

June 25, 2019

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, Toms River, New Jersey at 6:00 PM.

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

Township Clerk Carlisle read the following statement into the record pursuant 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 Tuesday, January 8, 2019 and also forwarded to the Toms River Times, Toms River Patch and WOBM News on Wednesday, January 3, 2019, 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 January 3, 2019. The Notice was also posted on the Township web page.**

Roll Call:

Council Member Huryk	- Present
Council Member Kubiel	- Absent
Council Member Maruca	- Present
Council Member Rodrick	- Present
Council Member Turnbach	- Present
Council Vice-President Hill	- Present
Council President Wittmann	- Present

A motion was made by Council Member Turnbach, seconded by Council Member Hill, and Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiel absent, to approve an excused absence for Council Member Kubiel.

**APPROVAL OF MINUTES**

A motion was made by Council Member Maruca, seconded by Council Member Turnbach, and with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, with Council Member Kubiel absent, to approve the **Regular Meeting of July 11, 2019**. 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 Hill, seconded by Council Member Maruca, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiel absent, to make the following honoring proclamations a part of the Minutes.

Mayor Kelaher introduced and presented a proclamation to Peter LaQuaglia, Seaside Heights Lifeguard, who told his story regarding lifesaving of an infant. Gregg Sakowicz, Legislative Aide, spoke and presented resolution from the 10<sup>th</sup> Legislative District.

***Township of Toms River***

# *Proclamation*

## *Heroism*

*June 25, 2019*

*WHEREAS, When Seaside Heights Lifeguard **Peter LaQuaglia** reported for work on the morning of Friday, June 7<sup>th</sup>, there was a sense of apprehension in the air; and*

*WHEREAS, During roll call, the Seaside Heights Beach Patrol Captain warned his crew that it felt like one of those days when there was a particular need “to be ready for anything”; and*

*WHEREAS, as the morning passed the day was shaping up to be relatively uneventful; and*

*WHEREAS, Even though **Peter LaQuaglia** was temporarily relieved from his post so he could enjoy his lunch, he was ever diligent; and*

*WHEREAS, In the midst of enjoying his meal, **Peter LaQuaglia** heard the panicked screams of a woman on the boardwalk; and*

*WHEREAS, **Peter LaQuaglia** did not hesitate in springing into action, rushing to the woman’s 10 month old grandson; and*

*WHEREAS, Thanks to **Peter LaQuaglia**’s extensive training, he knew that normal CPR or the Heimlich maneuver for an adult would not work on a 10 month old child, Peter’s instinct and training kicked in and he was able administer proper lifesaving technique’s to save the child.*

*NOW, THEREFORE, We, Mayor **THOMAS F. KELAHER**, and Council President **GEORGE E. WITTMANN Jr.** of the Township of Toms River, on behalf of us, the Township Council, and the residents of the Township of Toms River, thank **Peter LaQuaglia** for his quick thinking and heroism in saving the life of this precious child*

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*Mayor Thomas F. Kelaher*

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*George E. Wittmann, Jr.  
Council President*

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*Brian S. Kubiel*

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*Maria L. Maruca*

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*Maurice B. Hill, Jr.*

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*Laurie A. Huryk*

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*Daniel T. Rodrick*

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*Terrance L. Turnbach*

Mayor Kelaher and Council Member Hill introduced Gus Kakavas and presented a proclamation for his retirement. Council Member Hill gave him a print of the Town Hall. Council Member Wittmann and Father Paul also spoke.

# *Township of Toms River*

## *Proclamation*

*June 25, 2019*

*WHEREAS, Gus Kakavas served for 31 years as the Director of Transportation for the Toms River Regional School System and was the voice of the Toms River North Mariners for 27 years and served on the Toms River Regional Board of Education ; and*

*WHEREAS, Gus Kakavas served on the Rent Leveling Board and was a Sergeant on the Toms River Auxiliary Police and served as President and member of the Toms River First Aid Squad. Gus also served on the Planning Team for the Toms River Office of Emergency Management (OEM), participating in numerous FEMA Field Exercises; and*

*WHEREAS, Gus served on the Toms River Planning Board and most recently as the Chairman of the Toms River Board of Adjustment. In 2018 he was appointed to the New Jersey Planners Organization (NJPO) Board of Directors representing Toms River and Ocean County; and*

*WHEREAS, Gus has been an active member of Saint Barbara's Greek Orthodox Church where he served on the Parish Council and was the coordinator for Saint Barbara's Athletic Center and served on numerous committees for the Parish. He was the transportation coordinator for the Saint Barbara's Annual Greek Festival where he was in charge of arranging parking and bus service and traffic direction at the event. He also served as DJ and Master of Ceremonies for the Festival.*

*NOW, THEREFORE, We, Mayor THOMAS F. KELAHER, and Council President GEORGE E. WITTMANN Jr. of the Township of Toms River, on behalf of us, the Township Council, and the residents of the Township of Toms River, do hereby recognize and honor **Gus Kakavas**, native son of Toms River for his over 50 years of dedicated service to our community and wish him a long, healthy and happy retirement.*

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*Mayor Thomas F. Kelaher*

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*George E. Wittmann, Jr.  
Council President*

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*Brian S. Kubiel*

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*Maria L. Maruca*

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*Maurice B. Hill, Jr.*

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*Laurie A. Huryk*

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*Daniel T. Rodrick*

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*Terrance L. Turnbach*

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

A motion was made by Council Member Turnbach, seconded by Council Member Huryk, and carried that an Ordinance entitled:

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE PUBLIC SALE OF A PORTION OF TAX LOT 21, BLOCK 724 (610 GARFIELD AVENUE) IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, TO A CONTIGUOUS PROPERTY OWNER PURSUANT TO N.J.S.A. 40A:12-13(b)(5)**

WHEREAS, the Township Council of the Township of Toms River has determined that a portion of Tax Lot 21, Block 724 (610 Garfield Avenue), (the "property"), having an area of 1,778 square feet, hereinafter described on Schedule "A" and Schedule "B" attached hereto, constitutes real property with less than an eighth of the minimum size required for development under the Municipal Land Use Ordinance, and is without any township-owned capital improvement thereon; and

WHEREAS, there is only one property owner with real property contiguous to the property; and

WHEREAS, N.J.S.A. 40A:12-13(b)(5) authorizes the sale of municipally-owned property which is less than an eighth of the minimum size required for development under the Municipal Land Use Ordinance, and is without any township-owned capital improvement thereon, to the only owner having contiguous real property to the property being sold; and

WHEREAS, the Township Council has determined that this property is not needed for public use; and

WHEREAS, the Township Council is desirous of selling the property to the only owner of contiguous real property;

NOW, THEREFORE, BE IT ORDAINED 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:12-13(b)(5), the sale of a portion of Tax Lot 21, Block 724 (610 Garfield Avenue), is authorized to the only owner of contiguous real property. This property to be sold has an area of 1,778 square feet, and is shown on attached Schedule "A" and Schedule "B".

2. The minimum acceptable bid price for the sale of this property is \$3,000.00.

3. The owner of real property contiguous to the property being sold may submit a written sealed bid for its purchase to Gail Catania, Purchasing Agent, on or before 11:00 a.m. on August 1<sup>st</sup>, 2019, at the Purchasing Office, 33 Washington Street, 2<sup>nd</sup> Floor, Toms River, N.J. The bid must be accompanied by payment of the total amount of the bid. Payment must be by cash, bank check, certified check, or cashier's check, payable to the Township of Toms River, in the amount of the total bid.

4. The sale is contingent and conditioned upon the purchaser consolidating the "property" with Lot 72.01, Block 724 within 180 days following the date of the deed.

5. This sale is made subject to such state of facts as an accurate survey may disclose, easements, conditions, covenants and restrictions of record, tenancies, leaseholds, rights of persons in possession, codes, regulations and ordinances of the Township of Toms River or federal, state or county governments. No representations of any kind are made by the Township of Toms River as to the condition of the lands, and the property is being sold in its present condition on an "as is" basis.

6. The property will be conveyed to the successful bidder by a Bargain and Sale Deed with Covenants Against the Acts of the Grantor.

7. The prospective bidder is placed on notice to consult appropriate public and private authorities as to the provision of utility services.

8. The Township Clerk shall post and advertise copies of the ordinance as required by N.J.S.A. 40A:12-13(b)(5).

9. A copy of this Ordinance shall be sent by the Township Clerk to the contiguous property owner and the Purchasing Division.

10. Subsequent to the Council adopting a resolution awarding the bid, the Mayor and Clerk are authorized to execute a deed and all other necessary documents to convey this property to the successful bidder.

11. 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.

12. Since this ordinance is not legislative in nature, it does not have to be codified.

SCHEDULE "A"

UNDERSIZED NONCONFORMING SIZE LOT BEING A PART OF LOT 21, BLOCK 724,  
AS DESIGNATED ON THE MUNICIPAL TAX MAP

BLOCK	LOT	MINIMUM PRICE
724	Part of Lot 21, having an area of 1,778 square feet. See description/survey attached as Schedule "B"	\$3,000.00

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President Wittmann announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

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

Council Member Turnbach offered the following ordinance and moved its adoption; Council Member Huryk seconded the motion:

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 foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof is published in the Asbury Park Press.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Huryk	Present
Council Member Kubiel	Absent
Council Member Maruca	Present
Council Member Rodrick	Abstained
Council Member Turnbach	Present
Council Vice-President Hill	Present
Council President Wittmann	Present

A motion was made by Council Member Hill, seconded by Council Member Turnbach, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and with Council President Wittmann voting yes, and with Council Member Kubiel absent, to approve the following Resolution.

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, URGING FINAL PASSAGE AND ENACTMENT OF NEW JERSEY SENATE BILL NO. 129 EXEMPTING MILITARY COMBAT PAY FROM THE STATE INCOME TAX**

**JUNE 25, 2019**

**WHEREAS**, 49 states and the federal government exempt military combat pay from gross income taxation; and

**WHEREAS**, New Jersey remains the only state to continue to subject military combat pay to state income tax; and

**WHEREAS**, the Office of Legislative Services reports that this tax burden affects over 4,000 New Jersey residents; and

**WHEREAS**, legislative efforts to end taxation of combat pay date back over two decades, but never came to fruition; and

**WHEREAS**, last year, the state Senate overwhelmingly passed S-129, which exempts military combat pay from the state income tax; and

**WHEREAS**, this bill awaits a floor vote in the Assembly after it was recently advanced by the chamber's Military and Veteran's Affairs committee; and

**WHEREAS**, the Township Council finds that the continued taxation of military combat pay is an undue, unfair, and unconscionable financial burden on brave combat veterans and their families:

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

1. The Township Council strenuously urges the Assembly to pass, and the Governor to sign into law, S-129, exempting military combat pay from the state income tax and relieving combat veterans and their families from this unfair and excessive tax burden.

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 Thomas F. Kelaher
- b) Township Council
- c) Business Administrator
- d) Township Attorney
- e) Human Resources
- f) Governor Murphy
- g) 9<sup>th</sup> District Legislators
- h) 10<sup>th</sup> District Legislators
- i) 30<sup>th</sup> District Legislators
- j) Department of Military & Veterans' Affairs  
3650 Saylor's Pond Road  
Fort Dix, NJ 08640
- k) Department of Military & Veterans' Affairs

A motion was made by Council Member Turnbach, seconded by Council Member Huryk, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and with Council President Wittmann voting yes, and with Council Member Kubiel absent, to approve the following Resolution.

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE TOWNSHIP BUSINESS ADMINISTRATOR TO ENTER INTO A CONTRACT WITH MUNICIPAL CARDS, LLC, TO ESTABLISH AND ADMINISTER A PROPERTY TAX REBATE PROGRAM**

**JUNE 25, 2019**

**WHEREAS**, the Mayor and Township Council of the Township of Toms River desire to stimulate the local economy and offer a property tax savings program for its residents; and

**WHEREAS**, Municipal Cards, LLC has developed proprietary systems and software that enables the Township of Toms River property taxpayers the ability to earn rewards from a financial transaction to be credited toward property taxes in a program established and administered by Municipal Cards, LLC (the "Program"); and

**WHEREAS**, the Township of Toms River property taxpayers have the ability to earn greater amounts of reward by shopping at local establishments that participate in the program; and

**WHEREAS**, Municipal Cards, LLC utilizes intellectual property and proprietary computer software that cannot be duplicated by another vendor; and

**WHEREAS**, the local Public Contracts Law (N.J.S.A 40A:11-3a) allows the awarding of a contract by resolution of the governing body without public advertising for bids when a contract in the aggregate does not exceed in a contract year the total sum of \$17,500; and

**WHEREAS**, the local Public Contracts Law (N.J.S.A 40A:11-5 1dd) allows the awarding of a contract by resolution of the Township Council without public advertising for bids and bidding for the provision or performance of goods or services for the support or maintenance of proprietary computer software; and

**WHEREAS**, the Township Council is satisfied with the qualifications and terms of the agreement submitted by Municipal Cards, LLC.

**NOW THEREFORE, BE IT RESOLVED** that the Township of Toms River authorizes the Township Administrator to enter into a contract with Municipal Cards LLC.

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

- a) Mayor Thomas Kelaher
- b) Township Council
- c) Business Administrator
- d) Chief Financial Officer
- e) Township Attorney
- f) Township Tax Collector
- g) Township Tax Assessor
- h) Municipal Cards, LLC  
9409 Skywagon Lane  
McKinney, TX 75071

ADOPTED: June 25, 2019

**CONSENT AGENDA**

Township Clerk Carlisle desire to discuss an individual item it would be removed from the Consent Agenda.

A motion was made by Council Huryk, seconded by Council Member Maruca, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiak absent, to approve all the following items listed on the Consent Agenda, except item **D, and U**, which were done separately.

*RESOLUTION*

**JUNE 25, 2019**

*WHEREAS, AN OVERPAYMENT OF TAXES HAS APEARED ON THE FOLLOWING PROPERTY(IES) FOR THE YEAR (S) INDICATED, DUE TO A DUPLICATE TAX PAYMENT/ AND OR ERRONEOUS; 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>
<b>DECORTE, FATIMA</b>	<b>991</b>	<b>19</b>	<b>2019/3</b>	<b>\$1,446.53</b>
<b>LERETA LLC.</b>	<b>120.02</b>	<b>16</b>	<b>2019/2</b>	<b>918.64</b>
<b>LERETA LLC.</b>	<b>166</b>	<b>3.02</b> <b>C1303</b>	<b>2019/2</b>	<b>1,457.16</b>
<b>LERETA LLC.</b>	<b>381</b>	<b>7</b>	<b>2019/2</b>	<b>1,442.41</b>
<b>LERETA LLC.</b>	<b>1056</b>	<b>63</b>	<b>2019/2</b>	<b>2,785.96</b>



<b>MILLER, MELANIE</b>	<b>724.50</b>	<b>13</b>	<b>2019/2</b>	<b>\$1,164.05</b>
<b>PETERSON, MAUREEN G. TRUST</b>	<b>135.28</b>	<b>8</b>	<b>2018/1</b>	<b>\$1,068.32</b>
<b>WELLS FARGO RL EST TAX SER LLC</b>	<b>727</b>	<b>2</b>	<b>2019/2</b>	<b>1,096.37</b>
<b>WELLS FARGO RL EST TAX SER LLC</b>	<b>1694.03</b>	<b>21</b>	<b>2019/2</b>	<b>1,365.91</b>
<b>TOTALS:</b>				<b>\$12,745.35</b>

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 135 LOT 2.02 C5105,  
EFFECTIVE JANUARY 1st, 2019, AND PROVIDING THAT PROPERTY TAXES FOR 2019,  
AS OF THE EFFECTIVE DATE, BE CANCELLED AND/OR REFUNDED**

**JUNE 25, 2019**

WHEREAS, the owner of real property in the Township of Toms River known as Block 135 Lot 2.02 C5105, located at 5105 Trotters Way, has been certified by the Tax Assessor as a 100% Disabled Veteran, effective January 1st, 2019, and

WHEREAS, property taxes for 2019, 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 2019 real property taxes for Block 135 Lot 2.02 C5105 due on or after January 1st, 2019 shall be cancelled.

2. All real property taxes from the date of this Resolution paid on Block 135 Lot 2.02 C5105 if any, shall be refunded on a pro-rated basis from January 1st, 2019.
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 Thomas F. Kelaher
  - b) Donald Guardian, Business Administrator
  - c) Kenneth B. Fitzsimmons, Township Attorney
  - d) Sharon Smith, Chief Financial Officer
  - e) Jeff Brown, Township Deputy Tax Assessor
  - f) Carl Dileo, Township Tax Collector

**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 414 LOT 11.09, EFFECTIVE  
JANUARY 1st, 2019, AND PROVIDING THAT PROPERTY TAXES FOR 2019, AS OF THE  
EFFECTIVE DATE, BE CANCELLED AND/OR REFUNDED**

**JUNE 25, 2019**

WHEREAS, the owner of real property in the Township of Toms River known as Block 414 Lot 11.09, located at 724 Ryan Run, has been certified by the Tax Assessor as a 100% Disabled Veteran, effective January 1st, 2019, and

WHEREAS, property taxes for 2019, 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 2019 real property taxes for Block 414 Lot 11.09 due on or after January 1st, 2019 shall be cancelled.
2. All real property taxes from the date of this Resolution paid on Block 414 Lot 11.09 if any, shall be refunded on a pro-rated basis from January 1st, 2019.
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 Thomas F. Kelaher
  - b) Donald Guardian, Business Administrator
  - c) Kenneth B. Fitzsimmons, Township Attorney
  - d) Sharon Smith, Chief Financial Officer
  - e) Jeff Brown, Township Deputy Tax Assessor
  - f) Carl Dileo, Township Tax Collector

JUNE 25, 2019

RESOLUTION

WHEREAS, THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, ADOPTED RESOLUTIONS APPROVING THE TRANSFER OF MONIES TO OVERPAYMENT FOR THE PURPOSE OF REFUND; And;

WHEREAS, SAID RESOLUTION INADVERTENTLY OMITTED CERTAIN NAMES, BLOCK AND LOTS, AND/OR AMOUNTS;

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,

- 1. THE FOLLOWING RESOLUTIONS BE AND THE SAME ARE HEREBY CORRECTED AS FOLLOWS

RESO	NAME	BLOCK	LOT	YEAR	AMOUNT
RTC306112019	PEAGUS TITLE AGENCY LLC.	1110.16	12	2018/4	\$1,668.97

- 2. TOWNSHIP CLERK SHALL SEND A COPY OF THIS RESOLUTION TO THE TOWNSHIP AUDITOR, TOWNSHIP FINANCIAL OFFICER AND TAX COLLECTOR.

APPROVED AS TO CONTENT:

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING AWARD OF OPEN-ENDED CONTRACTS TO W. B. MASON COMPANY, INC. AND PAPER MART, INC., FOR THE SUPPLY OF COPY PAPER, PARCHMENT PAPER, AND CERTIFICATE/PROCLAMATION HOLDERS**

**JUNE 25, 2019**

WHEREAS, the Division of Purchasing for the Township of Toms River ("Township") has requested authorization to award open-ended contracts to various vendors for the Supply of Copy Paper, Parchment Paper and Certificate/Proclamation Holders; and

WHEREAS, bids were received from the following vendors on June 5, 2019, and reviewed by the Division of Purchasing, as follows:

W.B. Mason Company, Inc. 59 Centre Street Brockton, MA 02303	Paper Mart, Inc. 151 Ridgedale Avenue East Hanover, NJ 07936
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WHEREAS, the bids have been reviewed by the Division of Purchasing, and they have recommended that the award of open-ended contracts be made to the following vendors:

W. B. Mason Company, Inc. – Item Numbers A2 - A4, and A6.  
Paper Mart, Inc. – Item Numbers A1, A5, A7, B1, B2 and C.

Item Numbers D1, D2 and D3 received no bids and will not be rebid. Quotes will be obtained for these items prior to purchase.

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 open-ended contracts for the Supply of Copy Paper, Parchment Paper and Certificate/Proclamation Holders, to W. B. Mason Company, Inc., for Item Numbers A2 – A4, and A6, and to Paper Mart, Inc., for Item Numbers A1, A5, A7,

B1, B2 and C. Item Numbers D1, D2 and D3 received no bids and will not be rebid. Quotes will be obtained for these items prior to purchase.

2. The contract term shall be for one (1) year, commencing July 11, 2019, through July 10, 2020. The award of these contracts is subject to all the terms and conditions of the bid specifications. These contracts shall be open-ended 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.

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) W.B. Mason Company, Inc.  
59 Centre Street  
Brockton, MA 02303
- e) Paper Mart, Inc.  
151 Ridgedale Avenue  
East Hanover, N.J. 07936

### **CERTIFICATION**

**THIS IS TO CERTIFY** that the funds for the open-ended contracts awarded to W. B. Mason Company, Inc. and Paper Mart, Inc., are contingent upon the availability of funds at the time of purchase, 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.

SHARON E. SMITH  
CHIEF FINANCIAL OFFICER

Dated: June 25, 2019

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING A CONTRACT TO REAL AUCTION. COM LLC, FOR THE ELECTRONIC TAX SALE FOR THE TAX COLLECTOR'S OFFICE, IN THE MAXIMUM CONTRACT AMOUNT NOT TO EXCEED \$40,000.00, AND AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO A CONTRACT WITH REALAUCTION.COM LLC**

**JUNE 25, 2019**

WHEREAS, the Purchasing Division has requested the Township to authorize a contract for an Electronic Tax Sale for the Tax Collector's Office; and

WHEREAS, the Division of Purchasing has issued Requests for Quotes for this project; and

WHEREAS, Realauction.com LLC, has completed and submitted a Business Entity Disclosure Certification and Political Contribution Disclosure Form, which certifies that the firm has not made any contributions in contravention of New Jersey's Pay to Play Law, N.J.S.A. 19:44A-20.4 et seq., which are on file in the Municipal Clerk's Office; and

WHEREAS, the Township Council of the Township of Toms River, has determined that it is the best interest of the Township of Toms River to authorize this project;

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 a contract to Realauction.com LLC, for an Electronic Tax Sale for the Tax Collector's Office, in the total maximum contract amount not to exceed \$40,000.00 (\$15.00 per line).

2. Funds for this contract in the total maximum amount not to exceed \$40,000.00 (\$15.00 per line), are available in Account No. 9-01- -F18-534. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

3. The Mayor is authorized to execute and the Township Clerk to attest to a contract with Realauction.com LLC.

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) Tax Collector
- e) Tax Assessor
- f) Realauction.com LLC  
861 SW 78<sup>th</sup> Avenue  
Suite B102  
Plantation, FL 33324

### **CERTIFICATION**

**THIS IS TO CERTIFY** that the funds for the contract with Realauction.com LLC, in the total maximum amount not to exceed \$40,000.00 (\$15.00 per line), are available in Account No. 9-01- -F18-534.

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

SHARON SMITH  
CHIEF FINANCIAL OFFICER

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE TOWNSHIP TO PURCHASE MOTOROLA PORTABLE RADIOS AND ACCESSORIES FOR POLICE VEHICLES FOR THE DEPARTMENT OF POLICE, FROM VENDOR WITH STATE CONTRACT, USING STATE CONTRACT T0109, VENDOR NO. 83909, FROM MOTOROLA SOLUTIONS, INC. C/O WIRELESS ELECTRONICS, INC., IN THE AMOUNT NOT TO EXCEED \$103,260.00**

**JUNE 25, 2019**

**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. State Contract No. T0109, Vendor No. 83909, for the Purchase of Motorola Portable Radios and Accessories for police vehicles for the Department of Police, from

Motorola Solutions, Inc., c/o Wireless Electronics, Inc., for a total contract purchase amount not to exceed \$103,260.00, as follows:

Motorola Solutions, Inc.  
c/o Wireless Electronics, Inc.  
153 Cooper Road  
West Berlin, NJ 08091

<u>Item No.</u>	<u>Description</u>	<u>Qty.</u>	<u>Price Ea.</u>	<u>Extended</u>
<i>Radio</i>				
				\$53,847.0
H91TGD9PW6 N	APX8000 ALL BAND PORTABLE MODEL 2.5	12	4487.25	0
Q806	ADD: ASTRO DIGITAL CAI OPERATION	12	386.25	\$4,635.00
				\$13,500.0
H38	ADD: SMARTZONE OPERATION	12	1125.00	0
Q361	ADD: P25 9600 BAUD TRUNKING	12	225.00	\$2,700.00
GA00580	ADD: TDMA OPERATION	12	337.50	\$4,050.00
G996	ADD: PROGRAMMING OVER P25 (OTAP)	12	75.00	\$900.00
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY	12	555.00	\$6,660.00
QA03399	ADD: ENHANCED DATA	12	112.50	\$1,350.00
QA09001	ADD: WI-FI CAPABILITY	12	225.00	\$2,700.00
QA09007	ADD: OUT OF THE BOX WI-FI PROVISIONING	12	0.00	\$0.00
QA09008	ADD: GROUP SERVICES	12	112.50	\$1,350.00
Q15	ENH: AES/DES, DES-XL, DES-OFB	12	599.25	\$7,191.00
QA04526	ADD: RFID KNOB	12	18.75	\$225.00
H842	ADD: APX6000XE SINGLE UNIT PACKAGING	12	0.00	\$0.00
	CHARGER, SINGLE-UNIT, IMPRESS 2, 3A, 115VAC,			
NNTN8860A	US/NA	12	120.00	\$1,440.00
RLN6424B	RX ONLY EARPIECE W/TRANSLUCENT TUBE	12	64.00	\$768.00
PMNN4486	BATT IMPRES 2 LIION R IP67 3400T	12	85.20	\$1,022.40
	CARRY ACCESSORY-CASE, APX6000 CC 2.75			
PMLN5657	SWLBL 2900 & 2150MAH	12	57.20	\$686.40
HMN4104B	DISPLAY REMOTE SPEAKER MICROPHONE (APX)	12	264.00	\$3,168.00
HLN6875	BELT CLIP 3"	12	9.60	\$115.20
HA00025AK	ENH: SFS COMPREHENSIVE 5 YR	12	537.00	\$6,444.00
SVC01SVC2007	VOLUME DISCOUNT OCEAN COUNTY 700 MHZ			
C	SYSTEM	12	-825.00	-\$9,900.00
SVC03SVC0115	ANTENNAS DUAL BAND PORTABLE	12	34.00	<u>\$408.00</u>
				\$103,260.0
				0

3. Funds in the amount of \$103,260.00 are available in Account No. X-04- -226-003.

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) Motorola Solutions, Inc.  
c/o Wireless Electronics, Inc.  
153 Cooper Road  
West Berlin, NJ 08091

# CERTIFICATION

**THIS IS TO CERTIFY** that the funds for the contract for vendor with State contract, Motorola Solutions, Inc. c/o Wireless Electronics, in the total maximum contract amount not to exceed \$103,260.00, are available in Account No. X-04- 226-003.

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.

SHARON SMITH  
CHIEF FINANCIAL OFFICER

## **RESOLUTION AUTHORIZING THE TOWNSHIP OF TOMS RIVER TAX COLLECTOR TO PREPARE AND MAIL ESTIMATED TAX BILLS IN ACCORDANCE WITH P. L. 1994 c. 72**

**June 25, 2019**

WHEREAS, the local municipal budget for the year 2019 was introduced on the 14<sup>th</sup> day of May, 2019; and

WHEREAS, due to the State's delay in adopting its budget, the Ocean County Board of Taxation may be unable to certify the Township of Toms River's tax rate at this time and the Township of Toms River Tax Collector may be unable to mail the Township's 2019 tax bills on a timely basis; and

WHEREAS, in order to meet statutory obligations to the County and School Districts along with sustaining Municipal operations in meeting its financial obligations, maintaining the tax collection rate, providing uniformity for tax payments and save the unnecessary cost of interest on borrowing, the Chief Financial Officer in consultation with the Township of Toms River Tax Collector have computed an estimated tax levy in accordance with N. J. S. A. 54: 4-66.3 and have both signed a certification attesting to the calculation;

WHEREAS, in accordance with Chapter 72 P.L. 1994, the Mayor and Township Council do not need the Director of the Division of Local Government Services to approve the estimated tax levy listed on the attached Schedule, which will enable the municipality to meet its financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest on borrowing; and

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Toms River, County of Ocean that the Township of Toms River Tax Collector is hereby authorized to prepare and issue, if necessary, estimated tax bills for the third installment of the 2019 taxes.

BE IT FURTHER RESOLVED that the Township of Toms River Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the third installment of 2019 based upon an annualized levy analysis totaling \$308,352,484.41. The Tax Collector may proceed and take such actions as are permitted and required by P. L. 1994, c. 72 (N. J. S. A. 55: 4-66.2 and 54.4-66.3).

BE IT FURTHER RESOLVED, that in accordance with the law, third quarter installments of 2019 taxes shall not be subject to interest until the later of either; August 10, 2019 or twenty-five calendar days after the date estimated bills were mailed. Contained on the estimated bill shall specify the date on which interest may begin to accrue.

BE IT FURTHER RESOLVED that a certified copy of this resolution be provided by the Office of the Township Clerk to each of the following:

- A. Ocean County Board of Taxation
- B. Tax Collector
- C. Director of Finance/CF0

Approved as to Content:

**RESOLUTION OF THE TOWNSHIP OF COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, FOR APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE ROADWAY ELEVATION OF PORTIONS OF ALDO DRIVE, WINDSOR AVENUE; AND SILVER BAY ROAD AND BAY POINT DRIVE PROJECT**

**JUNE 25, 2019**

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Toms River formally approves the grant application for the above stated project;

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant identified as LAIF-2019-Roadway Elevations of Portions of A-00107 to the New Jersey Department of Transportation on behalf of the Township of Toms River;

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Toms River and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Thomas F. Kelaher
- b) Township Council
- c) Township Attorney
- d) Chief Financial Officer
- e) Township Engineer
- f) Department of Transportation
- g) State of New Jersey  
Department of Transportation  
PO Box 600  
Trenton, NJ 08625-0600

Certified as a true copy of the Resolution adopted by the Council  
On this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
ALISON CARLISLE  
TOWNSHIP CLERK

My signature and the Clerk's seal serve to acknowledge the above resolution and  
Constitute acceptance of the terms and conditions of the grant agreement and  
Approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL \_\_\_\_\_  
(Clerk) (Presiding Officer)



**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, REJECTING THE BID RECEIVED FROM NORTHEAST ROOF MAINTENANCE, INC., FOR ROOFING/ROOF CONSULTATION SERVICES, WHICH SUBSTANTIALLY EXCEEDS THE COST ESTIMATES FOR THIS SERVICE, AND AUTHORIZING THE APPROPRIATE TOWNSHIP OFFICIAL TO REBID THIS SERVICE**

**JUNE 25, 2019**

WHEREAS, bids were invited on April 25, 2019 for Roofing/Roof Consultation Services; and

WHEREAS, only one bid was received from the following vendor:

Northeast Roof Maintenance, Inc.  
649 Catherine Street  
Perth Amboy, NJ 08861

First Year	Hourly Rates Bid
Journeyman	\$ 235.00
Supervisor	\$ 255.00
Apprentice	\$ 215.00
Second Year	Hourly Rates Bid
Journeyman	\$ 245.00
Supervisor	\$ 265.00
Apprentice	\$ 225.00

	Estimated Materials	Extended Price
Percentage of Materials Markup Above Dealer's Cost	15% \$20,000/00	\$23,000.00
<b>GRAND TOTAL BID:</b>		<b>\$24,440.00</b>

NJ STATE LICENSE NUMBER: 13VH00474100

WHEREAS, the bid has been reviewed by the Purchasing Division and the Department of Parks, Buildings & Grounds, and recommendation has been made, in the best interest of the Township, to reject the bid received from Northeast Roof Maintenance, Inc., as it substantially exceeds the cost estimates for this service, pursuant to N.J.S.A. 40A:11-13.2(a), and rebid this service,

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 is in the best interest of the Township to reject the above-mentioned bid received, as it substantially exceeds the cost estimates for this service, pursuant to N.J.S.A. 40A:11-13.2(a).
2. It authorizes the appropriate Township Officials to advertise for rebid for this service.
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) Parks, Buildings & Grounds
  - e) Aforementioned bidder

**RESOLUTION IMPOSING CHARGES INCURRED UNDER SECTION 111 OF THE 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE AS A LIEN ON REAL PROPERTY, AND DIRECTING THE TAX COLLECTOR TO COLLECT THESE COSTS, AND IMPOSE INTEREST ON UNPAID COSTS, IN THE SAME MANNER AS PROVIDED FOR IN THE COLLECTION OF REAL ESTATE TAXES IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY**

**JUNE 25, 2019**

**WHEREAS**, the Township of Toms River adopted the 2006 International Property Maintenance Code (the “Code”) as part of Chapter 335 (Housing and Rental Property Standards) of the Township Code; and

**WHEREAS**, Section 111 of the Code provides that costs incurred by the Township in remediating conditions on properties in violation of the Code are to be assessed and levied upon lands, and bear interest at the same rate as real property taxes, and be collected and enforced in the same manner as provided for the collection of real property taxes; and

**WHEREAS**, the Housing and Property Maintenance Supervisor, has filed a Certification of Costs incurred by the Township, which costs are outlined on Schedule “A “, attached to and made part 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) The Township Council determines the Certification of Costs as set forth as Schedule "A" to be accurate.

2) The Tax Collector is authorized and directed to collect the costs listed on the Certification of Costs. The amount shown on the Certification of Costs shall be charged, become, and form part of the real estate taxes next to be assessed and levied upon such property, and shall bear interest at the same rate as real property taxes, and shall be collected and enforced in the same manner as provided for in the collection of real property taxes.

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

- a) Mayor Thomas F. Kelaher
- b) Business Administrator
- c) Chief Financial Officer
- d) Tax Collector
- e) Township Attorney
- f) Housing & Property Maintenance
- g) Code Enforcement
- h) Director, Parks, Buildings & Grounds
- i) Deutsche Bank  
1000 Abernathy Road  
Northpark Town Center  
Bldg. 400/Suite 200  
Atlanta, GA 30328
- j) Gabriel, Mary  
1749 Ullswater Place  
Crofton, MD 21114
- k) Treff, Shaindy  
1287 East 26<sup>th</sup> Street  
Brooklyn, NY 11210
- l) Gemstar Holdings Company  
23 Forest Valley Drive  
Toms River, NJ 08755
- m) Feferkorn, Israel J.  
535 Tenth Avenue  
Brooklyn, NY 11249

**SCHEDULE “A”**

**CERTIFICATION OF COSTS**

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>PROPERTY ADDRESS</u></b>	<b><u>TOTAL</u></b>
1. 1501.23	13	1105 Ruby Drive	\$ 701.66
2. 1694.07	29	873 Medallion Lane	\$ 701.66
3. 61.03	15	2416 Forest Circle	\$ 890.48
4. 411.35	4	23 Forest Valley Drive	\$ 890.48
5. 159	29.15	1911 Fiddlers Run	\$1056.85

\*\*\*If there are any questions concerning the work/labor liens, please contact Craig Ambrosio at 732-341-1000 Ext. 8417. Thank you\*\*\*

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER,  
OCEAN COUNTY, NEW JERSEY, AUTHORIZING THE TOWNSHIP TAX COLLECTOR  
TO HOLD AN ELECTRONIC TAX SALE**

**JUNE 25, 2019**

WHEREAS, N.J.S.A. 54:5-19, requires that the Tax Collector hold a tax sale once a year for unpaid property taxes and other municipal charges; and

WHEREAS, N.J.S.A. 54:5-19.1, authorizes electronic tax sales pursuant to rules and regulations promulgated by the Director of the Division of Local Government Services; and

WHEREAS, an electronic tax sale is innovative and provides a greater pool of potential lien buyers, thus creating the environment for a more complete tax sale process;

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 Tax Collector is authorized to hold an electronic tax sale
2. 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) Township Tax Assessor
  - e) Township Tax Collector
  - f) Township Auditor

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF  
TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AWARDED CERTAIN  
CONTRACTS FOR SERVICES EXEMPT FROM THE BIDDING PROCESS  
FROM JUNE 26, 2019 UP TO AND INCLUDING  
DECEMBER 31, 2019**

**JUNE 25, 2019**

WHEREAS, on April 23, 2019 the Township Council by resolution authorized requests for proposals for certain contracts for services exempt from public bidding pursuant to the provisions of N.J.S.A. 19:44A-20.4 et. seq. on a fair and open basis; and

**PART I**

**WHEREAS**, the Township of Toms River has a need to acquire certain professional bankruptcy counsel legal services commencing June 26, 2019 up to and including December 31, 2019; and

**WHEREAS**, the Township of Toms River solicited proposals for these services in accordance with the Fair and Open Process, pursuant to the provisions of N.J.S.A. 19:44A-20.4 et. seq.; and

**WHEREAS**, the following firm submitted a conforming proposal, which was publicly opened and read on May 15, 2019:

1. Chiesa, Shahinian and Giantomasi P.C., 1 Boland Drive, West Orange, New Jersey 07052
2. McManimon, Scotland & Baumann, LLC, 75 Livingston Avenue, 2<sup>nd</sup> Floor, Roseland, New Jersey 07068
3. Inglesino, Webster, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054; and

**WHEREAS**, McManimon, Scotland & Baumann, LLC has extensive experience in representing public entities in Federal and State bankruptcy courts; and

**WHEREAS**, McManimon, Scotland & Baumann, LLC has extensive experience in Chapters 7, 11, 12, and 13 bankruptcy matters: and

**WHEREAS**, Chiesa, Shahinian and Giantomasi, P.C. has extensive experience in collecting and securing assets on behalf of creditors in Chapter 11 proceedings and other forms of bankruptcies; and

**WHEREAS**, Chiesa, Shahinian and Giantomasi, P.C. is familiar with the local rules of bankruptcy in the District of New Jersey; and

**WHEREAS**, Chiesa, Shahinian and Giantomasi, P.C. has represented the Township as bankruptcy counsel and find their services to be professional and responsive:

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Council of the Township of Toms River authorizes the Mayor to enter into and the Township Clerk to attest to a contract with the firm of:

1. McManimon, Scotland & Baumann, LLC
2. Chiesa, Shahinian and Giantomasi, P.C. as the alternate bankruptcy attorney

for professional bankruptcy counsel legal services at the rate of \$220.00/hr. for attorneys and \$95.00/hr. for paralegals commencing June 26, 2019 up to and including December 31, 2019, contingent upon the execution of a contract and the availability of funds. The certification of funds available statement with respect to this contract award is on file in the Office of the Township Clerk.

**BE IT FURTHER RESOLVED** that notice of this contract award shall be published within 10 days of the date of this Resolution, pursuant to law.

**ART II**

**WHEREAS**, the Township of Toms River has a need to acquire certain professional COAH legal services from June 26, 2019 up to and including December 31, 2019; and

**WHEREAS**, the Township of Toms River solicited proposals for these services in accordance with the Fair and Open Process, pursuant to the provisions of N.J.S.A. 19:44A-20.4 et. seq.; and

**WHEREAS**, the following firms submitted a conforming proposal, which was publicly opened and read on May 15, 2019:

1. William J. Willard, Esq., of the firm DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., 15 Mountain Blvd., Warren, New Jersey 07059
2. Eric M. Bernstein & Associates, LLC, 34 Mountain Blvd, Bldg A, PO Box 4922 Warren, NJ 07059
3. Grace Marmero & Associates, LLP, 44 Euclid Street, Woodbury, NJ 08096
4. Inglesino, Webster, Wyciskala, Taylor LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054
5. Malamut & Associates, LLC, 457 Haddonfield Road, Suite 500, Cherry Hill, NJ 08002; and

**WHEREAS**, William J. Willard, Esq., of the firm DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. has provided legal services for the Township of Toms River for several years in a professional and competent manner; and

**WHEREAS**, William J. Willard, Esq., of the firm DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. has extensive experience in the field of COAH law; and

**WHEREAS**, William J. Willard, Esq., of the firm DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. has held the position of Special COAH Counsel for the Township of Howell, Township of Berkeley Heights, Township of Stafford, Township of Bedminster, Township of Woodbridge and the Borough of Manville:

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Toms River, in the County of Ocean, State of New Jersey, that the Mayor is hereby authorized to execute and the Municipal Clerk is authorized to attest to an agreement with:

1. William J. Willard, Esq., of the firm DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C.,

for professional COAH legal services commencing June 26, 2019 up to and including December 31, 2019, at the rate of \$195.00/hr. for attorney services, and paralegal services at the rate of \$95.00 per hour in Account No. X-19- -600-027, contingent upon the execution of a contract and the availability of funds. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

**BE IT FURTHER RESOLVED** that notice of this contract award shall be published within 10 days of the date of this Resolution, pursuant to law.

### **PART III**

**WHEREAS**, the Township of Toms River has a need to acquire a Financial Advisor and Counseling Services (Arbitrage) commencing June 26, 2019 up to and including December 31, 2019; and

**WHEREAS**, the Township of Toms River solicited proposals for these services in accordance with the Fair and Open Process pursuant to the provisions of *N.J.S.A. 19:44A-20.4 et. seq.*; and

**WHEREAS**, the following firms submitted conforming proposals which were publicly opened and read on May 15, 2019:

1. Acacia Financial Group, Inc., 6000 Midlantic Drive, Suite 419, North, Mount Laurel, N.J. 08054
2. NW Financial Group, L.L.C., 2 Hudson Place, 3<sup>rd</sup> Floor, Hoboken, New Jersey 07030;
3. Phoenix Advisors, LLC, 625 Farnsworth Avenue, Bordentown, NJ 08505; and

**WHEREAS**, Acacia Financial Group is experienced in the field as financial advisor and counseling services to public entities; and

**WHEREAS**, Acacia Financial Group has provided these services to eight state level authorities, and six New Jersey counties; and

**WHEREAS**, Acacia Financial Group represents twenty six municipalities, including the Township of Brick, the Township of Cherry Hill and the City of Newark; and

**WHEREAS**, Acacia Financial Group has represented many local authorities including the Toms River Township Municipal Utilities Authority:

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Council of the Township of Toms River authorizes the Mayor to enter into and the Township Clerk to attest to a contract with the firm of:

1. Acacia Financial for Financial Advisor and Counseling Services

commencing June 26, 2019 up to and including December 31, 2019 at the rate of \$145.00/hr. for professionals and \$50.00/hr. for administrative purposes, contingent upon the execution of a contract, and the availability of funds. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

**BE IT FURTHER RESOLVED** that notice of this contract award shall be published within 10 days of the date of this Resolution, pursuant to law.

#### **PART IV**

**WHEREAS**, the Township of Toms River has a need to retain professional services for Pool General Environmental Legal Counsel, including but not limited to applications to the N.J. D.E.P., and State House Commission matters commencing June 26, 2019 up to and including December 31, 2019; and

**WHEREAS**, the Township of Toms River solicited proposals for these services in accordance with the Fair and Open Process, pursuant to the provisions of N.J.S.A. 19:44A-20 *et. seq.*; and

**WHEREAS**, the following firms submitted conforming proposals, which were publicly opened and read on December 5, 2018:

1. Grace Marmero & Associates, LLP, 44 Euclid Street, Woodbury, New Jersey 08096
2. Chiesa, Shahinian and Giantomasi, P.C., 1 Boland Drive, West Orange, New Jersey 07052
3. Bright View Engineering, 5 Pitcairn Drive, Roseland, NJ 07068
4. Maraziti Falcon, LLP, 150 JFK Parkway, Short Hills, NJ 07078
5. Wanda Chin Monahan, LLC, 50 Cardinal Drive, Suite 102, Westfield, NJ 07090
6. Malamut & Associates, LLC, 457 Haddonfield Road, Suite 500, Cherry Hill, NJ 08002; and

**WHEREAS**, Wanda Chin Monahan, LLC specializes in environmental law and has represented several public entities, including County of Hudson, County of Cape May, Borough of Ringwood, Orange Housing Authority, Township of Woodbridge, City of Hoboken, and others; and

**WHEREAS**, the firm has experience in the Spill Compensation and Control Act, Underground Storage of Hazardous Substance Act, the Water Pollution Control Act, Brownfield and Contaminated Site Remediation Act, and others; and

**WHEREAS**, a review of the submitted proposals reveal that the firm of Chiesa, Shahinian and Giantomasi, P.C. has represented the municipalities of Sayreville, East Brunswick and Verona in environmental legal issues; and

**WHEREAS**, the firm of Chiesa, Shahinian and Giantomasi, P.C. has represented clients in connection with waste site cleanups and the reallocation of clean-up costs at sites in New Jersey, New York, Pennsylvania, Ohio, Michigan, and other states; and

**WHEREAS**, the firm employs over 100 attorneys and staff providing a full range of legal services in connection with environmental law; and

**WHEREAS**, the firm of Chiesa, Shahinian and Giantomasi, P.C. has represented the Township of Toms River on general environmental issues for many years and is familiar with the facts and legal issues necessary to represent the interests of the Township in a competent and efficient manner:

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Council of the Township of Toms River authorizes the Mayor to execute and the Township Clerk to attest to a contract with the firms of:

1. Wanda Chin Monahan, LLC
2. Chiesa, Shahinian and Giantomasi, P.C., as an alternate pool general Environmental legal counsel,

for Pool General Environmental Legal Counsel, including but not limited to applications to the N.J.D.E.P., and State House Commission matters, at the rate of \$220.00 per hour for attorneys, and paralegals at the rate of \$95.00 per hour, commencing June 26, 2019 up to and including December 31, 2019, contingent upon the execution of a contract, the availability of funds. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

**BE IT FURTHER RESOLVED** that notice of this contract award shall be published within 10 days of the date of this Resolution, pursuant to law.

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Thomas Kelaher
- b) Chief Financial Officer
- c) Business Administrator
- d) Township Attorney
- e) Finance Department
- f) Engineering Division
- g) Purchasing Division
- h) Township Clerk's Office
- i) McManimon, Scotland & Baumann, LLC  
75 Livingston Avenue, 2<sup>nd</sup> Floor  
Roseland, New Jersey 07068
- j) Chiesa, Shahinian and Giantomasi P.C.  
1 Boland Drive  
West Orange, New Jersey 07052
- k) William J. Willard, Esq.,  
DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C.  
15 Mountain Blvd.  
Warren, New Jersey 07059
- l) Acacia Financial Group, Inc.  
6000 Midlantic Drive, Suite 419  
North, Mount Laurel, N.J. 08054
- m) Wanda Chin Monahan, LLC  
50 Cardinal Drive, Suite 102  
Westfield, NJ 07090
- n) Chiesa, Shahinian and Giantomasi, P.C.  
1 Boland Drive  
West Orange, New Jersey 07052

## TOMS RIVER TOWNSHIP NOTICE

The Township of Toms River has awarded a professional service contracts pursuant to a fair and open process pursuant to law. The

resolution authorizing it is available for public inspection in the Office of the Township Clerk.

AWARDED TO: MCMANIMON, SCOTLAND & BAUMANN, LLC  
CHIESA, SHAHINIAN AND GIANTOMASI, PC

SERVICES: BANKRUPTCY ATTORNEY AND ALTERNATE  
BANKRUPTCY ATTORNEY

COST: \$220/HR. FOR ATTORNEYS AND \$95/HR. FOR  
PARALEGALS FOR CY19, SUBJECT TO THE  
EXECUTION OF A CONTRACT, AND AVAILABILITY  
OF FUNDS

TERM: JUNE 26, 2019 THROUGH DECEMBER 31, 2019

AWARDED TO: WILLIAM J. WILLARD, ESQ. OF THE FIRM OF  
DIFRANCESCO, BATEMAN, KUNZMAN, DAVIS,  
LEHRER & FLAUM, PC

SERVICES: COAH LEGAL SERVICES

COST: RATE OF \$195/HR. FOR ATTORNEYS, AND  
\$95/HR. FOR PARALEGAL SERVICES, FOR CY19,  
SUBJECT TO THE EXECUTION OF A CONTRACT,  
AND THE AVAILABILITY OF FUNDS.

TERM: JUNE 26, 2019 THROUGH DECEMBER 31, 2019

AWARDED TO: ACACIA FINANCIAL GROUP, INC.

SERVICES: FINANCIAL ADVISOR AND COUNSELING  
SERVICES

COST: AT THE RATE OF \$145/HR. FOR PROFESSIONALS  
AND \$50/HR. FOR ADMINISTRATIVE PURPOSES,  
FOR CY19, SUBJECT TO THE EXECUTION OF A  
CONTRACT, AND THE AVAILABILITY OF FUNDS

TERM: JUNE 26, 2019 THROUGH DECEMBER 31, 2019

AWARDED TO: WANDA CHIN MONAHAN, LLC

CHIESA, SHAHINIAN AND GIANTOMASI, PC, AS  
ALTERNATE POOL GENERAL ENVIRONMENTAL  
LEGAL COUNSEL

SERVICES: POOL GENERAL ENVIROMENTAL LEGAL  
COUNSEL AND ALTERNATE POOL GENERAL  
ENVIRONMENTAL LEGAL COUNSEL

COST: RATE OF \$220/HR. FOR ATTORNEYS AND  
\$95/HR. FOR PARALEGALS

TERM: JUNE 26, 2019 THROUGH DECEMBER 31, 2019



**RESOLUTION TO AMEND A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, DATED APRIL 23, 2019, (PART XX), BY AWARDING A PROFESSIONAL SERVICE CONTRACT TO VCA ANIMAL HOSPITALS, INC. d/b/a TOMS RIVER VETERINARY HOSPITAL FOR THE REMAINDER OF THE 2019 CALENDAR YEAR, AS AN ADDITIONAL NONEMERGENCY POOL VETERINARIAN**

JUNE 25, 2019

**WHEREAS**, on April 23, 2019 the Township of Toms River Council awarded contracts to two veterinary firms to perform pool nonemergency services located in Section XX of that omnibus resolution: Cummings Veterinary Services, d/b/a East Coast New Jersey Spay Clinic, and Vetcor of Toms River, LLC d/b/a Calling All Creatures; and

**WHEREAS**, on April 23, 2019 the Township of Toms River Council also by resolution authorized requests for proposals for an additional nonemergency veterinarian as part of a pool for veterinarian services without increasing the budget for those services; and

**WHEREAS**, the request was conducted through a Fair and Open Process pursuant to the provisions of *N.J.S.A. 19:44-20.4 et seq.*; and

**WHEREAS**, on May 13, 2019 VCA Animal Hospitals, Inc. d/b/a Toms River Veterinary Hospital submitted the only conforming proposal which was open and read by the Township Purchasing Department; and

**WHEREAS**, Toms River Veterinary Hospital has performed for decades veterinary services for the Township in a professional and competent manner; and

**WHEREAS**, it is the intent of the Council to include VCA Animal Hospitals, Inc. d/b/a Toms River Veterinary Hospital into the pool without increasing the budget to the Township; and

**WHEREAS**, funds for the three veterinary firms will be reallocated to create a total sum not exceeding the amounts set forth in the resolution dated April 23, 2019 authorizing the request for a third pool nonemergency veterinarian;

**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 Council finds the selection process in awarding this contract was conducted through a Fair and Open Process pursuant to the provisions of *N.J.S.A. 19:44-20.4 et seq*

2. It amends the omnibus resolution dated April 23, 2019 (Part XX) awarding contracts to Cummings Veterinary Services, d/b/a East Coast New Jersey Spay Clinic, Vetcor of Toms River, LLC d/b/a Calling All Creatures and VCA Animal Hospitals, Inc. d/b/a Toms River Veterinary Hospital as pool nonemergency veterinarians up to and including December 31, 2019.

3. The allocation of funds to Cummings Veterinary Services d/b/a East Coast New Jersey Spay Clinic shall be for a total maximum amount not exceeding \$7,500.00 from Account No. 9-13- -911-011. The allocation of funds for Vetcor of Toms River, LLC d/b/a Calling All Creatures shall be for a total maximum amount not exceeding \$53,000.00, from account No.9-13- -911-011 in the amount of \$40,000.00, from account no. 9-13 - -911-012 in the amount of \$8,000.00 and account no. 9-01- - P45-534 in the amount of \$5,000.00. The allocation of funds for VCA Animal Hospitals, Inc. d/b/a Toms River Veterinary Hospital shall be for a total maximum amount not exceeding \$7,500.00 from Account #9-13- -911-011. All funds are contingent upon an execution of a contract and the availability of funds.

4. All remaining provisions of the omnibus resolution dated April 23, 2019 not amended, modified or otherwise affected by this resolution, shall remain in full force and effect.

5. A notice of this contract award shall be published once within 10 days of the date of this Resolution, in the Asbury Park Press.

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

- a) Mayor Thomas Kelaher
- b) Chief Financial Officer
- c) Business Administrator
- d) Township Attorney
- e) Purchasing Division
- f) Township Clerk's Office
- g) Director, Health and Human Services
- h) Chief, Police Department
- i) Animal Control
- j) VCA Animal Hospitals, Inc. d/b/a  
Toms River Animal Hospital  
769 Route 37 West  
Toms River, N.J. 08755
- k) Vetcor of Toms River, L.L.C., d/b/a Calling All Creatures Veterinary  
Hospital,  
246 Washington Street  
Toms River, New Jersey 08753
- l) Cummings Veterinary Services d/b/a East Coast New Jersey Spay Clinic  
918 Hazelwood Road  
Toms River, New Jersey 08753

## **CERTIFICATION**

**THIS IS TO** that the allocation of funds to Cummings Veterinary Services d/b/a East Coast New Jersey Spay Clinic shall be for a total maximum amount not exceeding \$7,500.00 from Account No. 9-13- -911-011. The allocation of funds for Vetcor of Toms River, LLC d/b/a Calling All Creatures shall be for a total maximum amount not exceeding \$53,000.00, from Account No.9-13- -911-011 in the amount of \$40,000.00, from Account No. 9-13 - -911-012 in the amount of \$8,000.00, and Account No. 9-01- -P45-534 in the amount of \$5,000.00. The allocation of funds for VCA Animal Hospitals, Inc. d/b/a Toms River Veterinary Hospital shall be for a total maximum amount not exceeding \$7,500.00 from Account No. 9-13- -911-011.

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.

SHARON SMITH  
CHIEF FINANCIAL OFFICER

Dated: June 25, 2019

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, RELEASING PERFORMANCE GUARANTEES AND ACCEPTING MAINTENANCE GUARANTEES FOR A MAJOR SITE PLAN KNOWN AS QUICKCHECK, BLOCK 1079.01, LOTS 2, 4, 6, 14, 15 AND 16 (3112 / 3116 Route 37 East)**

**June 25, 2019**

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan known as Quick Chek, Block 1079.01, Lots 2,4,6,14,15 & 16.

WHEREAS, Maintenance Bonds have been posted as follows:

1) Maintenance Surety Bond # CMS0323462 in the amount \$34,455.00 is hereby accepted;

WHEREAS, the Township Engineer has made an inspection of said Major Site Plan and finds that all improvements have been satisfactorily completed; and

WHEREAS, the Township Engineer has recommended the release of the Performance Guarantees and acceptance of Maintenance Guarantees;

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) Previously posted Cash Bond in the amount of \$22,970.00 currently on account # 9-14-902-10, is hereby released with applicable interest if any;

2) Previously posted Surety Bond # CMS0323420 is hereby released;

3) Maintenance Surety Bond listed in the preamble hereof be and the same is hereby retained;

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

- a. Township Engineer
- b. Chief Financial Officer
- c. Township Attorney
- d. QuickChek Corporation  
3 Old Highway 28  
PO Box 600  
Whitehouse Station, NJ 08889

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, RELEASING PERFORMANCE GUARANTEES AND ACCEPTING MAINTENANCE GUARANTEES FOR A MAJOR SITE PLAN KNOWN AS BLOCK 411, LOT 16.01 (740 Route 37 West )**

**June 25, 2019**

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan known as Block 411, Lot 16.01.

WHEREAS, Maintenance Bonds have been posted as follows:

1) Maintenance Cash Bond in the amount of \$5,190.00, accepted by way of Resolution 'M' in the original amount of \$10,590.00, which represents the 10% Maintenance Guarantee, is accepted and will remain on account to represent the Maintenance Cash Bond;

WHEREAS, the Township Engineer has made an inspection of said Major Site Plan and finds that all improvements have been satisfactorily completed; and

WHEREAS, the Township Engineer has recommended the release of the Performance Guarantees and acceptance of Maintenance Guarantees;

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

1) Previously posted Cash Bond in the amount of \$5,400.00 currently on account #9-14- -902-101, is hereby released with applicable interest if any;

2) Previously posted Surety Bond #285055166 is hereby released;

3) Maintenance Cash Bond listed in the preamble hereof be and the same is hereby released;

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

- a. Township Engineer
- b. Chief Financial Officer
- c. Township Attorney
- d. Aldi Inc.  
2700 Saucon Valley Road  
Center Valley, PA 18034

## **RESOLUTION AUTHORIZING THE RENEWAL OF LIQUOR LICENSES FOR 2019-2020**

**June 25, 2019**

WHEREAS, all of the present Liquor License holders listed below have made application for the renewal of their respective licenses and have paid the necessary fees for such renewals; and

WHEREAS, the submitted application form is complete in all respects; and

WHEREAS, the applicant is qualified to be licensed according to all statutory, regulatory and local governmental ABC laws and regulations; and

WHEREAS, the applicant has disclosed, and the issuing authority has ascertained and reviewed the source of any additional financing obtained in the previous license term for use in the licensed business;

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 Plenary Retail **Consumption** Liquor Licenses be and are hereby granted to the following applicants, all of whom are presently holders of such licenses, for the respective premises, to wit:

1507-33-001-008 (Pocket)  
37 Eats, LLC  
952 Lakewood Rd  
Toms River, NJ 08753

1507-33-010-004  
BJ's Restaurant Operations Company  
1275 Hooper Ave  
Toms River, NJ 08753

1507-33-012-006  
Malbar, Inc.  
t/a Tuscan House  
1250 Hooper Ave  
Toms River, NJ 08753

1507-33-018-011  
JMJ License Corporation  
t/a Ale House  
1850 Hooper Ave

Toms River, NJ 08753

1507-33-050-002

Brinker New Jersey Inc.  
t/a Chili's Grill & Bar  
1315 Hooper Ave  
Toms River, NJ 08753

1. The following Plenary Retail Consumption Liquor License shall operate a restaurant With a minimum of 100 seats in the premises where license is sited, denote by double Asterisk following the license number:

1507-33-054-003\*\*  
NJ Account Wagering LLC  
t/a Favorites of Toms River  
1071 Route 37 West  
Toms River, NJ 08755

2. Each of the licenses referred to in the preceding paragraphs hereof shall be executed for and on behalf of this Municipality by Clerk of the Township of Toms River, with an effective date of **July 1, 2019**.

3. The Township Clerk shall forthwith report to the Division of Alcoholic Beverage Control of the State of New Jersey, and to the State Division of Taxation, the issuance of each said license as soon as such licenses are issued.

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

- a) Department of Police
- b) Chief Financial Officer
- c) Municipal Attorney
- d) State of New Jersey  
Division of Alcoholic Beverage Control  
140 East Front Street, Fifth Floor  
CN 087  
Trenton, N. J. 08625-0087
- e) Licensees, as listed above
- f) NJ Division of Taxation  
ATTN: ABC Licensing Unit  
PO Box 245  
Trenton, NJ 08695

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AUTHORIZING ROBERT J. CHANKALIAN, TOWNSHIP ENGINEER, TO EXECUTE A NJDEP DIVISION OF LAND USE REGULATION PERMIT/AUTHORIZATION FORM, PERMIT FOR EMERGENCY RETROACTIVE PERMIT FOR SILVERTON STREAM CLEANING, AND AUTHORIZING PAYMENT FOR THE REQUIRED PERMIT FEE IN THE AMOUNT OF \$3,000.00**

**JUNE 25, 2019**

**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. Robert J. Chankalian, Township Engineer is hereby authorized to execute a NJDEP Division of Land Use Regulation, Application Form for Permit/Authorization, for an emergency retroactive NJDEP Permit for Silverton Stream Cleaning, and authorizing payment for the required permit fee in the amount of \$3,000.00.

2. Funds for the payment for the required permit fee in the amount of \$3,000.00, are available in Account No. X-04- -236-001. 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) Township Attorney
- b) Chief Financial Officer
- c) Township Engineer
- d) State of New Jersey  
Department of Environmental Protection  
Division of Land Use Regulation  
PO Box 420  
501 East State Street –Mail Code 501-02A  
Trenton, NJ 08625-0420
- e) Ericka Naklicki, PWS  
T&M Associates  
11 Tindall Road  
Middletown, NJ 07748

## **CERTIFICATION**

**THIS IS TO CERTIFY** that the required fee for Department of Environmental Protection, Division of Land Use Regulation, for an emergency retroactive NJDEP permit for Silverton Stream Cleaning, in the amount of \$3,000.00, are available in Account No. X-04- -236-001.

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

SHARON SMITH  
CHIEF FINANCIAL OFFICER

Dated: June 25, 2019

A motion was made by Council Member Huryk, seconded by Council Member Maruca, and carried with Council Members Hill, Huryk, Maruca, Turnbach, and with Council President Wittmann voting yes, and Council Member Kubiak absent, and with Council Member Rodrick voting no, to approve the following Resolution.

### **RESOLUTION APPOINTING MEMBERS OF THE TOMS RIVER MUNICIPAL UTILITIES AUTHORITY**

**June 25, 20189**

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. **DEBORAH CLEMENT** is hereby appointed as a regular member of the Toms River Municipal Utilities Authority for a term of five (5) years, expiring January 31, 2024 retroactive to February 1, 2019.
2. **BENJAMIN MONTENEGRO** is hereby appointed as regular member of the Toms River Municipal Utilities Authority for a term of Seven (7) months, expiring January 31, 2020.
3. **JOSEPH BILLOTTA** is hereby appointed as alternate member #1 of the Toms River Municipal Utilities Authority for a term of five (5) years, expiring January 31, 2024.
4. The Office of the Township Clerk shall send a certified copy of this resolution to each of the following, and appointee shall present himself before the Township Clerk to take and subscribe to the Oath of Office.

- a. Office of the Mayor
- b. Office of the Township Council
- c. Township Attorney
- d. Municipal Utilities Authority
- e. Deborah Clement  
2837 Lenox Street  
Toms River, NJ 08753
- f. Benjamin Montenegro  
1181 Shepherd Court  
Toms River, NJ 08755
- g. Joseph Billotta  
246 Baystream Drive  
Toms River, NJ 08753
- h. Secretary of State, State of New Jersey  
PO Box 308  
Trenton, NJ 08625
- i. New Jersey Department of Treasury  
Division of Commercial Recording  
(along with a Toms River Township voucher to cover the filing fees)  
PO Box 308  
Trenton, NJ 08625

## REPORTS

NONE

## APPROVAL OF BILLS

Council President Wittmann asked for a report on the bills.

The Bill List, dated **June 20, 2019** was approved on motion by Council Member Turnbach, seconded by Council Member Maruca, and carried with Council Members , Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubielski absent. The following respective exceptions to their votes were noted as abstentions to this vote:

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

Purchase Order 19-02706 & 19-02705, payable to Frank Sadeghi in the amount of \$175.50.

Purchase Order 19-02706 & 19-02705, payable to Toms River Yacht Club in the amount of \$108.00.

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

Purchase Order 19-00456, payable to Terry Brady, Esquire, in the amount of \$3,916.63.

Purchase Order 19-03292, payable to Toms River Board of Education in the amount of \$15,011,352.73.

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

Purchase Order 19-02705 & 19-03178, payable to Remington & Vernick Engineers in the amount of \$14,642.94.

Purchase Order 19-03466, payable to Recreation Salaries in the amount of \$8,434.81.

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

Purchase Order 19-03448, 19-03450 & 19-03458, payable to NJ Motor Vehicle Commission in the amount of \$300.00.

Purchase Order 19-02706 & 19-03179, payable to Dasti & McGuckin in the amount of \$5,265.000.

Purchase Order 19-00994, payable to Gregory McGuckin in the amount of \$931.50.

Purchase Order 19-00456, payable to Terry Brady, Esquire, in the amount of \$3,916.63.

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

Purchase Order 19-00994, payable to Gregory McGuckin in the amount of \$931.50.

Purchase Order 19-02706 & 19-03179, payable to Dasti & McGuckin in the amount of \$5,265.000.

Purchase Order 19-03466, payable to Magistrate Salaries in the amount of \$7,635.44.

## **ELECTED OFFICIALS COMMENTS**

Mayor Kelaher had no comments.

Councilman Hill spoke on state budget; school funding; shared services; and he wished Council Member Maruca a Happy Birthday.

Councilman Rodrick spoke regarding last council meeting resolution by Council Members to censure and request his resignation. He claims his career permanently damaged.

Councilman Turnbach happy to announced Business Improvement District game night – June 26 at 5:00 - 8:30 p.m. June 20<sup>th</sup>, 2019 Bill S3422 presented to Senate and passed! and urges Assembly to pass before November for Code Blue (for the homeless).

Councilwoman Maruca spoke regarding Saturday, June 29<sup>th</sup> at Ortleigh Beach is town wide garage sale. She also wished Mayor Kelaher a Happy Birthday.

Councilwoman Huryk thanked Council and employees for successful Pride Day; trolley car coming soon to downtown; code blue legislation; and Sunset street was paved thanked to Engineering Department and Ocean County Road Department.

Councilman Wittmann spoke regarding Garfield Avenue boat ramp completion.

## **PUBLIC COMMENTS**

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

Nick Zorojew, Executive Director, spoke regarding Huddy Park Game Night – monthly thru summer – 4<sup>th</sup> Wednesday of June, July and August; Trolley car available; and car show.

No further comments from the public appearing, a motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried to close public comment.

A motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried to enter into a private Executive Session at 6:48 PM.



A motion was made by Council Member Maruca, seconded by Council Member Huryk, 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  
Land Acquisitions  
Contract Negotiations

3. The following specific topics were announced.

1. Executive Session Minutes Review: April 9, 2019 Regular Meeting
2. Personnel Issues
3. Review of status of all real property acquisitions (voluntary acquisitions and eminent domain actions)
4. Review of designating a conditional redeveloper for Block 658, Lot 25, and Block 569, Lots 3, 4 & 10, and an interim costs agreement

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	- Present
Council Member Kubiel	- Absent
Council Member Maruca	- Present
Council Member Rodrick	- Present
Council Member Turnbach	- Present
Council Vice-President Hill	- Present
Council President Wittmann	- Present

The Council **reconvened** the public portion at 8:10 P.M.; a motion was made by Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiel, absent.

A motion was made by Council Member Huryk, seconded by Council Member Maruca, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiel absent, to approve the following Resolution.

## R E S O L U T I O N A P P R O V I N G E X E C U T I V E   S E S S I O N   M I N U T E S

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:

**June 11, 2019 Regular Meeting**

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

A motion was made by Council Member Maruca, seconded by Council Member Turnbach, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and Council President Wittmann voting yes, and with Council Member Kubiel absent, to approve the following Resolution.

**RESOLUTION OF THE TOWNSHIP OF TOMS RIVER, IN  
THE COUNTY OF OCEAN, NEW JERSEY, DESIGNATING  
A CONDITIONAL REDEVELOPER FOR BLOCK 658, LOT  
25 AND BLOCK 569, LOTS 3, 4, 10 and 11.01 AS IDENTIFIED  
ON THE TAX MAPS OF THE TOWNSHIP AND  
AUTHORIZING THE EXECUTION OF AN INTERIM COSTS  
AGREEMENT WITH RESPECT THERETO**

**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**, the Township Council (the “Council”) of the Township of Toms River, in the County of Ocean, New Jersey (the “Township”), by resolution duly adopted pursuant to the Redevelopment Law, authorized and directed the Planning Board of the Township (the “Planning Board”) to undertake a preliminary investigation to determine if a specific area located in the Township, identified on the Tax Maps of the Township as Block 566.01; Block 566.02; Block 566.03; Block 567; Block 569, Block 570; Block 566.04, a portion of Lot 1; and Block 658, Lots 25, 47, 48 and 58 (the “Study Area”), constituted an area in need of redevelopment according to the criteria set forth in the Redevelopment Law; and

**WHEREAS**, on November 5, 2008 the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law; and

**WHEREAS**, on December 3, 2008, the Planning Board adopted Resolution #2008-94 recommending that Council designate the Study Area as an area in need of redevelopment; and

**WHEREAS**, on January 27, 2009, 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 “Original Redevelopment Area”); and

**WHEREAS**, in 2012, the Council adopted a resolution designating Block 658.01, as shown on the Tax Maps of the Township, as an area in need of redevelopment in accordance with the Redevelopment Law and adding said parcel to the Original Redevelopment Area (the “Redevelopment Area”); and

**WHEREAS**, pursuant to the Redevelopment Law, the Township caused a redevelopment plan for a portion of the Redevelopment Area identified on the Tax Maps of the Township as Block 566.01; Block 566.02, Lots 3, 7, 8, 9 and a portion of 5; Block 566.03; Block 567; Block 569, Lots 4, 5, 6, 7, 8, 9, 10 and 11; Block 658, Lots 25, 47, 48 and 58 and Block 658.01 (the “Phase 1 Redevelopment Area”) to be prepared, entitled the “Redevelopment Plan for Phase 1 Downtown Waterfront Redevelopment Area” (the “Redevelopment Plan”) dated November 16, 2017; and

**WHEREAS**, on December 26, 2017, the Council adopted an Ordinance approving the Redevelopment Plan; and

**WHEREAS**, the Township issued a request for redevelopment proposals (the “RFP”) seeking a redeveloper for a portion of the Phase 1 Redevelopment Area identified on the Tax Maps

of the Township as Block 658, Lot 25 (“Lot 1”) and Block 569, Lots 3, 4, 10 and 11.01 (“Lot 2” and together with Lot 1, the “Project Area”); and

**WHEREAS**, on May 3, 2019, the Township received a response to the RFP (the “Proposal”) from Capodagli Property Company, LLC, (“Capodagli”); and

**WHEREAS**, the Township reviewed the Proposal based on the designated criteria in the RFP, including but not limited to, (i) compliance with the terms of the RFP, (ii) operating experience in the field, including experience as a redeveloper of residential, retail, office and mixed-use in downtown districts, (iii) appropriateness of design, pedestrian circulation and parking solutions, (iv) creativity in approach to mix of uses, (v) soundness of financial plan and commitments, and (vi) capability of redeveloper to execute the project; and

**WHEREAS**, based upon the Township’s evaluation of the Proposal, the Township desires to designate Capodagli, or an affiliated entity, as the conditional redeveloper of the Project Area (the "Conditional Redeveloper"), pending the negotiation and execution of, among other agreements, a redevelopment agreement (the "Redevelopment Agreement") with the Township; and

**WHEREAS**, the Township desires to authorize the execution of an interim costs agreement with Capodagli (in the form attached hereto as **Exhibit A**, the "Interim Costs Agreement") 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 Project 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 commencing as of June 18, 2019. (the “Interim Costs”).

**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.** Capodagli is hereby designated as the Conditional Redeveloper of the Project Area pending the execution of the Redevelopment Agreement with the Township.

**Section 3.** The within designation is hereby made for a limited 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 4.** The within designation is further contingent upon (i) Capodagli agreeing to reimburse the Township for any and all Interim Costs in accordance with the Interim Costs Agreement and (ii) negotiating a formal Redevelopment Agreement between the Township and Capodagli.

**Section 5.** The Mayor of the Township is hereby authorized and directed to execute the Interim Costs Agreement, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township's redevelopment counsel and other professionals.

**Section 6.** This resolution shall take effect immediately.

**Section 3.** The within designation is hereby made for a limited 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.

## **CERTIFICATE**

I HEREBY CERTIFY the foregoing to be a true copy of a Resolution adopted on June 25, 2019 by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey.

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Alison Carlisle, Municipal Clerk  
Township of Toms River, New Jersey

**THIS INTERIM COSTS AGREEMENT** (the “Interim Costs Agreement”), dated as of June \_\_, 2019, by and between **THE TOWNSHIP OF TOMS RIVER**, a municipal corporation of the State of New Jersey with offices at 33 Washington Street, Toms River, New Jersey 08753 and its successors and assigns (the “Township”), and **CAPODAGLI PROPERTY COMPANY, LLC**, a limited liability company formed under the laws of the State of New Jersey with offices at 201 S. Wood Avenue, Linden, New Jersey 07036, and its successors and assigns (“Capodagli” and together with the Township, the “Parties” and each a “Party”),

W-I-T-N-E-S-S-E-T-H:

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

**WHEREAS**, the Township Council (the “Council”) of the Township, by resolution duly adopted pursuant to the Redevelopment Law, authorized and directed the Planning Board of the Township (the “Planning Board”) to undertake a preliminary investigation to determine if a specific area located in the Township, identified on the Tax Maps of the Township as Block 566.01; Block 566.02; Block 566.03; Block 567; Block 569, Block 570; Block 566.04, a portion of Lot 1; and Block 658, Lots 25, 47, 48 and 58 (the “Study Area”), constituted an area in need of redevelopment according to the criteria set forth in the Redevelopment Law; and

**WHEREAS**, on November 5, 2008 the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law; and

**WHEREAS**, on December 3, 2008, the Planning Board adopted Resolution #2008-94, recommending that Council designate the Study Area as an area in need of redevelopment; and

**WHEREAS**, on January 27, 2009, 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 “Original Redevelopment Area”); and

**WHEREAS**, in 2012, the Council adopted a resolution designating Block 658.01, as shown on the Tax Maps of the Township, as an area in need of redevelopment in accordance with the Redevelopment Law and adding said parcel to the Original Redevelopment Area (the “Redevelopment Area”); and

**WHEREAS**, pursuant to the Redevelopment Law, the Township caused a redevelopment plan for a portion of the Redevelopment Area identified on the Tax Maps of the Township as Block 566.01; Block 566.02, Lots 3, 7, 8, 9 and a portion of 5; Block 566.03; Block 567; Block 569, Lots 4, 5, 6, 7, 8, 9, 10 and 11; Block 658, Lots 25, 47, 48 and 58 and Block 658.01 (the “Phase 1 Redevelopment Area”) to be prepared, entitled the “Redevelopment Plan for Phase 1 Downtown Waterfront Redevelopment Area” (the “Redevelopment Plan”) dated November 16, 2017; and

**WHEREAS**, on December 26, 2017, the Council adopted an Ordinance approving the Redevelopment Plan; and

**WHEREAS**, the Township issued a request for redevelopment proposals (the “RFP”) seeking a redeveloper for a portion of the Phase 1 Redevelopment Area identified on the Tax Maps of the Township as Block 658, Lot 25 (“Lot 1”) and Block 569, Lots 3, 4, 10 and 11.01 (“Lot 2” and together with Lot 1, the “Project Area”); and

**WHEREAS**, the Township reviewed the Proposal based on the designated criteria in the RFP, including but not limited to, (i) compliance with the terms of the RFP, (ii) operating experience in the field, including experience as a redeveloper of residential, retail, office and mixed-use in downtown districts, (iii) appropriateness of design, pedestrian circulation and parking solutions, (iv) creativity in approach to mix of uses, (v) soundness of financial plan and commitments, and (vi) capability of redeveloper to execute the project; and

**WHEREAS**, based upon the Township’s evaluation of the Proposal, the Township desires to designate Capodagli, or an affiliated entity, as the conditional redeveloper of the Project Area (the “Conditional Redeveloper”), pending the negotiation and execution of, among other

agreements, a redevelopment agreement (the "Redevelopment Agreement") with the Township; and

**WHEREAS**, the Township wishes to engage in preliminary negotiations with Capodagli in furtherance of entering into a formal redevelopment agreement, with said preliminary negotiations to include the receipt and review of additional project specific information from Capodagli as may be requested; and

**WHEREAS**, the Parties have determined to establish an escrow fund with the Township to provide for the payment of the Township's fees, costs and expenses related to, among other things, the designation of Capodagli as the conditional redeveloper of the Project Area and preliminary discussions relating to the negotiation of a redevelopment agreement for the Project Area (collectively, the "Interim Costs"); and

**WHEREAS**, on June 25, 2019, the Council adopted a resolution (i) designating Capodagli as conditional redeveloper of the Project Area, subject to the successful negotiation of a redevelopment agreement and (ii) authorizing the execution of this Interim Costs Agreement.

**NOW, THEREFORE**, for and in consideration of the mutual promises, representations, covenants and agreements contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Township and Capodagli, intending to be legally bound hereby and to bind its successors and assigns, do mutually promise, covenant and agree as follows:

1. Payment of Interim Costs.

a. Immediately upon the execution and delivery of this Interim Costs Agreement, Capodagli shall deposit twenty thousand dollars (\$20,000) with the Township, which the Township will deposit into an interest-bearing escrow account established by it for the payment of its Interim Costs ("Escrow Account"). Prior to the Township's withdrawal of funds from the Escrow Account for the payment of its Interim Costs, the Township shall provide Capodagli with a copy of each invoice reflecting Interim Costs to be paid. Unless Capodagli promptly (which shall be deemed to be within 10 days of its receipt of any such copy) provides a written objection that any invoiced item is not an Interim Cost, the Township shall be free to withdraw funds from the Escrow Account for the payment of such invoiced services. If, when and as often as may occur that the Escrow Account is drawn down to or below five thousand dollars (\$5,000.00), then Capodagli, upon the Township's written request, shall immediately provide to the Township for deposit such additional funds as are necessary to increase the balance in the Escrow Account to fifteen thousand dollars (\$15,000) for use in accordance with these terms. In the event that this Interim Costs Agreement either expires or is cancelled by the Township or Capodagli, then all escrowed monies shall be returned to Capodagli following the payment from the Escrow Account of the Township's Interim Costs incurred up to the time of said expiration or cancellation subject to any written objections provided by Capodagli pursuant to this Section 1(a). The Township shall provide a monthly accounting in accordance with the provisions of N.J.S.A. 40:55D-53.2e.

b. Interim Costs, for the purposes of this Interim Costs Agreement, shall also include, to the extent applicable, the Township's reasonably incurred out-of-pocket fees, costs and expenses related to the designation of the Redeveloper as 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 Project 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 commencing as of June 18, 2019. If the Township retains a different professional or consultant in the place of any professional originally responsible for any aspect of the project, the Township shall be responsible for all time and expenses of the new professional to become familiar with the project and the Township shall not bill Capodagli or charge the Escrow Account for any such service.

2. Notice. Any notice required to be given pursuant to this Interim Costs Agreement shall be in writing and served by (i) personal delivery; (ii) UPS, FedEx or other nationally recognized overnight courier or (iii) electronic delivery provided that any notice with a legal effect (such as termination but not including invoices pursuant to Section 1(a) above), shall be immediately followed by overnight courier.

Notices to the Township shall be sent to:

Donald Guardian, Business Administrator  
33 Washington Street  
Toms River, New Jersey 08754  
Email: [dguardian@tomsrivertownship.com](mailto:dguardian@tomsrivertownship.com)

with a copy to:

McManimon, Scotland & Baumann, LLC  
75 Livingston Avenue, Second Floor  
Roseland, New Jersey 07068  
Attn: Joseph P. Baumann, Jr., Esq.  
Email: [jbaumann@msbnj.com](mailto:jbaumann@msbnj.com)

Notices to Capodagli shall be sent to:

Capodagli Property Company, LLC  
201 S. Wood Avenue  
Linden, New Jersey 07036

Attn: Craig Ryno  
Email: [craigryno@capodagli.com](mailto:craigryno@capodagli.com)

with a copy to:

Dennis Liloia, Esq.  
201 S. Wood Avenue  
Linden, New Jersey 07036  
Email: [dennis@capodagli.com](mailto:dennis@capodagli.com)

All notices shall be deemed effective upon receipt.

3. Assignment. Following designation as redeveloper of the Project Area, Capodagli shall have the right to assign this Interim Costs Agreement, without the consent of but on notice to the Township, to a qualified urban renewal company to be formed in compliance with the Long Term Tax Exemption Law, provided the principals of Capodagli are principal members, partners or shareholders, as appropriate of such urban renewal company, and Capodagli shall remain liable under this Interim Costs Agreement.

4. Amendment. This Interim Costs Agreement may be amended or supplemented only by an instrument in writing executed by both Capodagli and the Township.

5. Binding Effect: This Agreement shall be binding upon and shall insure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. Any litigation arising out of this Agreement shall be brought in the Superior Court of New Jersey, Ocean County vicinage.

7. Entire Agreement. This Agreement represents the entire understanding of the Township and Capodagli with respect to the subject matter of this Agreement and any prior understandings shall be deemed merged herein. Capodagli acknowledges that the execution and delivery of this Agreement shall not be construed as a binding agreement by the Council to designate Capodagli as the redeveloper of the Project Area and that such designation shall only be by formal Resolution adopted by the Council at a duly noticed public meeting. Capodagli acknowledges that no assurances have been made by the Township that Capodagli will be so designated. Capodagli acknowledges and assumes such risk. Capodagli acknowledges that its obligation to fund the Escrow Account is not contingent upon the outcome of negotiations, the actual execution and delivery of a redevelopment agreement and/or the designation of Capodagli as redeveloper.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Interim Costs Agreement to be executed, as of the date first above written.

ATTEST:

TOWNSHIP OF TOMS RIVER

\_\_\_\_\_  
Alison Carlisle, Clerk

By: \_\_\_\_\_  
Name: Donald Guardian  
Title: Business Administrator

WITNESS:

CAPODAGLI PROPERTY COMPANY, LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

No other business appearing, the meeting was **adjourned** at 8:12 P. M., on motion with Council Member Maruca, seconded by Council Member Huryk, and carried with Council Members Hill, Huryk, Maruca, Rodrick, Turnbach, and with Council President Wittmann voting yes, and with Council Member Kubiel absent.

\_\_\_\_\_  
COUNCIL PRESIDENT GEORGE WITTMANN

\_\_\_\_\_  
ALISON CARLISLE, TOWNSHIP CLERK