NOTICE

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on March 23, 2021 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on April 13, 2021 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's office in said Municipal Building to members of the general public who shall request such copies.

ALISON CARLISLE
TOWNSHIP CLERK

APPROVED AS TO FORM:
ANTHONY MERLINO
ASSISTANT TOWNSHIP ATTORNEY
MUNICIPAL BUILDING
33 WASHINGTON STREET
TOMS RIVER, NJ 08753

This ordinance title and purpose, together with notice, shall be published in the Asbury Park Press in the issue of Friday, April 2, 2021.

Ordinance was adopted on first reading with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes.

Council Member Maruca spoke regarding the following Resolution.

Council Member Turnbach spoke and support the following Resolution.

A motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes, to approve the following Resolution.

RESOLUTION OF THE TOWNSHIP COUNCIL, TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, STATE OF NEW JERSEY, URGING THE IMMEDIATE REPEAL OF SENATE BILL NO. 3454 (P.L. 2021 C. 25)

MARCH 23, 2021

WHEREAS, Public Question 1, the "Marijuana Legalization Amendment", appeared on the ballot in New Jersey as a legislatively-referred constitutional amendment on November 3, 2020; and

WHEREAS, the text of the ballot question provided as follows:

CONSTITUTIONAL AMENDMENT TO LEGALIZE MARIJUANA

Do you approve amending the Constitution to legalize a controlled form of marijuana called "cannabis"?

Only adults at least 21 years of age could use cannabis. The State commission created to oversee the State's medical cannabis program would also oversee the new, personal use cannabis market.

Cannabis products would be subject to the State sales tax. If authorized by the Legislature, a municipality may pass a local ordinance to charge a local tax on cannabis products.

WHEREAS, Public Question 1 was approved by a significant margin; and

WHEREAS, on February 22, 2021, Governor Phil Murphy signed into law legislation (A-1897) legalizing and regulating cannabis use and possession for adults 21 years and older; and

WHEREAS, the Governor also signed S-3454, addressing marijuana and cannabis use and possession penalties for individuals younger than 21 years old, and imposing criminal penalties on law enforcement officers; and

WHEREAS, although the majority of New Jersey residents last fall voted to legalize marijuana for use by adults at least 21 years of age, the residents were not aware at the time of their vote that this would eventually lead to legislation criminalizing law enforcement officers for notifying parents of children under the age of 18 caught with marijuana or alcohol, on the first offense; and

WHEREAS, Senate Bill No. 3454 was voted on, passed and signed into law with less than one hour left before the legislation of marijuana was scheduled to become law; and

WHEREAS, this law criminalizes law enforcement officers for notifying parents that an underage child is using or in possession of marijuana or alcohol on their first offense; and

WHEREAS, the legislation is treacherous to and undermines law enforcement officers by creating a penalty of 3rd Degree Deprivation of Civil Rights if an officer uses the odor or possession of marijuana or alcoholic beverages as a reason for initiating an investigatory stop of a person; and

WHEREAS, the new law prohibits law enforcement officers from using the odor of marijuana or alcohol as reasonable, articulable suspicion to initiate an investigatory stop; states that a minor cannot consent to be searched; and that a law enforcement officer no longer has probable cause to search a minor for illegally using marijuana or alcohol; and

WHEREAS, if an officer uses marijuana or alcohol as the basis for a search, then the officer will be charged with the crime of deprivation of civil rights; and

WHEREAS, Senate Bill No. 3454 establishes penalties of only warnings for illegal use by minors of marijuana or alcohol but it essentially prevents an officer from even approaching a person suspected of being a minor, and prevents the use of the odor of marijuana and its use in the presence of a law enforcement officer as grounds to search an individual; and

WHEREAS, Senate Bill No. 3454 is an assault on law enforcement's ability to enforce the law, an attack on law enforcement officers by making law enforcement officers the target of criminal punishment rather than the lawbreakers, and will have dangerous consequences for the public and law enforcement officers:

NOW, THEREFORE, BE IT RESOLVED, that the Township Council, Township of Toms River, Ocean County, New Jersey, finds as follows:

1. Senate Bill No. 3454 was passed with little to no discussion, no public transparency, and no public debate.

2. By passing Senate Bill No. 3454, the Legislature and Governor Phil Murphy ignored the judgment of parents over the lives of their children. The requirements of the new law will keep parents in the dark about what may be happening in their children's lives. It shows children that there are no major consequences if they are found using marijuana or alcohol for the first time. Parents should have the right to know if their children are using or

in possession of marijuana from the first encounter, and be given the chance to discuss its consequences before it potentially becomes a larger issue.

3. Senate Bill No. 3454 takes a huge step backward on the path of ensuring children are aware of both the short-term and long-term consequences of drug and alcohol use. Essentially, the Legislature is telling children they have one “free pass” to get caught with marijuana and alcohol before there are any real consequences.

4. Senate Bill No. 3454 unfairly and unreasonably imposes criminal penalties on law enforcement officers if they are found to have violated new rules dictating underage possession. The odor of cannabis or alcohol will no longer be enough to justify a search. The same holds true for “the unconcealed possession” of an alcoholic beverage, marijuana, hashish or cannabis item, according to the bill text.

5. Senate Bill No. 3454 turns law enforcement officers into criminals. It establishes a legal set of enforcement powers, but it criminalizes the actual enforcement of those powers.

6. Senate Bill No. 3454 contradicts a prior law that banned smoking tobacco products on beaches and boardwalks, but now that law may be essentially unenforceable when it comes to smoking marijuana on beaches and boardwalks. Underage users of marijuana will now be free to smoke it anywhere, including in places the law says is illegal, because merely stopping a person to enforce the law is now illegal for police. Drug dealers will quickly learn to hide their drugs, guns and evidence of crimes on anyone under 18 years of age, since merely lighting a joint as the officer approaches will put the officer in jeopardy of making an illegal search and being charged criminally.

7. Senate Bill No. 3454 goes well beyond the express terms of the ballot question and the intent of New Jersey’s voters when they approved the question.

8. Governor Phil Murphy and the State Legislature should take urgent steps to repeal Senate Bill No. 3454 to protect our children and law enforcement officers.

9. A certified copy of this resolution shall be forwarded to Governor Murphy, the State Legislature, Ocean County Board of Commissioners, New Jersey State League of Municipalities, New Jersey Municipal Management Association, and New Jersey State Policemen’s Benevolent Association.

10. A certified copy of this resolution shall also remain on file in the Office of the Township Clerk and be provided to the following parties:

- a) Mayor Maurice B. Hill, Jr.
- b) Township Council
- c) Township Attorney
- d) Police Department
- e) Office of the Governor
The State House
P.O. Box 001
Trenton, NJ 08625
Attn.: Governor Phil Murphy
- f) Office of Legislative Services
Office of Public Information
Room 50
State House Annex
P.O. Box 068
Trenton, NJ 08625
- g) Ocean County Board of Commissioners
P.O. Box 2191
Toms River, NJ 08754-2191
- h) NJ State League of Municipalities
222 W State Street
Trenton, NJ 08608

- i) NJ Municipal Management Association
Alan Zalkind, Executive Director
Rutgers Lifelong Learning Center
3 Rutgers Plaza, 3rd Floor
New Brunswick, NJ 08901
- j) NJ State PBA
158 Main Street
Woodbridge, NJ 07095

A motion was made by Council Member Maruca, seconded by Council Member Lotano, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes, to approve the following Resolution.

RESOLUTION OF THE TOWNSHIP COUNCIL, TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, URGING THE NEW JERSEY BOARD OF PUBLIC UTILITIES TO TAKE CORRECTIVE ACTION AND ORDER A REDUCTION IN SERVICE CHARGES AGAINST OPTIMUM/ALTICE, USA CABLE SERVICES DUE TO INADEQUATE AND SUBSTANDARD SERVICE

MARCH 23, 2021

WHEREAS, subject to a contract with the Township of Toms River, Optimum/Altice, USA Cable Services (“Altice”) provides cable and Internet services to residents of the Township’s barrier island locations; and

WHEREAS, both before, during, and after the COVID-19 pandemic, Altice users have repeatedly complained about deficient service, including, but not limited to, interrupted service, slow Internet speeds, and unprofessional and unhelpful customer service; and

WHEREAS, the COVID-19 pandemic forced many residents and students to work remotely, creating a critical need for adequate Internet and cable services; and

WHEREAS, despite this critical need, Altice did not improve its services, further increasing the number of complaints from Toms River residents; and

WHEREAS, at least 10 other municipalities serviced by Altice have experienced the same problems; and

WHEREAS, based on complaints from residents of these communities and their state and local elected representatives, the New Jersey Board of Public Utilities found sufficient cause to convene a hearing to consider the complaints of the affected municipalities and to determine whether corrective action is necessary; and

WHEREAS, BPU held the hearing on March 16, 2021; and

WHEREAS, the Mayor, Business Administrator, and Director of Law filed submissions, attended, and participated in the hearing, advocating strenuously for better service and reduced rates for Township residents; and

WHEREAS, the matter remains under consideration by BPU;

NOW, THEREFORE, BE IT RESOLVED by the Township Council, Township of Toms River, Ocean County, New Jersey, as follows:

1. On behalf of the Township’s barrier island residents who have struggled with and been negatively affected by the inadequate and substandard service provide by Altice, the Township Council strongly urges BPU to order a reduction in charges and impose corrective measures to improve Altice’s cable and Internet service.

2. A certified copy of this resolution shall remain on file in the Office of the Township Clerk and provided to the following parties:

- a. Mayor
- b. Business Administrator
- c. Director of Law
- d. Board of Public Utilities
44 South Clinton Ave., 9th Floor
PO Box 350
Trenton, New Jersey 08625-0350
- e. Sen. James Holzapfel
Assem. Gregory P. McGuckin
District 10 Legislative Office
852 Highway 70
Brick, NJ 08724

CONSENT AGENDA

Township Clerk Carlisle announced the consideration of the Consent Agenda and noted if anyone had a desire to discuss an individual item it would be removed from the Consent Agenda.

A motion was made by Council Member Maruca, seconded by Council Member Lotano, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and Council President Geoghegan voting yes,, to approve all the following items listed on the Consent Agenda except item **E, T, U, V and CC**, which were done separately.

RESOLUTION

MARCH 23, 2021

WHEREAS, AN OVERPAYMENT OF TAXES HAS APEARED ON THE FOLLOWING PROPERTY(IES) FOR THE YEAR (S) INDICATED, DUE TO HOME OWNER SOLD THE PROPERTY, AND HAD AN AUTOMATIC WITDRAWL, AND FAILED TO NOTIFY THE TAX COLLECTOR TO DISCONTINIUE THE DIRECT WITHDRAWL, NOW MONIES MUST BE REFUNDED TO THE PRIOR OWNER; AND;

WHEREAS, the party or parties have shown proof of payment and/or have executed an affidavit for same and;

WHEREAS, the party or parties have delivered to the municipality and executed voucher for same.,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

1. *A refund shall be processed to party or parties to wit as follows:*

<i>NAME</i>	<i>BLOCK</i>	<i>LOT</i>	<i>Qual,Year</i>	<i>Amount</i>
AZZOLINI, ARLENE C/O JENNIFER GOMSAK	192.35	360	2021/1	\$1,207.44
KEATING, KAREN	414	7	-C2027 2021/1	\$1,238.90

TOTALS:				\$2,446.34

2. Township Clerk shall send a copy of this resolution to Township Auditor, Township Chief Financial Officer and Tax Collector.

Approved as to content:

RESOLUTION

MARCH 23, 2021

WHEREAS, AN OVERPAYMENT OF TAXES HAS APEARED ON THE FOLLOWING PROPERTY(IES) FOR THE YEAR (S) INDICATED, DUE TO DUPLICATE TAX PAYMENTS,

WHEREAS, the party or parties have shown proof of payment and/or have executed an affidavit for same, and;

WHEREAS, the party or parties have delivered to the municipality and executed voucher for same.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

1. A refund shall be processed to party or parties to wit as follows:

<i>NAME</i>	<i>BLOCK</i>	<i>LOT</i>	<i>Qual, Year</i>	<i>Amount</i>
ATTARDO, CORY	172.04	30.05	2021/1	\$2,909.79

2. Township Clerk shall send a copy of this resolution to Township Auditor, Township Chief Financial Officer and Tax Collector.

Approved as to content:

RESOLUTION

MARCH 23, 2021

WHEREAS, AN OVERPAYMENT OF TAXES HAS APEARED ON THE FOLLOWING PROPERTY(IES) FOR THE YEAR (S) INDICATED, DUE PROPERTY(IES) HAVE A NEW JERSEY STATE TAX APPEAL,

WHEREAS, the party or parties have shown proof of payment and/or have executed an affidavit for same, and;

WHEREAS, the party or parties have delivered to the municipality and executed voucher for same.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

1. A refund shall be processed to party or parties to wit as follows:

NAME	BLOCK	LOT	Qual,Year	Amount
ARCHER PROPERTY LLC & GREINER AS TRUSTEE FOR BEY LEA	413	22	2020/4	\$54,714.00

2. Township Clerk shall send a copy of this resolution to Township Auditor, Township Chief Financial Officer and Tax Collector.

Approved as to content:

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, CERTIFYING ENTITLEMENT OF A 100% DISABLED VETERANS STATUS FOR THE OWNER OF BLOCK 443.44 LOT 12 EFFECTIVE JANUARY 1ST, 2021, AND PROVIDING THAT PROPERTY TAXES FOR 2021, AS OF THE EFFECTIVE DATE, BE CANCELLED AND/OR REFUNDED

MARCH 23, 2021

WHEREAS, the owner of real property in the Township of Toms River known as Block 443.44 Lot 12, located at 1029 Sheila Drive, has been certified by the Tax Assessor as a of a 100% Disabled Veteran, effective January 1st, 2021 and

WHEREAS, property taxes for 2021, as of the effective date of the certification of disability by the Tax Assessor, are to be cancelled; and

WHEREAS, any taxes paid after the date of this resolution by the property owner (or on his behalf), are to be cancelled and/or refunded from the date of this resolution;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows

:

1. All 2020 real property taxes for block 443.44 lot 12 due on or after January 1st, 2021, shall be cancelled.
2. All real property taxes from the date of this Resolution paid on Block 443.44 lot 12 if any, shall be refunded on a pro-rated basis from January 1st, 2021.
3. This exemption shall continue for future tax years provided that the owner of this real property continues to qualify for an exemption under N.J.S.A. 54:4-3.30A.
4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:
 - a) Mayor
 - b) Business Administrator
 - c) Township Attorney
 - d) Chief Financial Officer
 - e) Township Assessor

Folcher Associates Group 146 Blackwood Barnsboro Rd Sewell, NJ 08080	\$117,723.00	Caravella Demolition Inc. 40 Deforest Avenue East Hanover, NJ 07936	\$149,003.00
Greg Lertch Demolition Excavating LLC 1516 Adrienne Road Wall, NJ 07719	\$118,500.00	Super, LLC 203 Belmont Ave. Haledon, NJ 07508	\$157,500.00
Frank Lurch Demolition Co. LLC 515 Main Street Avon by the Sea, NJ 07717	\$119,000.00	Two Brothers Contracting, Inc. 11 Vreeland Ave. Totowa, NJ 07512	\$162,000.00
Brennan Bros. Contracting LLC 28 Maple Street Old Bridge, NJ 08857	\$129,850.00	Site Enterprises, Inc. 6861 Washington Ave. Egg Harbor Township, NJ 08234	\$295,000.00

WHEREAS, the bids have been reviewed by the Purchasing Division and Engineering Division, and recommendation has been made to award a contract to Folcher Associates Group, as the lowest bidder meeting all the bid specifications, for the demolition of various structures at Camp Albacondo, for a total contract price not to exceed \$117,723.00;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby awards a contract to Folcher Associates Group as the lowest bidder meeting all the bid specifications, for the demolition of various structures at Camp Albacondo, for a total contract price not to exceed \$117,723.00.

2. Funds in the amount not to exceed \$117,723.00 are available Account No. 1-24- -024-502.

3. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The award of this contract is subject to all terms and conditions of the bid specifications.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Engineering Division
- e) Folcher Associates Group
146 Blackwood Barnsboro Road
Sewell, NJ 08080

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract awarded to Folcher Associates Group for demolition of various structures as Camp Albacondo, in the total contract amount not to exceed \$117,723.00, are available in Account No. 1-24- -024-502.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected accounts at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE AWARD OF A CONTRACT FOR VARIOUS DRAINAGE IMPROVEMENTS AT ORTLEY AND NORTH BEACH, TO MESSERCOLA EXCAVATING CO., INC., AS THE LOWEST BIDDER, MEETING ALL OF THE BID SPECIFICATIONS, IN A TOTAL CONTRACT PRICE NOT TO EXCEED \$95,948.17

MARCH 23, 2021

WHEREAS, bids were invited for Various Drainage Improvements at Ortley and North Beach; and

WHEREAS, bids were received on March 11, 2021, as follows:

<u>Vendor</u>	<u>Total Bid</u>	<u>Vendor</u>	<u>Total Bid</u>
Messercola Excavating Co. Inc. 549 East 3 rd Street Plainfield, NJ 07060	\$ 95,948.17	A to Z Site Contractors 50 Houston Ave. #1 Jackson, NJ 08527	\$164,429.85
STC 23 Yellowbrook Road Freehold, NJ 07728	\$ 122,781.12	DSC Construction Co. 308 Lexington Ave. Bayville, NJ 08721	\$ 197,830.00
MNC Concrete LLC 2 Beach Haven Way Waretown, NJ 08758	\$ 125,485.78	Seacoast Construction, Inc. 15 Addington Court East Brunswick, NJ 08816	\$ 238,923.78
Earle Asphalt Co. PO Drawer 556 Farmingdale, NJ 07727	\$ 134,913.13	Crest Construction Group LLC 880 Route 9 Little Egg Harbor, NJ 08087	\$ 285,497.80
Shore Construction Inc. 304 Forge Road, Unit 10 West Creek, NJ 08092	\$ 157,727.53		

WHEREAS, the bids have been reviewed by the Division of Purchasing and the Division of Engineering, and they have recommended that a contract be awarded to Messercola Excavating Co., Inc., as the lowest bidder, meeting all of the bid specifications, for various drainage improvements at Ortley and North Beach, in a total contract price not to exceed \$95,948.17;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby awards a contract to Messercola Excavating Co., Inc. as the lowest bidder, meeting all of the bid specifications, for various drainage improvements at Ortley and North Beach, in a total contract price not to exceed \$95,948.17.

2. Funds in the amount of \$95,948.17 are available in the following accounts:

Account No. X-04- -240-002	\$ 71,255.99
Account No. X-04- -247-002	<u>\$ 24,692.18</u>
Total:	\$ 95,948.17

3. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The award of this contract is subject to all the terms and conditions of the bid specifications.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Engineering Division
- e) Messercola Excavating Co. Inc.
549 East 3rd Street
Plainfield, NJ 07060

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract awarded to Messercola Excavating Co., Inc. for various drainage improvements at Ortlely and North Beach, in a total contract amount not to exceed \$95,948.17, are available in the following accounts:

Account No. X-04- -240-001	\$ 71,255.99
Account No. X-04- -247-002	<u>\$ 24,692.18</u>
Total:	\$ 95,948.17

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected accounts at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

RESOLUTION OF THE TOWNSHIP COUNCIL, TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING AWARD OF AN OPEN-ENDED CONTRACT FOR THE SUPPLY OF WORK SHOES AND WORK BOOTS FOR VARIOUS DEPARTMENTS, TO SAF-GARD SAFETY SHOE CO., AS THE SOLE BIDDER, MEETING ALL OF THE BID SPECIFICATIONS

MARCH 23, 2021

WHEREAS, bids were first invited on February 3, 2021, for the Supply of Work Shoes and Work Boots for the Department of Public Works, Division of Parks, Buildings and Grounds, Bey Lea and Winding River, and rejected at the February 23, 2021 Council meeting, for not meeting the bid specifications; and

WHEREAS, bids were invited again on March 11, 2021, as follows:

Saf-Gard Safety Shoe Co
2701 Patterson St
Greensboro, NC 27407

Discount Off Current Price List: Average discount of 5% to 25% off retail (price list on file)

Percentage discount for payment within 30 days: 0%

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby awards a contract for the Supply of Work Shoes and Work Boots to SAF-Gard Safety Shoe Co. who, as the sole bidder, meeting all of the bid specifications, as follows:

Discount Off Current Price List: Average discount of 5% to 25% off retail (price list on file)

Percentage discount for payment within 30 days: 0%

2. The terms of this contract shall be effective retroactive from March 10, 2021 through March 9, 2022.

3. Pursuant to N.J.S.A. 40A:11-15, this contract may be extended for up to two (2) additional one-year terms or one (1) additional two-year term after the expiration of the original contract period. Contract extensions shall be subject to the availability and appropriation of funds for each year the contract is to be extended. All terms and conditions of the contract shall remain the same. Any price changes authorized on contract extensions shall be pursuant to N.J.S.A. 40A:11-15.

4. This will be an open-ended contract with funds being encumbered each time an order is placed, contingent upon the availability of funds in the appropriate municipal budget year.

5. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. This contract is subject to all terms and conditions of the bid specifications.

6. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Department of Public Works
- e) Division of Parks, Buildings & Grounds
- f) Winding River
- g) Bey Lea Golf Course
- h) Saf-Gard Safety Shoe Co.
2701 Patterson St
Greensboro, NC 27407

CERTIFICATION

THIS IS TO CERTIFY that the funds for the open-ended contract awarded to Saf-Gard Safety Shoe Co., are contingent upon the availability of funds in the appropriate municipal budget.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected accounts at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE FIRST ONE (1) YEAR
EXTENSION OF THE CONTRACT WITH MUSCLE PIZZA, LLC, FOR MOBILE VENDING
CONCESSION FOR CASTLE PARK I, II AND III, EFFECTIVE APRIL 1, 2021 THROUGH
MARCH 31, 2022**

MARCH 23, 2021

WHEREAS, resolution of the Township Council dated April 10, 2018, authorized the award of a contract for Mobile Vending Concession for Castle Park I, II and III, to Muscle Pizza, LLC, for a total of \$6,008.00 per year, or \$18,024.00 payable to the Township of Toms River, for the three (3) year contract, with a contract term of April 1, 2018 through March 31, 2021; and

WHEREAS, the terms of said contract included the provision authorized pursuant to N.J.S.A. 40A:11-15 which allows for this contract to be extended for no more than one (1) two-year, or two (2) one-year extensions upon expiration of the original contract term; and

WHEREAS, the Purchasing Division has determined that it is in the best interest of the Township to extend this contract for the first one (1) year extension term, commencing April 1, 2021 through March 31, 2022;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes the first one (1) year extension of the contract with Muscle Pizza, LLC, for Mobile Vending Concession for Castle Park I, II and III, in the total amount of \$6,008.00 payable to the Township of Toms River, commencing April 1, 2021 through March 31, 2022.

2. The extension of this contract is subject to all the terms and conditions of the original contract award.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Recreation Department
- e) Muscle Pizza, LLC
1309 First Avenue
Toms River, NJ 08757

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN
COUNTY, NEW JERSEY, AUTHORIZING THE FIRST EXTENSION OF A CONTRACT WITH
TOMS RIVER SECURITY SYSTEMS, INC., FOR THE INSPECTION, TESTING, MONITORING,
MAINTENANCE AND REPAIR SERVICES OF VARIOUS FIRE SYSTEMS INCLUDING
PORTABLE FIRE EXTINGUISHERS, FIRE SUPPRESSION SYSTEMS, WATER BASED FIRE
PROTECTION SYSTEMS AND FIRE & BURGLAR ALARMS FOR A ONE (1) YEAR TERM,
COMMENCING APRIL 9, 2021 THROUGH APRIL 9, 2022**

MARCH 23, 2021

WHEREAS, resolution of the Township Council dated April 10, 2018 authorized the award of a contract to Toms River Security Systems for Inspection, Testing, Monitoring, Maintenance and Repair Services of Various Fire Systems including Portable Fire Extinguishers, Fire Suppression Systems, Water-Based Fire Protection Systems and Fire & Burglar Alarms, commencing April 10, 2018 through April 9, 2021; and

WHEREAS, the terms of the original contract award included the provision authorized pursuant to N.J.S.A. 40A:11-15, which allows for the contract to be extended for no more than one (1) two-year, or two (2) one-year, extensions upon expiration of the original contract term; and

WHEREAS, resolution of the Township Council dated October 23, 2018 authorized an amendment to the resolution dated April 10, 2018, awarding a contract to Toms River Security Systems, Inc., to add the new Bey Lea Equipment Storage Building Truck Wash and Fueling Station location to Section 4 – Alarm Monitoring and Testing, at a monthly monitoring fee of \$30.00 per month in accordance with other monthly charges on the existing contract for the Inspection, Testing, Monitoring, Maintenance and Repair Services of Various Fire Systems Including Portable Fire Extinguishers, Fire Suppression Systems, Water Based Fire Protection Systems and Fire & Burglar Alarms through April 9, 2021; and

WHEREAS, resolution of the Township Council dated December 11, 2018 authorized Amendment II to the resolution dated April 10, 2018, awarding a contract to Toms River Security Systems, Inc., to add the Bey Lea Golf Course Clubhouse Burglar Alarm Monitoring to Section 3 of said contract, at a monthly monitoring fee of \$30.00 per month in accordance with other monthly charges on the existing contract for the Inspection, Testing, Monitoring, Maintenance and Repair Services of Various Fire Systems Including Portable Fire Extinguishers, Fire Suppression Systems, Water Based Fire Protection Systems and Fire & Burglar Alarms through April 9, 2021; and

WHEREAS, the Department of Purchasing has determined that it is in the best interest of the Township to extend this contract for the first additional one (1) year term, commencing April 9, 2021 through April 9, 2022, under the same terms and conditions as the original contract;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes the first one (1) year extension of the contract with Toms River Security Systems for Inspection, Testing, Monitoring, Maintenance and Repair Services of Various Fire Systems including Portable Fire Extinguishers, Fire Suppression Systems, Water-Based Fire Protection Systems and Fire & Burglar Alarms, commencing April 9, 2021 through April 9, 2022, under the same terms and conditions as the original contract.

2. The extension of this contract shall be subject to all the terms and conditions of the original contract award.

3. This will be an open-ended contract extension with funds being encumbered each time an order is placed, contingent upon the availability of funds in the appropriate municipal budget. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The extension of this contract is subject to all the terms and conditions of the original contract.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Division of Parks, Building and Grounds
- e) Bey Lea Golf Course
- f) Recreation Department
- g) Toms River Security Systems, Inc.
1943 Ship Court
Toms River, NJ 08753

CERTIFICATION

THIS IS TO CERTIFY that the funds for the first extension of the open-ended contract with Toms River Security Systems are contingent upon the availability of funds in the appropriate municipal budget.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected accounts at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY AUTHORIZING THE SECOND AND FINAL EXTENSION OF THE CONTRACT WITH GRASS ROOTS TURF PRODUCTS, INC., FOR GOLF SUPPLIES – PAR AIDE, STANDARD GOLF, AND MILTONA CATALOGS, FOR THE FINAL ONE (1) YEAR TERM, COMMENCING MARCH 25, 2021 THROUGH MARCH 24, 2022

MARCH 23, 2021

WHEREAS, resolution of the Township Council dated March 27, 2018, authorized award of a contract for Golf Supplies – Par Aide, Standard Golf and Miltona Catalogs to Grass Roots Turf Products, Inc., for a two (2) year term, effective March 25, 2018 through March 24, 2020; and

WHEREAS, the terms of the original contract award included the provision authorized pursuant to N.J.S.A. 40A:11-15, which allows for the contract to be extended for up to two (2) additional one (1) year terms, or one (1) additional two-year term upon expiration of the original contract; and

WHEREAS, resolution of the Township Council dated January 28, 2020, authorized the first extension of the contract for Golf Supplies – Par Aide, Standard Golf and Miltona Catalogs to Grass Roots Turf Products, Inc., where the first extended term was March 25, 2020 through March 24, 2021; and

WHEREAS, the Purchasing Division and Bey Lea Golf Course has determined that it is in the best interest of the Township to extend this contract for the second and final term;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. Pursuant to N.J.S.A. 40A:11-15, and the specifications for the bid awarded on March 27, 2018, the Township authorizes the second and final extension of the existing contract with Grass Roots Turf Products, Inc., for Golf Supplies – Par Aide, Standard Golf and Miltona Catalogs, for the final one (1) year term, effective March 25, 2021 through March 24, 2022.

2. The second and final extension of the contract will be an open-ended with funds being encumbered each time a request for service is placed, contingent upon the availability of funds in the appropriate municipal budget year. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The award of this contract final extension is subject to all the terms and conditions of the original contract award.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division

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- b) Chief Financial Officer
- c) Township Attorney
- d) Recreation Department
- e) Bey Lea Golf Course
- f) Grass Roots Turf Products, Inc.
PO Box 336
Mt. Freedom, NJ 07970

CERTIFICATION

THIS IS TO CERTIFY that the funds for the second and final extension of the open-ended contract awarded to Grass Roots Turf Products, Inc., are contingent upon the availability of funds at time of purchase.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, AUTHORIZING AN AMENDMENT TO THE
CONTRACT FOR THE PURCHASE OF SERVER AND STORAGE REFRESH FOR THE
INFORMATION TECHNOLOGY DIVISION, FROM CDW-G INC., UTILIZING ESCNJ
COOPERATIVE CONTRACT #18/19-03 AND STATE CONTRACTS #40116 AND #89849,
IN THE TOTAL CONTRACT AMOUNT NOT TO EXCEED \$597,428.42, AS ADDITIONAL
CONFIGURATION IS REQUIRED TO COMPLETE THE PROJECT IN THE TOTAL
AMOUNT NOT TO EXCEED \$8,000.00**

MARCH 23, 2021

WHEREAS, resolution of the Township Council dated November 10, 2020, authorized a contract for the purchase of Server and Storage Refresh for the information Technology Division from CDW-G Inc., utilizing ESCNJ Cooperative Contract #18/19-03 and State Contracts #40116 and #89849, in the total contract amount not to exceed \$597,428.42; and

WHEREAS, it has been determined that additional configuration is required to complete this project in the total amount not to exceed \$8,000.00; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes an amendment to the contract approved by resolution dated November 10, 2020, for the purchase of Server and Storage Refresh for the Information Technology Division from CDW-G Inc., utilizing ESCNJ Cooperative Contract #18/19-03 and State Contracts #40116 and #89849, in the total contract amount not to exceed \$597,428.42, as additional configuration is required to complete the project, in the total amount not to exceed \$8,000.00.

2. Funds in the additional amount of \$8,000.00 are available in Account No. X-04-238-009. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) IT Department

AMENDED CERTIFICATION

THIS IS TO CERTIFY that the funds for the increase in the contract with CDW-G Inc., in the additional amount of \$8,000.00, for a total project cost of \$605,428.42, are available in Account No. X-04- -238-009.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE PURCHASE OF ESU EQUIPMENT FOR THE POLICE DEPARTMENT, FROM ATLANTIC TACTICAL, INC., UTILIZING STATE CONTRACTS #17-FLEET-00787 AND BERGEN COUNTY BID 18-69, USING FEDERAL ASSET FORFEITURE FUNDS, IN THE TOTAL AMOUNT NOT TO EXCEED \$85,882.40

MARCH 23, 2021

BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. In accordance with the requirements of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the regulations promulgated thereunder, the following purchases without competitive bids from a vendor with a State contract are hereby approved.

2. It hereby authorizes purchases from State Contract No. 17-FLEET-00787 and Bergen County Bid 18-69 using Federal Funds, for ESU Equipment for the Police Department from Atlantic Tactical, Inc., in a total contract amount not to exceed \$85,882.40, as follows:

**Atlantic Tactical, Inc.
763 Corporate Circle
New Cumberland, PA 17070**

Contract 17-FLEET-00787

<u>Item</u>	<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Price</u>	<u>Total</u>
<i>Helmet</i>	PAP1345392HC	PROTECH DELTA 5 4-BOLT HIGH-CUT COLOR: BLACK SIZE: LARGE	27	924.00	\$24,948.00
	PAP1345392HC	PROTECH DELTA 5 4-BOLT HIGH-CUT COLOR: BLACK SIZE: JUMBO	4	924.00	\$3,696.00
	PAPPATAHSTWCF	TEAM WENDY CAM FIT SUSPENSION SYSTEM WIT	31	294.00	\$9,114.00
	PAP1177282	OPS-CORE ARC RAIL SET BLACK	31	126.00	\$3,906.00
<i>Shield</i>	PAP1345283	PROTECH 702MT BALLISTIC FACE SHIELD MULTI-HIT 9MM, .44 MAG, & TOKAREV, RAIL MOUNT, FC, MC & HC HELMET.	31	386.40	\$11,978.40

Subtotal: \$53,642.40

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Contract Bergen County # BC-Bid 18-69

<u>Item</u>	<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Price</u>	<u>Total</u>
		TCI LIBERATOR IV ADVANCED SINGLE COMMUNICATIONS HEADSET, BLACK, MOTOROLA APX 6000, LEFT BOOM. STANDARD, PTT, MODULAR HEADSET			
Comms	TCILIB4DAPXLBKU	SUSPENSION WITH RAIL MOUNTS	31	1040.00	\$32,240.00
Grand Total:					\$85,882.40

3. Funds in the amount of \$85,882.40 are available in the following account:
Account No. X-19- -600-052 \$ 85,882.40

FEDERAL ASSET FORFEITURE FUNDS

4. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

5. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Police Department
- e) Atlantic Tactical, Inc.
763 Corporate Circle
New Cumberland, PA 17070

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract with Atlantic Tactical, Inc. utilizing State Contract #17-FLEET-00787, and Bergen County Bid 18-69, in the total contract amount not to exceed \$85,882.40, are available in the following account:

Account No. X-19- -600-052 \$85,882.40

FEDERAL ASSET FORFEITURE FUNDS

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE SOLICITATION OF BIDS BY RFP OR COMPETITIVE CONTRACTING PROCESS FOR ENGINEERING AND DESIGN SERVICES FOR THE PRELIMINARY ENGINEERING/NEPA, FINAL DESIGN, PLANS, SPECIFICATIONS AND ESTIMATES AND CONSTRUCTION ENGINEERING REQUIRED UNDER THE BUILD-18 GRANT AGREEMENT WITH THE FEDERAL HIGHWAY

ADMINISTRATION FOR ROAD INTERSECTION IMPROVEMENTS IN THE DOWNTOWN WATERFRONT REDEVELOPMENT AREA

(COST OF \$590,000.00 REPRESENTS TOTAL AMOUNT – GRANT FUNDING WILL REDUCE THIS COST)

MARCH 23, 2021

WHEREAS, the Township of Toms River requires the receipt of sealed bid(s) for the following items/project:

THE SOLICITATION OF BIDS BY RFP OR COMPETITIVE CONTRACTING PROCESS FOR ENGINEERING AND DESIGN SERVICES FOR THE PRELIMINARY ENGINEERING/NEPA, FINAL DESIGN, PLANS, SPECIFICATIONS AND ESTIMATES AND CONSTRUCTION ENGINEERING REQUIRED UNDER THE BUILD-18 GRANT AGREEMENT WITH THE FEDERAL HIGHWAY ADMINISTRATION FOR ROAD INTERSECTION IMPROVEMENTS IN THE DOWNTOWN WATERFRONT REDEVELOPMENT AREA

(COST OF \$590,000.00 REPRESENTS TOTAL AMOUNT – GRANT FUNDING WILL REDUCE THIS COST)

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. The Purchasing Division is hereby authorized to prepare bid specifications for the above-mentioned items/project.

2. The Purchasing Division is hereby authorized to advertise for the receipt of bids for the above-mentioned items/project.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- d) Township Attorney
- e) Engineering Department

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, PERMITTING THE SUSTAINABILITY TEAM ADVISORY COMMITTEE TO SUBMIT APPLICATIONS FOR FUNDING TO THE SUSTAINABLE JERSEY PROGRAM

MARCH 23, 2021

WHEREAS, the Township Council of the Township of Toms River created the Toms River United Sustainability Team through Resolution adoption on June 26, 2012; and

WHEREAS, the Sustainability Team received Bronze level certification in 2016 from Sustainable Jersey and has remained continuously Bronze certified; and

WHEREAS, the Sustainability Team is eligible to apply for 2021 Sustainable Jersey Small Grant funding for the implementation of sustainability actions as a Sustainable Jersey certified community; and

WHEREAS, matching funds are not required from the Township of Toms River; and

WHEREAS, the 2021 Sustainable Jersey Small Grants Program permits the Sustainability Team to apply for a \$20,000 grant for implementation of the Toms River Film Festival; and

WHEREAS, the Sustainability Team will seek to apply for the \$20,000 grant for operating costs to implement creative, diversity, and practical education programs throughout the festival; and

WHEREAS, the Sustainability Team will also use the grant for general operating costs of the festival; and

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and the State of New Jersey, as follows:

1. It hereby grants the Sustainability Team Advisory Committee permission to submit an application for grant funding for the 2021 Sustainable Jersey Small Grants program.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- A. Mayor Maurice B. Hill, Jr.
- B. Township Council
- C. Business Administrator
- D. Township Attorney
- E. Chief Financial Officer
- F. Township Planner
- G. Assistant Township Planner
- H. Sustainability Team Advisory Committee

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO A SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF TOMS RIVER AND THE COUNTY OF OCEAN, FOR CLEAN COMMUNITIES EDUCATIONAL SERVICES

MARCH 23, 2021

BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. The Mayor is hereby authorized to execute and the Township Clerk to attest to a Shared Services Agreement between the Township of Toms River and the County of Ocean under the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 to 35, for Clean Communities Educational Services, attached hereto as Schedule "A".

2. A certified copy of this Resolution shall remain on file in the Office of the Township Clerk and be provided to each of the following parties:

- a) Mayor Maurice B. Hill, Jr.
- b) Members of the Township Council
- c) Louis Amoruso, Business Administrator
- d) Anthony Merlino, Assistant Township Attorney
- e) Alexander Davidson, Chief Financial Officer
- f) Purchasing Division
- g) County of Ocean
Mary Ann Cilento, Clerk of the Board
101 Hooper Avenue
Toms River, NJ 08753
- h) Keven McLafferty
Ocean County Department of Corrections
114 Hooper Avenue
Toms River, NJ 08753

SCHEDULE "A" - "SEE ATTACHMENTS"

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, ACCEPTING \$323,600.00 IN GRANT FUNDS FROM
THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE ELEVATION OF
BROAD AVENUE AND FIFTH AVENUE, TOMS RIVER TOWNSHIP**

MARCH 23, 2021

WHEREAS, the Township Council passed a resolution on June 9, 2020, authorizing the Mayor and Township Clerk to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Roadway Elevation of Broad Avenue and Fifth Avenue Project; and

WHEREAS, the New Jersey Department of Transportation (NJDOT) awarded Toms River Township grant funds in the amount of \$323,600.00 for the Roadway Elevation of Broad Avenue and Fifth Avenue project; and

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Toms River, County of Ocean, and State of New Jersey, as follows

1. The Township hereby accepts grant funds for the NJ Department of Transportation in the amount of \$323,600.00 for the Broad Avenue and Fifth Avenue Roadway Elevation Project.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Maurice B. Hill, Jr.
- b) Business Administrator
- c) Purchasing Division
- d) Chief Financial Officer
- e) Township Attorney
- f) Township Engineer
- g) David Roberts, Township Planner
- h) State of New Jersey
Department of Transportation
P.O. Box 600
Trenton, NJ 08625-0600

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, AUTHORIZING AND ACCEPTING THE NAME
CHANGE OF VENDOR FROM MASER CONSULTING, PA TO COLLIERS
ENGINEERING & DESIGN, INC., EFFECTIVE IMMEDIATELY**

MARCH 23, 2021

WHEREAS, by resolution dated February 23, 2021, the Township Council authorized a professional service contract with Maser Consulting, PA for environmental consultant expert on CIBA/BASF tax appeals in a total maximum amount of \$150,000.00 for CY21, and for inspection and general engineering services at specified rates contingent upon the execution of a contract, the availability of funds, and the adoption of the CY21 budget; and

WHEREAS, Maser Consulting, PA has advised the Township that the vendor name has changed to Colliers Engineering & Design, Inc., 331 Newman Springs Road, Suite 203, Red Bank, NJ, 07701-5691; and

WHEREAS, the Township Council authorizes acceptance of the vendor name change from Maser Consulting, PA to Colliers Engineering & Design, Inc., under the same contractual terms and conditions as originally awarded to Maser Consulting, PA by resolution dated February 23, 2021, continuing through the balance of the contract term with the Township of Toms River;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes acceptance of the vendor name change from Maser Consulting, PA to Colliers Engineering & Design, Inc., effective immediately, for the balance of the contractual term.

2. All other terms and conditions of the existing contracts remain unchanged and in full force and effect through the remainder of the stated contractual term.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Business Administrator
- b) Township Attorney
- c) Chief Financial Officer
- d) Purchasing Division
- e) Engineering Department
- f) Colliers Engineering & Design, Inc.
331 Newman Springs Road, Suite 203
Red Bank, NJ 07701-5691

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, RELEASING MAINTENANCE GUARANTEES FOR A MAJOR SITE PLAN KNOWN AS ST. ELISABETH'S CHAPEL BY THE SEA, BLOCK 1011, LOTS 150, 151, AND 152 (Third Avenue)

March 23, 2021

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan known as St. Elisabeth's Chapel by the Sea, Block 1011, Lots 150, 151 and 152 (Third Avenue), that all improvements presently under a maintenance bond have been maintained in accordance with Township standards.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN COUNTY AND STATE OF NEW JERSEY, as follows:

1) Maintenance Cash Bond in the amount of \$440.00, currently on deposit in account #X-19-601-792, is hereby released. Cash Bond was originally accepted by Resolution 'CC' on February 26, 2019.

Township Clerk shall send a certified copy hereof the each of the following:

- a. Township Engineer
- b. Chief Financial Officer
- c. Township Attorney
- d. St. Elisabeth's Chapel by the Sea
5 Third Avenue
Ortley Beach, NJ 08751

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, ACCEPTING PERFORMANCE GUARANTEES FOR A MAJOR SITE PLAN KNOWN AS, AUTOZONE BLOCK 507.02, LOT 32.01 (797 Route 37 West)

March 23, 2021

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan known as AutoZone Block 507.02, Lot 32.01

WHEREAS, Performance Bonds have been posted as follows:

- 1) Surety Bond #107380335 in the amount of \$71,010.00 which represents the ninety percent portion of the performance guarantee amount.
- 2) Check in the amount of \$7,890.00 which represents the ten percent portion of the performance guarantee amount.
- 3) Check in the amount of \$7,299.73 which represents the escrow amount for inspection fees.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1) The bonds set forth in the preamble hereto are hereby approved.
- 2) Said bond approval is conditioned upon compliance by AutoZone Investment Corporation, its successors and assignees, with all terms set forth in the preamble hereof and all requirements of the Land Use Ordinance of the Township of Toms River.

Township Clerk shall send a certified copy hereof to each of the following:

- a. Township Engineer
- b. Chief Financial Officer
- c. Township Attorney
- d. AutoZone Investment Corporation
PO Box 2198
Memphis, TN 38101

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, ACCEPTING PERFORMANCE GUARANTEES FOR A
MAJOR SITE PLAN KNOWN AS, AUTOZONE BLOCK 444.07, LOT 18.03
(889 Fischer Blvd)**

March 23, 2021

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan known as AutoZone Block 444.07, Lot 18.03.

WHEREAS, Performance Bonds have been posted as follows:

- 1) Surety Bond #107380341 in the amount of \$41,220.00 which represents the ninety percent portion of the performance guarantee amount.
- 2) Check in the amount of \$4,580.00 which represents the ten percent portion of the performance guarantee amount.
- 3) Check in the amount of \$10,411.87 which represents the escrow amount for inspection fees.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1) The bonds set forth in the preamble hereto are hereby approved.
- 2) Said bond approval is conditioned upon compliance by AutoZone Investment Corporation, its successors and assignees, with all terms set forth in the preamble hereof and all requirements of the Land Use Ordinance of the Township of Toms River.

Township Clerk shall send a certified copy hereof to each of the following:

- a. Township Engineer
- b. Chief Financial Officer
- c. Township Attorney
- d. AutoZone Investment Corporation
PO Box 2198
Memphis, TN 38101

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO A COLLECTIVE NEGOTIATIONS AGREEMENT BETWEEN THE TOWNSHIP OF TOMS RIVER AND THE TOMS RIVER TOWNSHIP BOARD OF FIRE COMMISSIONERS, DISTRICT NO. 1 AND DISTRICT NO. 2, AND THE FIREMAN'S MUTUAL BENEVOLENT ASSOCIATION (FMBA) LOCAL #483 (DISPATCHERS), ESTABLISHING THE TERMS OF A NEW FOUR-YEAR CONTRACT EFFECTIVE RETROACTIVE TO JANUARY 1, 2021 THROUGH DECEMBER 31, 2024

MARCH 23, 2021

BE IT RESOLVED by the Township Council of the Township of Toms River, Ocean County, New Jersey, as follows:

1. It hereby authorizes the Mayor to execute and the Township Clerk to attest to a new Collective Negotiations Agreement between the Township of Toms River and the Toms River Township Board of Fire Commissioners, District No. 1 and District No. 2, and the Fireman's Mutual Benevolent Association (FMBA) Local #483 (Dispatchers), effective retroactive to January 1, 2021 through December 31, 2024. A copy of the Collective Negotiations Agreement is attached to this resolution as Schedule "A" and made a part hereof.

2. A certified copy of this resolution and the attached Collective Negotiations Agreement shall be provided by the Office of the Township Clerk to each of the following:

- a) Business Administrator
- b) Director of Human Resources
- c) Personnel
- d) Township Attorney
- e) Chief Financial Officer
- f) Police Department
- g) FMBA Local #483
- h) Toms River Township Board of Fire Commissioners,
District No. 1 and District No. 2

SCHEDULE "A" - SEE ATTACHMENTS

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO A COLLECTIVE NEGOTIATIONS AGREEMENT BETWEEN THE TOWNSHIP OF TOMS RIVER AND THE TOMS RIVER PROFESSIONALS ASSOCIATION, ESTABLISHING THE TERMS OF A NEW FOUR-YEAR COLLECTIVE NEGOTIATIONS AGREEMENT, EFFECTIVE RETROACTIVE TO JANUARY 1, 2021 THROUGH DECEMBER 31, 2024

MARCH 23, 2021

WHEREAS, the current collective negotiations agreement between the Township and the Toms River Professionals Association ("TRPA"), expired on December 31, 2020; and

WHEREAS, the parties have negotiated a successor collective negotiations agreement, the terms of which are set forth in the Agreement attached as Schedule "A" to this resolution; and

WHEREAS, these agreed-upon terms are memorialized in a new four-year collective negotiations agreement effective retroactive to January 1, 2021, through December 31, 2024; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, Ocean County, New Jersey, as follows:

1. The Agreement between the Township of Toms River and TRPA, attached as Schedule "A" to this resolution, is hereby approved.
2. The Mayor is hereby authorized to execute and the Township Clerk to attest to the attached Agreement.
3. A certified copy of this resolution and new collective negotiations agreement shall remain on file in the Office of Township Clerk.
4. The Township Clerk shall provide a certified copy of this resolution and the attached Agreement to the following parties:
 - a) Mayor Maurice B. Hill, Jr.
 - b) Business Administrator
 - c) Director of Human Resources
 - d) Township Attorney
 - e) Chief Financial Officer
 - f) Emergency Management Coordinator
 - g) President, TRPA

SCHEDULE "A" - SEE ATTACHMENTS

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO A COLLECTIVE NEGOTIATIONS AGREEMENT BETWEEN THE TOWNSHIP OF TOMS RIVER AND THE TOMS RIVER TOWNSHIP MUNICIPAL SUPERVISORS ASSOCIATION ESTABLISHING THE TERMS OF A NEW FOUR-YEAR COLLECTIVE NEGOTIATIONS AGREEMENT, EFFECTIVE RETROACTIVE TO JANUARY 1, 2021 THROUGH DECEMBER 31, 2024

MARCH 23, 2021

WHEREAS, the current collective negotiations agreement between the Township and the Toms River Municipal Supervisors Association ("TRMSA"), expired on December 31, 2020; and

WHEREAS, the parties have negotiated a successor collective negotiations agreement, the terms of which are set forth in Agreement attached as Schedule "A" to this resolution; and

WHEREAS, these agreed-upon terms shall be memorialized in a new four-year collective negotiations agreement effective retroactive to January 1, 2021, through December 31, 2024; and

WHEREAS, the terms of this new agreement are mutually beneficial to both parties:

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, Ocean County, New Jersey, as follows:

1. The Agreement between the Township of Toms River and the Toms River Township Municipal Supervisors Association, attached as Schedule "A" to this resolution, is hereby approved.
2. The Mayor is hereby authorized to execute and the Township Clerk to attest to the attached Agreement.
3. This Agreement shall be memorialized in a new four-year collective negotiations agreement effective retroactive to January 1, 2021 through December 31, 2024. The Mayor is hereby authorized to execute and the Township Clerk to attest to that agreement.
4. A certified copy of this resolution and new collective negotiations agreement shall remain on file in the Office of Township Clerk.
5. The Township Clerk shall provide a certified copy of this resolution and the attached Agreement to the following parties:
 - a) Business Administrator
 - b) Director of Human Resources
 - c) Township Attorney
 - d) Chief Financial Officer
 - e) Emergency Management Coordinator
 - f) President, TRMSA

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO AN AMENDED SUBRECIPIENT AGREEMENT BETWEEN THE TOWNSHIP OF TOMS RIVER AND TOMS RIVER FIELD OF DREAMS, INC.

MARCH 23, 2021

BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. The Mayor is hereby authorized to execute and the Township Clerk to attest to an Amended Subrecipient Agreement, attached hereto as Schedule "A", between the Township of Toms River and the Toms River Field of Dreams, Inc., governing the parties' application for and distribution of grant funds obtained from the New Jersey Department of Environmental Protection ("DEP") Green Acres Program ("Green Acres"), for the development of a recreational facility for special needs and disabled children and adults.

2. A certified copy of this Resolution shall remain on file in the Office of the township Clerk and be provided to each of the following parties:

- a) Mayor Maurice B. Hill, Jr.
- b) Township Council
- c) Business Administrator
- d) Chief Financial Officer
- e) Township Attorney
- f) Recreation Department
- g) Division of Parks, Buildings and Grounds
- h) Toms River Field of Dreams, Inc.
37 Harpers Ferry Road
Toms River, NJ 08753

SCHEDULE "A" - SEE ATTACHMENTS

RESOLUTION

March 23, 2021

WHEREAS, the following application has been filed for **TAXI DRIVER / TAXI CAB / TAXI CAB COMPANY** in accordance with Chapter 457.

<u>Name</u>	<u>Type of License</u>	<u>Taxi Company</u>
07-21 Charles Anderson	Taxi Driver	AA Always Available
09-21 Balkar S. Mola	Taxi Driver	EZ Taxi
14-21 Martin Wink	Taxi Driver	A Outstanding Taxi
15-21 Carol Smith	Taxi Driver	A Absolutely the Best
16-21 Charles Raab	Taxi Driver	A Outstanding Taxi

WHEREAS, the Township Clerk has reported to this Council that said applications and requirements are in order;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the Clerk of this Township is hereby authorized and directed to issue the TAXI LICENSE to the applicants listed above, in accordance with Chapter 457 (Taxicab and Taxicab Drivers) the "Code of the Township of Toms River".
2. The applicant is required to conform to all provisions of Chapter 457 (Taxi cabs and Taxi Drivers)
3. The Township Clerk shall send a certified copy of Resolution to the:

- a. Police Department
- b. Licensee (s)
- c. Clerk's File
- d. Law Dept.

RESOLUTION

March 23, 2021

WHEREAS, the following application for masseuse and massage business licenses have been made under the Provisions of Ordinance numbers 1606 and 1682:

MASSAGE BUSINESS

- | | |
|--------------|--|
| 09-21 | King Acupressure
970 Lakewood Rd
Toms River, NJ |
| 10-21 | Orient Spa
1740 Lakewood Rd
Toms River, NJ |
| 11-21 | Massage Haven
917 Route 166
Toms River, NJ |

WHEAREAS, said applicants have complied with all the requirements of Ordinance numbers 1606 and 1682, Chapter 357, of the “Code of the Township of Toms River, New Jersey,” with respect to licensing; and

WHEREAS, the appropriate licensing fee has been paid to the Township of Toms River;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1. The Township Clerk is hereby authorized to issue the licenses Listed in the preamble hereof.**
- 2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:**
 - a. Attorney**
 - b. Chief of Police**
 - c. Code Enforcement**
 - d. Applicants listed above**

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING A CONTRACT WITH ROBERT H. HOOVER & SONS, INC, FOR THE PURCHASE OF TWO (2) REPLACEMENT 2021 FREIGHTLINER SINGLE AXLE DUMP TRUCKS FOR THE DEPARTMENT OF PUBLIC WORKS, UTILIZING THE OCEAN COUNTY COOPERATIVE PRICING SYSTEM, BID NO. B2020-133, IN THE MAXIMUM CONTRACT AMOUNT NOT TO EXCEED \$327,788.74

MARCH 23, 2021

WHEREAS, pursuant to bids received, a contract was awarded by the County of Ocean, as Lead Agency for the Ocean County Cooperative Pricing System, Contract Bid No. B2020-133, of which Toms River Township is an active participant, as authorized by N.J.S.A. 40A:11-11(6); and

WHEREAS, the aforementioned contract was awarded to Robert H. Hoover & Sons, Inc.;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

- 1. It hereby awards a contract to Robert H. Hoover & Sons, Inc., for the Purchase of Two (2) Replacement 2021 Freightliner Single Axle Dump Trucks for the Department of Public Works, utilizing the Ocean County Cooperative Pricing System, Bid No. B2020-133, for a total maximum contract amount not to exceed \$327,788.74, as follows:**

**Robert H. Hoover & Sons, Inc.
149 Goldmine Road
Flanders, NJ 07836
Utilizing Ocean County Co Op B2020-133**

<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Price</u>	<u>Total Cost</u>
2	2021 6 Yard Freightliner Dump Truck with Plow and Spreader	2	\$ 160,887.00	\$321,774.00

2A	Freedom 2.2 Spreader Control	2	\$ 2,191.37	\$ 4,382.74
2B	Larger Dump Body	2	\$ 396.00	\$ 792.00
2F	Two-Way Radio Power and Wiring Requirements for New Vehicles	2	\$ 420.00	\$ 840.00
			Total:	\$327,788.74

2. These two (2) Replacement 2021 Freightliner Single Axle Dump Trucks are going to replace Plow Trucks #63 and #67 which have been sold.

3. Funds for this contract in the maximum amount not to exceed \$327,788.74, are available in Account No. X-04-46-732-004. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The award of this contract is subject to all terms and conditions of the bid specifications and the Master Contract as awarded by the Ocean County Cooperative Pricing System Contract Bid #B2020-133.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Department of Public Works
- e) Robert S. Hoover & Sons, Inc.
149 Goldmine Road
Flanders, NJ 07836

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract with Robert H. Hoover & Sons, Inc., in the total contract amount not to exceed \$327,788.74, are available in Account No. X-04-46-732-004.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected accounts at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

Council Member Maruca asked Township Engineer Chankalian to explain the following Annual Paving Program Resolution.

A motion was made by Council Member Huryk, seconded by Council Member Kopp, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes, to approve the following Resolution.

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,
OCEAN COUNTY, NEW JERSEY, AUTHORIZING AWARD OF A CONTRACT TO P & A
CONSTRUCTION, AS THE LOWEST RESPONSIVE BIDDER, MEETING ALL OF THE
BID SPECIFICATIONS, FOR THE F.Y. 2020 TOWNSHIP-WIDE PAVING PROGRAM, AT
A TOTAL CONTRACT PRICE NOT TO EXCEED \$3,622,200.00**

MARCH 23, 2021

WHEREAS, bids were invited on January 26, 2021, for the F.Y. 2020 Township-Wide Paving Program; and

WHEREAS, bids were received on February 19, 2021, as follows:

<u>Vendors:</u>	<u>Total Bid:</u>	<u>Vendors:</u>	<u>Total Bid:</u>
P & A Construction P.O. Box 28 Colonia, NJ 07067	\$3,622,200.00	Meco Inc P.O. Box 536 Clarksburg, NJ 08510	\$4,060,075.00
Earle Asphalt Company P.O. Drawer 556 Farmingdale, NJ 07727	\$3,623,813.13	Green Construction, Inc P.O. Box 550, 26 Elizabeth Street South River, NJ 08882	\$4,069,202.50
S & G Paving, Inc 224C Forsgate Drive Jamesburg, NJ 08831	\$3,782,583.75	Black Rock Enterprises, LLC 1316 Englishtown Road Old Bridge, NJ 08857	\$4,152,750.00

WHEREAS, the bids have been reviewed by the Purchasing Division and the Engineering Division, and recommendation has been made to award a contract to P & A Construction, as the lowest responsive bidder, meeting all the bid specifications, at a total contract price not to exceed \$3,622,200.00;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby awards a contract for the F.Y. 2020 Township-Wide Paving Program to P & A Construction, as the lowest responsive bidder, meeting all the bid specifications, at a total contract price not to exceed \$3,622,200.00.

2. Funds in the amount not to exceed \$3,622,200.00 are available in the following Accounts:

X-04-46-732-001	\$2,792,200.00
X-04- -244-001	\$ 559,972.70
X-04- -244-002	\$ 270,027.30
<hr/>	
Total:	\$3,622,200.00

3. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The award of this contract is subject to all terms and conditions of the bid specifications.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing Division
- b) Chief Financial Officer
- c) Township Attorney
- d) Engineering Division
- e) Aforementioned bidders

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract awarded to P & A Construction, at a total cost not to exceed \$3,622,200.00, are available in the following Accounts:

X-04-46-732-001	\$2,792,200.00
X-04- -244-001	\$ 559,972.70
X-04- -244-002	\$ 270,027.30
<hr/>	

Total: \$3,622,200.00

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

ALEXANDER DAVIDSON
CHIEF FINANCIAL OFFICER

Dated: March 23, 2021

Township Planner Roberts spoke regarding the following Resolution.

Council Member Kopp asked to clarified agreements for the public.

A motion was made by Council Member Huryk, seconded by Council Member Kopp, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Turnbach, and Council President Geoghegan voting yes, and with Council Member Rodrick voting no, to approve the following Resolution.

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE
EXECUTION OF A SITE ACCESS AGREEMENT WITH CAPODAGLI
PROPERTY COMPANY, LLC, WITH RESPECT TO CERTAIN TOWNSHIP-
OWNED PROPERTY WITHIN THE ROBBINS PARKWAY
REDEVELOPMENT AREA**

MARCH 23, 2021

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 located therein constitute areas in need of redevelopment and to create redevelopment plans which provide development controls for any area so designated; and

WHEREAS, in accordance with the criteria set forth in the Act, the Township of Toms River, New Jersey (the “**Township**”) identified and designated property identified as Block 668, Lots 9 and 13 on the tax map of the Township as an “area in need of redevelopment” (the “**Redevelopment Area**”) and adopted a redevelopment plan entitled the “Redevelopment Plan for Downtown Core Rehabilitation Area” as the same may be further amended and supplemented from time to time (the “**Redevelopment Plan**”); and

WHEREAS, the Township is the owner of a portion of the Redevelopment Area identified on the Township tax maps as Block 668, Lot 9 (the “**Township Property**”); and

WHEREAS, the Township Property is operated by the Parking Authority of the Township of Toms River (the “**Parking Authority**”); and

WHEREAS, the Township selected Capodagli Property Company, LLC (the “**Redeveloper**”) as the “conditional redeveloper” of the Redevelopment Area and executed an interim costs agreement authorized by resolution on December 10, 2019 by the Council of the Township in furtherance thereof, as amended on September 15, 2020; and

WHEREAS, in anticipation of the acquisition of the Redevelopment Area by the Redeveloper for the development of a mixed use project, in accordance with the Redevelopment Plan, and in order to undertake the necessary steps for conducting necessary testing, including but not limited to a Phase II Environmental Site Assessment, environmental and geotechnical testing within the Township Property (the “**Site Tests**”) the Township and the Parking Authority wish to enter into a site access agreement with the Redeveloper establishing the terms for the Redeveloper to access the Township Property to perform such Site Tests (the “**Agreement**”); and

WHEREAS, nothing in the Agreement shall constitute or be construed as an agreement by the Township or the Parking Authority to sell the Township Property to the Redeveloper, or as creating any rights in the Redeveloper other than a revocable, limited license for accessing the Township Property and conducting engineering testing on the terms and conditions set forth in the Agreement.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, as follows:

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

Section 2. The Mayor is hereby authorized to execute the Agreement in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary or desirable in consultation with counsel, and to take all other necessary or appropriate action to effectuate such Agreement

Section 3. 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.

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

Section 5. This Resolution shall take effect immediately.

Section 6. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Maurice B. Hill, Jr.
- b) Township Council
- c) Township Attorney
- d) David G. Roberts, Township Planner
- e) Engineering Division
- f) Frances C. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
427 Riverview Plaza
Trenton, NJ 08611
- g) Capodagli Property Company, LLC
201 S. Wood Avenue
Linden, NJ 07036

Township Planner Roberts spoke regarding the following Resolution.

A motion was made by Council Member Huryk, seconded by Council Member Lotano, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Turnbach, and Council President Geoghegan voting yes, and with Council Member Rodrick voting no, to approve the following Resolution.

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE EXECUTION OF A SITE ACCESS AGREEMENT WITH CAPODAGLI PROPERTY COMPANY, LLC, WITH RESPECT TO CERTAIN TOWNSHIP-OWNED PROPERTY WITHIN THE PHASE 1 DOWNTOWN WATERFRONT REDEVELOPMENT AREA

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, as amended and supplemented (the “**Act**”), provides a process for municipalities to participate in the redevelopment and improvement of areas designated by the municipality as in need of redevelopment; and

WHEREAS, in accordance with the criteria set forth in the Act, the Township of Toms River, New Jersey (the “**Township**”) identified and designated property identified as Block 569, Lots 3, 4, 5, 5.01, 10 and 11.01 on the tax map of the Township (the “**Project Area**”), together with other parcels,

as an “area in need of redevelopment” (the “**Redevelopment Area**”) and adopted a redevelopment plan for a portion of the Redevelopment Area entitled the “Redevelopment Plan for Phase 1 Downtown Waterfront Redevelopment Area” as the same may be further amended and supplemented from time to time (the “**Redevelopment Plan**”); and

WHEREAS, the Township is the owner of Block 569, Lots 4, 5, 5.01, and 11.01 on the tax map of the Township (the “**Township Lots**”); and

WHEREAS, the Toms River Parking Authority (the “**Parking Authority**”) is the owner of Block 569, Lots 3 and 10 on the tax map of the Township (the “**PA Lots**”); and

WHEREAS, the Township selected the Capodagli Property Company, LLC (the “**Redeveloper**”) as the “conditional redeveloper” of the Project Area and executed an interim costs agreement authorized by resolution on June 25, 2019 by the Council of the Township (the “**Township Council**”) in furtherance thereof, as amended on December 23, 2019, May 26, 2020; and January 5, 2021; and

WHEREAS, in anticipation of the acquisition of the Redevelopment Area by the Redeveloper for the development of a mixed use project, in accordance with the Redevelopment Plan, and in order to undertake the necessary steps for conducting necessary testing, including but not limited to a Phase II Environmental Site Assessment, environmental and geotechnical testing and surveying on the Project Area (collectively, the “**Site Tests**”) the Township and the Parking Authority wish to enter into a site access agreement with the Redeveloper establishing the terms for the Redeveloper to access the Project Area to perform such Site Tests (the “**Agreement**”); and

WHEREAS, nothing in the Agreement shall constitute or be construed as an agreement by the Township or the Parking Authority to sell the Township Lots or the PA Lots to the Redeveloper, or as creating any rights in the Redeveloper other than a revocable, limited license for accessing the Project Area and conducting the Site Tests on the terms and conditions set forth in the Agreement.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, as follows:

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

Section 2. The Mayor is hereby authorized to execute the Agreement in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary or desirable in consultation with counsel, and to take all other necessary or appropriate action to effectuate such Agreement

Section 3. 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.

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

Section 5. This Resolution shall take effect immediately.

Section 6. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Maurice B. Hill, Jr.
- b) Township Council
- c) Township Attorney
- d) David G. Roberts, Township Planner
- e) Engineering Division
- f) Frances C. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
427 Riverview Plaza
Trenton, NJ 08611
- g) Capodagli Property Company, LLC
201 S. Wood Avenue
Linden, NJ 07036

Township Planner Roberts spoke regarding the following Resolution.

A motion was made by Council Member Huryk, seconded by Council Member Kopp, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Turnbach, and Council President Geoghegan voting yes, and with Council Member Rodrick voting no, to approve the following Resolution.

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, CONTINUING THE DESIGNATION OF A CONDITIONAL REDEVELOPER FOR BLOCK 668, LOTS 9 AND 13 AS IDENTIFIED ON THE TAX MAPS OF THE TOWNSHIP, AND COMMONLY KNOWN AS 1 ROBBINS PARKWAY, AND AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE INTERIM COSTS AGREEMENT WITH RESPECT THERETO

MARCH 23, 2021

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the “Redevelopment Law”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, after review by the Planning Board of the Township (the “Planning Board”) on May 16, 2018, the Township Council (the “Council”) of the Township of Toms River, in the County of Ocean, New Jersey (the “Township”), adopted a resolution on May 22, 2018 designating the Downtown Core Rehabilitation Area (the “Rehabilitation Area”) pursuant to criteria set forth in the Redevelopment Law; and

WHEREAS, pursuant to the Redevelopment Law, the Township caused a redevelopment plan for the Rehabilitation Area to be prepared, entitled the “The Downtown Core Redevelopment Plan” (as revised, the “Original Redevelopment Plan”); and

WHEREAS, on February 26, 2019, the Council adopted an Ordinance approving the Original Redevelopment Plan; and

WHEREAS, the Council, by resolution duly adopted pursuant to the Redevelopment Law, authorized and directed the Planning Board to undertake a preliminary investigation to determine if a portion of the Rehabilitation Area, identified on the Tax Maps of the Township as Block 668, Lots 9 and 13 (the “Study Area”), constituted an area in need of redevelopment according to the criteria set forth in the Redevelopment Law; and

WHEREAS, on August 7, 2019 the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law and adopted a resolution recommending that Council designate the Study Area as an area in need of redevelopment; and

WHEREAS, on August 13, 2019, after reviewing the recommendations of the Planning Board, the Council adopted a resolution designating the Study Area an area in need of redevelopment under the Redevelopment Law (the “Redevelopment Area”); and

WHEREAS, David Glynn Roberts, AICP/PP, LLA, LEED AP ND, the Township Planner, prepared an amendment to the Original Redevelopment Plan, dated August 21, 2019 to recognize the Redevelopment Area (the “Redevelopment Plan”); and

WHEREAS, on September 24, 2019, the Council adopted an Ordinance approving the Redevelopment Plan; and

WHEREAS, the Township anticipates that the Redevelopment Area will be redeveloped with a mixed-use complex with parking; and

WHEREAS, the Township determined to designate Capodagli Property Company, LLC, (“Capodagli”) as the conditional redeveloper of the Redevelopment Area (the “Conditional

Redeveloper") so as to redevelop the Redevelopment Area in accordance with the terms of the Redevelopment Plan and the Redevelopment Law to coordinate the redevelopment of the Redevelopment Area in the most timely and efficient manner, pending the negotiation and execution of, among other agreements, a redevelopment agreement (the "Redevelopment Agreement") with the Township; and

WHEREAS, on December 10, 2019, the Township adopted a resolution (i) designating Capodagli, or its designated urban renewal entity formed consistent with the provisions of the Long Term Tax Exemption Law (the "Long Term Tax Exemption Law") N.J.S.A. 40A:20-1 *et seq.*, as the Conditional Redeveloper of the Redevelopment Area for a period of two hundred seventy (270) days; and (ii) authorizing the execution of an interim costs agreement (the "Original Interim Costs Agreement") with Capodagli to reimburse the Township for any and all costs incurred by the Township prior to the execution of a Redevelopment Agreement, including the Township's reasonably incurred out-of-pocket fees, costs and expenses related to the designation of the Conditional Redeveloper, the drafting of amendments to the Redevelopment Plan, negotiation of the terms and conditions of a redevelopment agreement, financial or tax agreement, if applicable, and other documents related to the redevelopment of the Redevelopment Area including, but not limited to, fees for legal, real estate appraisal, accounting, engineering, planning and financial advisory services, including all such fees, costs and expenses incurred (the "Interim Costs").

WHEREAS, the Township and Capodagli executed the Original Interim Costs Agreement in furtherance of the aforesaid resolution; and

WHEREAS, on September 8, 2020, the Township adopted a resolution authorizing the execution of an amendment to the Original Interim Costs Agreement defining the term of the Original Interim Costs Agreement (the "First Amendment" and together with the Original Interim Costs Agreement, the "Interim Costs Agreement"); and

WHEREAS, on September 15, 2020, the Township and Capodagli executed the First Amendment in furtherance of the aforesaid resolution; and

WHEREAS, the Township and Capodagli have agreed to (i) continue the designation of Capodagli, or an affiliated entity, as the Conditional Redeveloper of the Redevelopment Area for an additional period of one hundred eighty (180) days to continue the negotiations of the Redevelopment Agreement; and (ii) amend the Interim Costs Agreement to extend the term through September 10, 2021; and

WHEREAS, the Township desires to authorize the execution of an amendment to the Interim Costs Agreement (in the form attached hereto as Exhibit A, the "Second Amendment" and together with the Interim Costs Agreement, the "Amended Interim Costs Agreement") to extend the term of the agreement.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, as follows:

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

Section 2. The designation of Capodagli as the Conditional Redeveloper of the Redevelopment Area pending the execution of the Redevelopment Agreement with the Township shall be continued for a period of one hundred eighty (180) days and is contingent upon Capodagli providing any additional project related information as may be requested by the Township.

Section 3. The within designation is further contingent upon (i) Capodagli agreeing to reimburse the Township for any and all Interim Costs in accordance with the Amended Interim Costs Agreement and (ii) negotiating a formal Redevelopment Agreement between the Township and Capodagli.

Section 4. The Mayor of the Township is hereby authorized and directed to execute the Second Amendment, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township's redevelopment counsel and other professionals.

Section 5. This resolution shall take effect immediately.

Section 6. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Maurice B. Hill, Jr.
- b) Township Council
- c) Township Attorney
- d) David G. Roberts, Township Planner
- e) Engineering Division
- f) Frances C. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
427 Riverview Plaza
Trenton, NJ 08611
- g) Capodagli Property Company, LLC
201 S. Wood Avenue
Linden, NJ 07036

REPORTS – NONE

APPROVAL OF BILLS

Council President Geoghegan asked for a report on the bills.

The Bill List, dated **March 22, 2021**, was approved on motion by Council Member Turnbach, seconded by Council Member Lotano, and carried with Council Members Turnbach, Lotano, Huryk, Kopp, Rodrick, Maruca, and Council President Geoghegan voting yes. The following respective exceptions to their votes were noted as abstentions to this vote.

Council President Geoghegan abstained due to Business conflicts on the following:

Purchase Order 21-01259, payable to Board of Fire Commissioner District Two in the amount of \$602,313.18

Purchase Order 21-01294, payable to Silverton First Aid Squad, Inc., in the amount of \$26,498.89.

Council Member Maruca abstained due to Business conflicts on the following:

Purchase Order 21-01034, 21-01035 and 21-01036, payable to Motor Vehicle Commission in the amount of \$180.00.

Purchase Order 21-01037, payable to NJ MC LEASE Program in the amount of \$3,977.50.

Purchase Order 21-01033, payable to Dasti McGuckin, Attorneys at Law in the amount of \$8,883.00.

Council Member Huryk abstained due to Business conflicts on the following:

Purchase Order 21-00272, payable to Rutgers University Center in the amount of \$944.00.

Purchase Order 21-00883, 21-00884 and 21-00892, payable to Dept. of Rutgers University in the amount of \$280.00.

Purchase Order 21-00875, payable to Remington & Vernick Engineers in the amount of \$135.00.

Council Member Kopp abstained due to Business conflicts on the following:

Purchase Order 21-00878, payable to Owen Little & Associates Inc., in the

amount of \$9,493.03.

Purchase Order 21-01259, payable to Board of Fire Commissioner District Two in the amount of \$602,313.18

Purchase Order 21-01294, payable to Silverton First Aid Squad, Inc., in the amount of \$26,498.89.

Council Member Lotano abstained due to Business conflicts on the following:

Purchase Order 21-00880, payable to Brady & Kunz in the amount of \$27.00.

Council Member Rodrick abstained due to Business conflicts on the following:

Purchase Order 21-01033, payable to Dasti McGuckin, Attorneys at Law in the amount of \$8,883.00.

Council Member Turnbach abstained due to Business conflicts on the following:

Purchase Order 21-01037, payable to Magistrate Salaries in the amount of \$6,937.41.

ELECTED OFFICIALS COMMENTS

Councilman Rodrick commented on the rules of order process.

Councilman Turnbach thanked Rabbi Moshe Gousarie for his passion for education, and denounced a facebook post shared by the Republican Club.

Councilwoman Huryk spoke regarding downtown events this spring; April 17th beach sweep with Clean Ocean Action.

Councilwoman Maruca spoke regarding BPU hearing comments; power outages on Barrier Island; and spoke on tolerance and respect for differences in our community.

Councilman Kopp condemned post by Republicans Club; spoke on coming election.

Councilman Lotano thanked the same people that come regularly to the Council meetings, those who are involved and paying attention.

Mayor Hill spoke regarding dune and beach repair by Memorial Day; applied for FEMA funding to rebuild the dunes and road paving.

Council President Geoghegan comments on “fake news” – focus on Councilman Rodrick actions and behaviors. Elected officials is responsible for not spreading hate and lies.

PUBLIC COMMENTS

Council President Geoghegan announced the public portion and asked if any one wished to speak at this time.

Sam Foster, Brick, NJ, spoke regarding council’s behavior and thanked the Rabbi for his comments tonight.

Ken Lion, 2015 Red Cedar Street, has no drainage on his street, it is a flooding issue.

Chris Raimann requested 1 Flack Street be rename after Al Dietrich ex- superintendent of Toms River Schools System.

Shane (no last name) spoke regarding Councilman Rodrick and his shared news story in fake news.

Jen Howe, Admiral Avenue, announced March 31, 2021 at 6 p.m. High School South Citizen Advisory Meeting for budget. Invited all of Council to hear what citizens have to say and what their concerns are.

Art Anderson, 12 Park Street, comments on hotels and motels planning to be built, asked for security cameras.

Tom Smith, 534 Whitesville Road, said it is turning into a truck terminal and who is filling and dumping in the back of property. Township Engineer Chankalian described the situation and explained to Council.

On motion by Council Member Maruca, seconded by Council Member Huryk, and carried, the public hearing was **closed**.

A motion was made by Council Member Huryk, seconded by Council Member Turnbach, and carried to enter into a private Executive Session at 7:10 p.m.

A motion was made by Council Member Huryk, seconded by Council Member Turnbach, and carried, to adopt the following resolution, which was read into the record by the Township Clerk:

R E S O L U T I O N

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, Public Law 1975, permits the exclusion of the public from a meeting in certain circumstances to discuss matters requiring confidentiality and/or of a privileged nature; and

WHEREAS, the Township Council is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The Township Council will now conduct a private Executive Session.
2. The general nature of the subject matter to be discussed and/or acted upon is as follows:

Matters of Personnel
Attorney Client Privilege
Contract Negotiations

3. The following specific topics were announced.
 1. Executive Session Minutes: February 9, 2021 Regular Meeting
 2. Personnel Issues
 3. Renewal of New Jersey Natural Gas Franchise
 4. It is anticipated that deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Council that the public interest will no longer be served by such confidentiality.

The foregoing resolution was approved on the following roll call vote:

Council Member Huryk	- Yes
Council Member Kopp	- Yes
Council Member Lotano	- Yes
Council Member Rodrick	- Yes
Council Member Turnbach	- Yes
Council Vice-President Geoghegan	- Yes
Council President Maruca	- Yes

The Council **reconvened** the public portion at 7:26 P.M., a motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council Present Geoghegan voting yes.

A motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and with Council President Geoghegan voting yes, to approve the following Resolution.

**RESOLUTION APPROVING
EXECUTIVE SESSION MINUTES**

WHEREAS, the attached Executive Session Minutes have been reviewed as to form and accuracy;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, State of New Jersey, as follows:

1. The following Executive Session Minutes are approved:

February 9, 2021 Regular Meeting

2. The Township Clerk shall maintain same as an official record.

No other business appearing, the meeting was **adjourned** at 7:27 P. M., on motion with Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Huryk, Kopp, Lotano, Maruca, Rodrick, Turnbach, and Council President Geoghegan voting yes.

KEVIN GEOGHEGAN, COUNCIL PRESIDENT

ALISON CARLISLE, TOWNSHIP CLERK