

BOROUGH OF METUCHEN COUNCIL MINUTES

July 10, 2023

7:30 PM

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, July 10, 2023.

The Meeting was called to order at 7:30 p.m. by Mayor Busch.

Adequate Notice of this meeting has been given in accordance with the Open Public Meeting Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the Home News Tribune and Star Ledger on December 21, 2022, posted in Borough Hall, and on file in the Clerk's Office. All requirements of the "Open Public Meetings Act" have been satisfied.

Mayor Busch noted that this had been an extraordinary day in Metuchen as two residents, Adam Boucher and Jay Harry, were drafted by major league baseball teams.

Mayor Busch asked Boy Scouts Martin Brennan and Caleb Schwalje to lead the Pledge of Allegiance.

Roll Call

Mayor Busch asked for a roll call.

Present were Councilmembers Giamboi, Hirsch, Hyman, Kandel, Council President Delia, and Mayor Busch. Councilmember Branch was absent. Also present were Borough Administrator Melissa Perilstein, Borough Clerk Deborah Zupan, and Borough Attorney Denis Murphy.

Agenda Session

Council President Delia made a motion to open the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

With no action taken, Council President Delia made a motion to close the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Public Comment

Mayor Busch opened Public Comment to any members of the public wishing to speak.

Seeing no one wishing to speak, Mayor Busch closed the Public Comment.

Borough Council Meeting Minutes

Council President Delia made a motion to approve Borough Council Meeting Minutes of April 10, 2023, second by Councilmember Giamboi. Councilmember Hirsch abstained from voting. With all others in favor, motion carried, 4-0.

Council President Delia made a motion to approve Borough Council Meeting Minutes of April 24, 2023, second by Councilmember Giamboi. With all in favor, motion carried, 5-0.

Communications Consent Agenda – Item A

Council President Delia made a motion to approve Communications Consent Agenda, Item A, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

- A. Receive and Accept Arts Council Meeting Minutes of May, 15, 2023

Ordinances – Public Hearing

Ord. 2023-21

ORDINANCE AMENDING THE CODE OF THE
BOROUGH OF METUCHEN REVISING THE
REGULATIONS RELATING TO THE
METUCHEN TOWN PLAZA

Council President Delia asked that Ordinance 2023-21 be read by title only.

Ms. Zupan read Ordinance 2023-21 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-21.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-21 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Giamboi, Hirsch, Hyman, Kandel, Delia
Nays: None

Ordinance 2023-21 was adopted, 5-0.

ORDINANCE 2023-21

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN
REVISING THE REGULATIONS RELATING TO THE METUCHEN TOWN PLAZA**

WHEREAS, the Article 3 of Chapter 124 of the Code of the Borough of Metuchen, entitled, "Metuchen Town Plaza" currently regulates and requires a permit and application procedure for Metuchen Town Plaza; and

WHEREAS, upon the recommendation of the Chief of Police and the Borough Administrator, the Council of the Borough of Metuchen has determined that it is in the best interests of the community amend Article 3 of Chapter 124 regulating the use of the Metuchen Town Plaza.

NOW THEREFORE, BE IT ORDAINED that the Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, hereby amends Article 3 of Chapter 124 regulating the Metuchen Town Plaza, specifically §124-15 through §124-26- to state as follows:

**ARTICLE 3
Metuchen Town Plaza**

§ 124-15. Intent.

The Town Plaza is a publicly owned space which is managed and operated by the Borough of Metuchen. It is the intent of the Borough that the Town Plaza is a welcoming, safe, flexible, public gathering space for residents and visitors to downtown Metuchen. The Borough promotes the use of the Plaza for events where all of the public is welcome to attend. Formal events as defined herein as "special events" require a use permit to be issued by the Borough of Metuchen as provided for herein. The Town Plaza is not available for private events where members of the public are excluded, or an admission is charged. The Town Plaza is not available for private events including, but not limited to, weddings, birthday parties or any other private event. In order to preserve the ability of all members of the public to have free access to the Metuchen Town Plaza, the Metuchen Plaza is limited to the use for events by the Borough of Metuchen or Borough of Metuchen Commission/Committee/Board sponsored events, the Metuchen Downtown Alliance and the Metuchen Farmer's Market. In addition to the requirements contained herein, the Metuchen Commission/Committee sponsored events, the Metuchen Downtown Alliance, and Metuchen Farmer's Market seeking to conduct a special event at the Metuchen Town Plaza shall also comply with all of the requirements and conditions of Chapter 75 of the Code of the Borough of Metuchen.

§ 124-16. Hours of operation.

The Town Plaza shall be open daily to the public for informal and scheduled events from 7:00 a.m. to 10:00 p.m. All Town Plaza events, both scheduled and/or informal, must be open to the public, free of charge, and not on an invitation only or restricted basis. Access to and through the Plaza must be maintained at all times including during setup and cleanup for an event. Sidewalk and tenant access must also be maintained at all times.

§ 124-17. Prohibited acts and conduct.

A. No person in the Town Plaza shall:

(1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any tables, benches, pavings or paving materials, or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or Plaza property or appurtenances whatsoever either real or personal. Plaza tables and chairs should not be stacked on top of each other.

(2) Dig or remove any soil, rock, sand, stones, pavers, trees, shrubs or plants or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.

(3) Construct or erect any structures of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(4) Damage, carve, transplant or remove any tree or plant or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any Plaza area.

(5) Climb any tree or walk, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

(6) Tie or hitch any animal or leash to any tree, plant or bench.

(7) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, storm sewer or drain flowing into such water any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.

(8) Have brought in or shall dump in, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be left anywhere on the Plaza but shall be placed in the proper receptacles where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the Plaza by the person responsible for its presence and properly disposed of elsewhere.

(9) Leave a bicycle in a place other than a bicycle rack or dock when such is provided and there is space available.

(10) Leave a bicycle lying on the ground or paving or set against trees or in any place or position where other persons may trip over or be injured by them.

(11) Set up tents, canopies or any other temporary shelter unless specifically permitted to do so by the Borough as set forth in this chapter.

(12) Take part in or abet the playing of any games involving thrown or otherwise propelled objects that could cause a risk or danger to other occupants of the Plaza, including handball or ball throwing.

(13) Ride a bicycle, skateboard, scooter or horse, roller skate, roller blade and/or hoverboard through the Plaza. Walking a bicycle, skateboard, scooter, hoverboard through the Plaza is permitted. Exceptions to the herein may be made for Borough-related safety events, i.e., safety demonstrations performed by the Metuchen Police Department or groups like Bike Walk Metuchen.

(14) Bring or possess alcoholic beverages with an intent to consume the same within the Plaza, or to publicly consume alcohol, with the exception being when a permitted special event takes place with the required security, the required State of New Jersey Division of Alcoholic Beverage Control and Borough permits and insurance coverage is provided. All events where alcohol is served shall be in full compliance with the New Jersey Division of Alcoholic Beverage Control rules and regulations.

(15) Drive or park a vehicle onto the Plaza. Vehicles are only permitted onto the Plaza for purposes of loading and unloading and only after all necessary safety precautions are established during said times. Vehicles are not permitted to idle while on the Plaza.

(16) Permit a pet to walk or run in or on the Plaza without a leash. All persons walking a pet must clean up after all pets.

(17) Have in their possession, or set or otherwise cause to explode or discharge or burn, any firecrackers, torpedo rockets or other fireworks, firecrackers or explosives of inflammable material or discharge them or throw them into any such areas from lands or highways adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with another substance or compound would be dangerous from any of the foregoing standpoints. At the discretion of the Borough Administrator permits may be given for conducting properly supervised fireworks in designated Town Plaza areas.

(18) Build or attempt to build a fire. Fire pits are not permitted. No person shall drop, throw or otherwise scatter burning cigarettes or cigars, tobacco paper or other inflammable material within the Plaza.

(19) Enter an area of the Plaza posted as "Closed to the Public," nor shall any person use or abet in the use of any area in violation of posted notices.

(20) Gamble, or participate in or abet any game of chance, except in such areas and under such regulations as may be licensed and permitted by the Borough Administrator.

(21) Sleep or protractedly lounge on the seats or benches or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

(22) Fail to produce and exhibit any permit issued from the Borough claimed to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(23) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit issued by the Borough.

(24) Expose or offer for sale any article or thing, nor shall station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Borough.

(25) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatsoever on Plaza without specific authorization to do so. Signs belonging to stores, offices or retailers located on the Plaza must only be displayed in front of the business and no place else on the Plaza.

B. Nothing herein shall permit activities and/or conduct that are prohibited in the existing ordinances. Sections 124-1, 124-2 and Chapter 158 shall apply to the Town Plaza. Smoking, as defined in § 158-1, shall be prohibited in the Town Plaza.

§ 124-18. Special events and permit requirement.

A group or gathering of 50 or more persons shall constitute a special event requiring a permit to be issued by the Borough for the use of the Town Plaza. No group of 50 or more persons shall utilize the Town Plaza for an event, gathering or outing without first having obtained a use permit in advance from the Borough. Permits are not required by individuals using the Plaza for casual, informal gatherings. Adult supervision of children's groups requiring a permit is required at all times. No person shall call or hold any public meeting or give any concert or entertainment of any kind or erect any structure, stand, tent, or platform, utilize any loudspeaker, public address system, or amplifier except by the specific written authority of the Borough, as authorized by permit. Although all events shall be opened to the public, no other organized group or persons other than the one holding the use permit shall interfere with permit holder's use of the Town Plaza during the time covered by the permit issued by the Borough. All permits that are granted must be produced upon demand.

§ 124-19. Use permit.

A. All permits for the Town Plaza shall be approved by the Borough Administrator in consultation and approval of the Chief of Police or their designee, Fire Chief or his designee, and/or the Superintendent of Public Works or their designee as deemed necessary by the Borough Administrator. The issuance of use permits of the Metuchen Town Plaza shall be limited to

Metuchen Commission/Committee sponsored events, the Metuchen Downtown Alliance and the Metuchen Farmer's Market.

B. Permits for special events in the Town Plaza shall be obtained by application to the Borough Clerk in accordance with the following procedure:

(1) An organization, entity, Borough Commission, Borough Committee or Borough Board seeking issuance of a permit hereunder shall file an application with the Borough Clerk providing:

- (a) The name and address of the applicant.
- (b) The name and address of the person, persons, corporation or association of the activity and event for which is being sponsored for, if any.
- (c) The day and hours for which the permit is desired and the type of event planned.
- (d) The estimated size and number of attendees of the event.
- (e) A detailed map of the Plaza must be submitted showing the desired area or location in the Town Plaza sought to be used for the event and a detailed description of all equipment, vendors, vehicles and associated items for use during the event.
- (f) Any other information which the Borough Administrator, Borough Clerk, Police Chief, Fire Chief and/or the Director of Public Works shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.

(2) Applicants for a Permit for a special event in the Metuchen Town Plaza shall also be required to comply with all of the requirements set forth in Chapter 75 of the Borough Code.

(3) In addition to the completed application, an organization, entity, Borough Commission, Borough Committee or Borough Board seeking issuance of a permit hereunder shall also provide the following:

- (a) A security deposit in the amount of \$500.00 made payable to the "Borough of Metuchen," unless waived by the Borough Administrator.
- (b) Adequate insurance information demonstrating that it will provide the Borough with a certificate of liability insurance and additional insured endorsement, such information shall also state the specific dates and limits of coverage.

(4) Application for a permit for an event can be submitted up to one year in advance of the event date. Date selection will not be transferred upon request after approval is provided. All applications for a permit for an event shall be submitted no later than 60 days prior to the requested use.

(5) Rain dates will not be held in addition to the requested event date for all events. Requests can be made for one rain date, in addition to the scheduled event date. The Borough Administrator will decide if a rain date can be approved on a case-by-case basis.

(6) Applicants shall not advertise or promote, either in printed, digital or electronic format on the internet and/or social media platforms prior to obtaining a Metuchen Town Plaza Special Events Permit. Premature advertising and/or promotion may be sole grounds for denial of the permit.

(7) Standards for issuance of a use permit by the Borough Administrator shall include the following findings:

- (a) That the proposed activity or use of the Town Plaza will not unreasonably interfere with or detract from the general public enjoyment of the Town Plaza.
- (b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- (c) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
- (d) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the Borough.
- (e) That the proposed activity will not result in a breach of this article, another ordinance, or law, or may be adverse to the public interest, to public health and/or safety, or the protection of persons and/or property.

(f) That the Town Plaza or portions thereof desired have not been reserved for other use at the date and hour requested in the application.

(g) That the proposed activity or use of the Town Plaza will not unreasonably interfere or conflict with a Borough event, or Borough sponsored event, whether at the Metuchen Town Plaza or some other location within the Borough. Borough events and Borough sponsored events shall have priority over all applications for use of the Metuchen Town Plaza.

(8) The Office of the Borough Clerk shall maintain a final schedule of events which have received approval for a use permit as well as a proposed schedule of applications pending approval. Borough Events and events sponsored by the Borough shall have a preference over all other requests.

(9) The Borough Administrator may approve a permit with modifications or special conditions as the Borough Administrator deems necessary under the circumstances. Some examples of the conditions which the Borough Administrator may require at the applicant's sole cost and expense include but are not limited to the provision of on-site event security coverage or traffic control which must be provided by the Metuchen Police Department and/or portable bathrooms for the event.

(10) Appeal.

(a) Within five days after the receipt of the denial for a permit any aggrieved organization, entity, Borough Commission, Committee or Board shall have the right to appeal to the Mayor and Council President by submitting a formal written request. The Mayor and Council President shall consider the request for an appeal and shall provide the applicant with a decision in writing no later than 14 days in advance of the proposed date for the special event.

(b) In considering the request for appeal, the Borough officials may request further information from the applicant or from any other person, organization or entity.

(c) In addition to the criteria set forth in § 124-19B(2), the following will be considered in the review of the request to appeal:

[1] A report of the Borough Administrator or other Borough official providing for the reasons for the denial and any information provided by the applicant;

[2] Whether the application form and/or the information provided by the applicant was complete and accurate;

[3] Whether the applicant is able to provide the Borough with the adequate protection for the public health, safety, welfare and protection of property.

(d) The decision of the Mayor and Council President shall be final.

(11) Notwithstanding any other section, the Borough shall refuse to issue a permit if the Finance Department notes that the applicant or any principal, director or officer of the applicant and/or the sponsored entity has an outstanding and unpaid debt to the Borough including a debt relating to a special event regardless of whether such debt was incurred through another organization or legal entity in relation to a special event.

(12) A permittee shall be bound by all Borough rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.

(13) The organization and/or entity to whom the permit is issued or for whom the event is sponsored shall be liable for all loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued and/or sponsored. The Borough Administrator shall have the right to require any permittee to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined by the Borough prior to the commencement of any activity or issuance of any permit.

(14) Revocation. The Borough Administrator, and/or the Chief of Police or their designee shall have the authority to revoke a permit if there is reasonable grounds to believe that the holding or continuation of the special event:

- (a) Poses a danger to the health and safety of any person;
- (b) Poses a danger to property;
- (c) Is not in the public interest; or
- (d) Is in contravention of this article, rule or policy of the Borough or for the failure to comply with a condition of the permit.

C. To the extent permissible, in the case of a revocation prior to the date and time of the proposed event, the Borough official shall immediately inform the permit holder or the permit representatives of the revocation and the reasons for it by means of contacting the permit holder at the address or at the telephone number provided in the permit application. Nothing herein shall limit the Borough's right to revoke a permit during the course of the event if determined by the Borough official that the above criteria apply. In such a case, the Borough official shall immediately advise the designated supervisor of the event of the revocation and the event shall be immediately terminated and the organization, entity, and/or the sponsored entity shall forfeit its deposit.

§ 124-20. Permit fee, security deposit and insurance requirements.

A. There shall be a permit application fee of \$100 for the use of the Town Plaza. The permit fee may be waived for the Borough Commission, Borough Committee or Borough Board sponsored events, the Metuchen Downtown Alliance, and/or the Metuchen Farmer's Market.

B. A security deposit of \$500 in the form of a check made payable to the "Borough of Metuchen" shall be submitted with the application for a use permit. The security deposit shall be refunded, without interest, to the applicant within 30 days of the event date with any deductions made for any damage and/or failure to comply with cleanup policies after an event. The required security deposit may be waived by the Borough Administrator.

C. No permit shall be issued for the use of the Town Plaza unless the applicant shall provide the Borough with satisfactory proof of the following:

- (1) Proof of insurance coverage as follows:
 - (a) For bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$3,000,000;
 - (b) For property damage for each occurrence in the aggregate amount of \$500,000; and
- (2) A certificate of insurance shall be delivered to the Borough Administrator which shall name the Borough of Metuchen, its officers, employees, agents and representatives as additional insureds on the policy.

§ 124-21. Miscellaneous use permit requirements and conditions.

A. Any organization, entity, Borough Commission, Borough Committee or Borough Board and/or the sponsored entity utilizing the Town Plaza shall be solely responsible for cleaning up the Town Plaza during and upon the conclusion of an event, whether formal or informal. The Department of Public Works of the Borough of Metuchen shall not be responsible for the cleanup or maintenance of the Town Plaza both during and after an event. Any organization, entity, Borough Commission, Borough Committee or Borough Board and/or the sponsored entity utilizing the Town Plaza is also responsible for moving Plaza furniture, to the extent necessary and approved by permit for their event. Do not stack Plaza tables and chairs on top of each other. Upon the conclusion of the event, any organization, entity, Borough Commission, Borough Committee or Borough Board and/or the sponsored entity utilizing the Town's Plaza shall return all of the Plaza furniture to its original location. Failure to maintain, clean up and/or return Plaza furniture will result in the loss or deduction of the security deposit.

B. Permittees, upon approval by the Borough, are allowed to utilize the electrical outlets available in the planting beds, and those located throughout the Plaza. Unless, specifically authorized, permittee shall not utilize an extraordinary amount of electricity for or during any event.

C. Any tent or canopy utilized in the Town Plaza must be properly weighted for wind resistance. Tents or canopies greater than 10 feet by 10 feet must be weighted with concrete. Spikes cannot be hammered into the Plaza surface to secure tents, canopies or other equipment. The Plaza surface cannot be damaged or altered in any way whatsoever. Permittees and/or occupants of the Plaza will be responsible for any damage to the Plaza sustained during an event, whether scheduled or informal.

D. All applicants for a permit must agree to be responsible for indemnifying and holding harmless both the Borough of Metuchen, its officers, employees, agents and representatives from any claim whatsoever arising out of, or in connection with, the use of the Town Plaza in order to obtain a use permit.

E. It shall be the applicant, the permittee and/or the sponsored entity's sole responsibility, at its sole cost and expense, to obtain all necessary inspections, permits and approvals for the proposed event to comply with all state, county or local regulations. Applicant must provide to the Borough copies of all necessary permits issued prior to receiving the Town Plaza event use permit. The Borough reserves the right to impose further conditions upon the use permit in the event that necessary approvals are not provided.

F. If the permittee and/or the sponsored entity leaves any item(s) at the Plaza after the completion of the event breakdown and/or load-out, permittee and/or the sponsored entity will be charged a minimum of \$100 per day for storage including the hourly rates set forth below for the transportation of the item(s).

G. Additional fees may be deemed necessary by the Borough of Metuchen based upon the nature and/ or size of item(s) left on site and all security deposit funds will be forfeited. Items may be held at Metuchen DPW for pickup for a reasonable period of time. However, under no circumstances shall the Borough of Metuchen, its employees, officials, agents or representatives be held responsible for the removal or liable for any damage to items left on the premises after the prescribed permit hours.

H. Repairs for damages, maintenance and/or cleanup shall be calculated at a minimum of \$65 per man-hour plus the cost of materials. Additional costs may be deemed necessary by the Borough based upon the nature of repairs and/or replacements. Failure to pay within 30 days will require forfeit of the deposit. In the event that the security deposit is insufficient to cover the costs to the Borough and the permittee and/or the sponsored entity fails to make a timely payment therefor, an action by Borough to recover the fees will be instituted and the permittee and/or the sponsored entity will be responsible for all collection costs, including attorneys' fees, and disqualification from consideration for issuance of future permits.

§ 124-22. Cancellation.

A. Cancellation of any event, after a permit is issued, must be provided to the Borough Administrator, in writing. Cancellations of events received more than 60 days in advance may be rescheduled within 365 days of cancellation date upon the submission of a written request and approval by the Borough Administrator without an adverse consequence. If the cancellation occurs 30 days or less before the date of the event, the permittee must submit a new application for a use permit. Any applicant seeking a permit shall notify the Borough, in writing, in the event that the event for which the party seeks a permit is cancelled or a permit is no longer sought. Repeated cancellations shall be considered as negative criteria in considering future requests for use permits.

B. Rain dates and requests therefor shall be governed by § 124-19B(4) above.

§ 124-23. Enforcement.

A. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

B. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to eject from the Town Plaza any person or persons acting in violation of this article.

C. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to seize and confiscate any property, thing or device in the Town Plaza used in violation of this article.

§ 124-24. Violations and penalties.

Any person, persons, organization, entity or group violating any of the provisions of this article or any rule or regulation promulgated pursuant hereto, shall upon conviction be subject to penalties as provided in Chapter 1, General Provisions, Article 1.

§ 124-25. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

§ 124-26. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

Ord. 2023-22

ORDINANCE AUTHORIZING THE GRANT OF
AN EASEMENT AND MAINTENANCE
AGREEMENT TO 212 DURHAM URBAN
RENEWAL, LLC ON THE PROPERTY
COMMONLY KNOWN AS GULTON STREET

Council President Delia asked that Ordinance 2023-22 be read by title only.

Ms. Zupan read Ordinance 2023-22 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-22

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-22 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Giamboi, Hirsch, Hyman, Kandel, Delia
Nays: None

Ordinance 2023-22 was adopted, 5-0.

ORDINANCE 2023-22

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**ORDINANCE AUTHORIZING THE GRANT OF AN EASEMENT AND
MAINTENANCE AGREEMENT TO 212 DURHAM URBAN RENEWAL, LLC ON THE
PROPERTY COMMONLY KNOWN AS GULTON STREET**

WHEREAS, the Borough has certain rights and interests of certain tracts or parcels of land situated in Metuchen, Middlesex County, New Jersey, consisting of approximately 0.325 acres of land known as Gulton Street (formerly known as Edison Street) as more fully described and outlined on Exhibit A attached hereto and incorporated herein (“Easement Area”); and

WHEREAS, 212 Durham Urban Renewal, LLC (“Redeveloper”) is the owner and intends to develop and improve certain real property located at 212 Durham Avenue, Metuchen, adjacent to Gulton Street (the “Project”); and

WHEREAS, the Borough of Metuchen and the Redeveloper entered into a Redevelopment Agreement pursuant to *N.J.S.A. 40A:12A-1, et seq.* and Section 4.1 (b) of the Redevelopment Agreement provides that the Borough would allow the Redeveloper to utilize the Gulton Street right-of way as contemplated by the Concept Plan for the Project; and

WHEREAS, the Borough has determined it to be in the best interest of the Borough to agree to grant the Redeveloper and easement in exchange for the Redeveloper’s compliance with the terms and conditions of the Redevelopment Plan, Redevelopment Agreement and the terms and conditions of an Easement and Maintenance Agreement, including but not limited to the requirement to maintain, repair, and provide liability and casualty insurance for the Easement Area.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen, County of Middlesex, New Jersey, that it hereby authorizes and grants an easement to 212 Durham Urban Renewal, LLC to the property commonly known as Gulton Street as more fully described in Exhibit A under the express terms and conditions of the Easement and Maintenance Agreement negotiated by the Borough and Redeveloper; and

BE IT FURTHER ORDAINED by the Borough of Metuchen that the Mayor, Borough Clerk and all other Borough Officials and Employees are authorized to execute any and all documentation necessary to effectuate the easement granted herein, including but not limited to the execution of an Easement and Maintenance Agreement, and to take all necessary action to comply with and enforce the terms and conditions of the fully executed Easement and Maintenance Agreement between the Borough and Redeveloper; and

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect after final passage and publication, as required by law.

Ord. 2023-23

ORDINANCE OF THE BOROUGH OF
METUCHEN ADOPTING A REDEVELOPMENT
PLAN FOR THE SOUTHWEST GATEWAY
REHABILITATION AREA WITHIN THE
BOROUGH OF METUCHEN, COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY

Council President Delia asked that Ordinance 2023-23 be read by title only.

Ms. Zupan read Ordinance 2023-23 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-23

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-23 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Giamboi, Hirsch, Hyman, Kandel, Delia
Nays: None

Ordinance 2023-23 was adopted, 5-0.

ORDINANCE 2023-23

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**ORDINANCE OF THE BOROUGH OF METUCHEN ADOPTING A
REDEVELOPMENT PLAN FOR THE SOUTHWEST GATEWAY REHABILITATION
AREA WITHIN THE BOROUGH OF METUCHEN, COUNTY OF MIDDLESEX,
STATE OF NEW JERSEY**

WHEREAS, , pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “LRHL”), the Borough Council, pursuant to Resolution No. 2020-50, designated the entire Borough of Metuchen, County of Middlesex, including Block 130.01, Lots 47.01, 47.02, 48 & 60.01 known as the “Southwest Gateway Rehabilitation Area,” an “Area in Need of Rehabilitation” pursuant to N.J.S.A. 40A:12A-1 et seq. (the “Rehabilitation Area”); and

WHEREAS, in order to facilitate the redevelopment of the Rehabilitation Area, the Council adopted Ordinance 2020-10 on May 26, 2020, adopting a redevelopment plan entitled “Redevelopment Plan for Rehabilitation in the Borough of Metuchen, dated March 2020, (“Original Redevelopment Plan”) after review by the Borough Planning Board (the “Planning Board”), pursuant to N.J.S.A. 40A:12A-7; and

WHEREAS, in order to appropriately effectuate the comprehensive rehabilitation and redevelopment of the Southwest Gateway Rehabilitation Area, the Borough has determined that adoption of a more specific redevelopment plan for the Southwest Gateway Rehabilitation Area is necessary and has prepared a redevelopment plan entitled, “Southwest Gateway Redevelopment Plan, Block 130.01, Lots 47.01, 47.02, 48 & 60.01, Borough of Metuchen, Middlesex County, New Jersey” prepared by LRK, Inc. (the “Southwest Gateway Redevelopment Plan”) which sets forth, inter alia, the plans for the planning, development, redevelopment, and rehabilitation of the Southwest Gateway Rehabilitation Area; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a governing body may adopt, revise or amend a redevelopment plan; and

WHEREAS, in order to facilitate the rehabilitation and redevelopment of the Southwest Gateway Rehabilitation Area, the Planning Board, pursuant to N.J.S.A. 40A:12A-7, reviewed the Southwest Gateway Redevelopment Plan which will support and promote the adaptive reuse, rehabilitation and redevelopment of the Southwest Gateway Rehabilitation Area; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Planning Board recommended to the Borough Council that the Southwest Gateway Redevelopment Plan, which is on file with the Borough Clerk’s office, be adopted, as it provides for the planning, development, redevelopment, and rehabilitation of the Southwest Gateway Rehabilitation Area and is consistent with the Borough Master Plan; and

WHEREAS, the Southwest Gateway Redevelopment Plan shall supersede the development regulations of the Borough's Zoning Ordinance, to the extent set forth therein and the Borough Zoning Map is hereby amended to conform with the provisions of the Southwest Gateway Redevelopment Plan and for those portions of the zoning set forth in the Southwest Gateway Redevelopment Plan that constitute overlay zoning, no zoning map amendment is necessary; and

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to adopt the Southwest Gateway Redevelopment Plan, as recommended by the Board, to effectuate the rehabilitation and redevelopment of the Borough.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Metuchen, Middlesex County, State of New Jersey, as follows:

Section 1. The Borough hereby adopts the Southwest Gateway Redevelopment Plan to facilitate the rehabilitation and redevelopment of the Borough of Metuchen.

Section 2. The Borough Council declares and determines that said Southwest Gateway Redevelopment Plan meets the criteria, guidelines, and conditions set forth in N.J.S.A. 40A:12A-7, provides realistic opportunities for the rehabilitation and redevelopment of the Borough, and is otherwise in conformance with N.J.S.A. 40A:12A-1, et seq.

Section 3. The Borough Council shall have, be entitled to, and is hereby vested all power and authority granted by the aforementioned statutory provisions to effectuate the Southwest Gateway Redevelopment Plan.

Section 4. The Southwest Gateway Redevelopment Plan shall supersede the development regulations of the Borough's Zoning Ordinance, to the extent set forth therein and the Borough Zoning Map is hereby amended to conform with the provisions of Southwest Gateway Redevelopment Plan and for those portions of the zoning set forth in the Southwest Gateway Redevelopment Plan that constitute overlay zoning, no zoning map amendment is necessary.

Section 5. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6. In the event any clause, section or paragraph of this Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Borough Council that the balance of the Ordinance remains in full force and effect to the extent it allows the Borough to meet the goals of the Ordinance.

Section 7. This Ordinance shall take effect after final adoption and publication according to law.

Report of Borough Administrator

No report.

Reports of Councilmembers

Council President Delia

- No report.

Councilmember Kandel

- Councilmember Kandel reported that Councilmember Branch, who could not attend this evening's meeting, has been working with Borough officials to develop the RFP for modernizing and improving the Borough's website. He also reported that the Arts Council has been working with the MDA to bring the Summer Concert series to Metuchen.

Councilmember Hyman

- No report.

Councilmember Hirsch

- The Library has several programs coming up including a live animal show called the 'Eyes of the Wild,' an interactive musical program by Two of a Kind called 'Dive Into Reading,' a live piano concert by Laurie Goldman, and Young Adult Book Discussion of *The Love Match* by Priyanka Taslim. The Friends of Metuchen Library have an upcoming art show fundraising event for kids up to age 17.

Councilmember Giamboi

- The Environmental Commission will meet next Wednesday. There is no meeting in August.
- The next Senior Citizen Commission meeting is in September. If you are a Metuchen resident 60 or older, Senior Citizen Center membership is free.

Report of the Mayor

The budget received an extraordinary amount of money last week from the State Budget, thank you to Senator Diegnan and Assemblymembers Karabinchak and Stanley for working hard on our behalf. We've received 5.25 million dollars; three million for the Ars District, two million for the Emergency Services Center, and \$250,000 for the pocket park. This last amount is for the permanent pocket park, but in the meantime, we are working hard on the park's temporary iteration.

There are three free concerts coming up in the next month, including this week's Tiffany concert. Last year we had one concert planned, the symphony orchestra, this year we are trying out a concert series. We're expecting a lot of attendees, so if you live in town please consider biking or walking to the events. Thanks to our Borough Administrator, Police Department, DPW, Dawn Mackey and the MDA, and the Arts Council for their hard work to make sure these events run smoothly.

New Business Consent Agenda – Resolutions 2023-201 to 2023-211

Council President Delia moved to approve New Business Consent Agenda Resolutions 2023-201 to 2023-211, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

RESOLUTION 2023-201

RESOLUTION AMENDING THE AWARD OF THE PROFESSIONAL ARCHITECTURAL SERVICES CONTRACT WITH H2M ARCHITECTS AND ENGINEERS FOR THE SCHEMATIC DESIGN PHASE AND AWARDED AND AUTHORIZING THE IMPLEMENTATION OF THE AMENDED DESIGN DEVELOPMENT/CONTRACT DOCUMENTS AND BIDDING/CONSTRUCTION ADMINISTRATION PHASES FOR THE EMERGENCY SERVICES/FIRE STATION PROJECT

WHEREAS, the Borough of Metuchen has a need for professional architectural consultant services to assist the Borough with the Emergency Services/Fire Station Project; and

WHEREAS, said services are of the nature of a professional service pursuant to *N.J.S.A. 40A:11-5(1)(a)(i)*, and, therefore, a contract for the services may be negotiated and awarded by the Borough without public advertising for bids and bidding therefore; and

WHEREAS, said services are of the type contemplated by the New Jersey Local Unit Pay-To-Play Law (*N.J.S.A. 19:44A-20.4, et. seq.*), and, therefore, a contract for the services may be awarded pursuant to a "fair and open" or "non-fair and open" process, both of which are defined in the law; and

WHEREAS, H2M Architects & Engineers has provided the Borough with conceptual design and feasibility services for the Emergency Services/Fire Station Project to the Borough under the terms of a professional services agreement authorized by way of Resolutions No. 2021-175 and 2021-290 and is intimately familiar with the Borough's operations and needs; and

WHEREAS, H2M Architects & Engineers submitted a proposal to the Borough, dated June 20, 2022, revised July 5, 2022, and re-revised July 13, 2022, to perform the following professional services in relation to the Emergency Services/Fire Station Project: (1) Schematic Design; (2) Design Development/Construction Documents; and (3) Bidding/Construction Administration services (“Proposal”) which was reviewed and evaluated by Special Project Director, Borough Administrator and Chief Financial Officer; and

WHEREAS, in order to proceed with the Emergency Services/Fire Station Project, the Special Project Director, Borough Administrator and Chief Financial Officer recommended and the Mayor and Borough Council deemed it necessary to authorize and proceed with the award of a professional services agreement and authorization for H2M Architects & Engineers to provide Schematic Design services, as indicated in its Proposal, at a cost not to exceed one hundred fifty-two thousand one hundred fifty dollars (\$152,150.00); and

WHEREAS, the Chief Financial Officer's Certification of Funds certified by way of resolution 2022-183 that there were sufficient funds for such contract and authorization contained therein and was available and was designated from Current Fund 2022 Adopted Budget, Administrative and Executive - Professional Services 2-01-20-701-028 in the amount of \$52,150.00 and General Capital Fund\ Preliminary Costs-Architectural Schematic Preliminary Design Services for the Emergency Services/Fire Station Project, C-04-55-200-003 in the amount of \$100,000 for these services; and

WHEREAS, by way of Resolution 2022-183, the Council authorized an award of contract to H2M Architects for the Schematic Design services set forth in its Proposal and the Borough and H2M entered into a professional services agreement; and

WHEREAS, due to the increase in the complexity and size of the Emergency Services/Fire Station Project, H2M Architects submitted to the Borough a revised proposal dated July 5, 2023 for the (1) Schematic Design; (2) Design Development/Construction Documents; and (3) Bidding/Construction Administration services (“Proposal”) which was reviewed and evaluated by Borough Administrator and Chief Financial Officer; and

WHEREAS, the Borough Council has determined to amend Resolution 2022-183 and the contract award of exceed one hundred fifty-two thousand one hundred fifty dollars (\$152,150.00) by an additional amount not to exceed thirteen thousand five hundred dollars (\$13,500.00) for the Schematic Design Services and to authorize and award of the Design Development/Contract Documents Phase in an amount not to exceed five hundred four thousand two hundred fifty dollars (\$504,250.00), and the Bidding/Construction Administration Phase in an amount not to exceed two hundred forty-two thousand six hundred dollars (\$242,600.00) to H2M Architects to be funded from Bond Ordinance 2023-14 C-04-55-943-002; and

WHEREAS, the Chief Financial Officer's Certification of Funds certifies that adequate funds are available from Bond Ord 2023-14, appropriation C-04-55-943-001 in an amount not to exceed seven hundred sixty thousand three hundred fifty dollars and no cents (\$760,350.00) for the within Resolution and the expenditures authorized herein.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Metuchen as follows:

1. The Borough Council hereby amends the prior award and authorization to H2M Architects & Engineers of 119 Cherry Hill Road, Suite 110, Parsippany, NJ 07054, for the Schematic Design Phase from a cost not to exceed one hundred fifty-two thousand one hundred fifty dollars (\$152,150.00) increasing the amount by an additional thirteen thousand five hundred dollars (\$13,500.00) to a cost not to exceed one hundred sixty-five thousand six hundred fifty dollars and no cents (\$165,650.00) for the Schematic Design Phase Services.
2. The Borough Council hereby authorizes an award of a professional services contract for the professional architectural services for the Design

Development/Contract Documents Phase in an amount not to exceed five hundred four thousand two hundred fifty dollars and no cents (\$504,250.00), and the Bidding/Construction Administration Phase at a cost not to exceed two hundred forty-two thousand six hundred dollars and no cents (\$242,600.00) for the Emergency Services/Fire Station Project.

3. The within authorization and contract award is limited solely for the amendment to increase Schematic Design Services by thirteen thousand five hundred dollars and no cents (\$13,500.00) at a total cost not to exceed one hundred sixty-five thousand six hundred fifty dollars and no cents (\$165,650.00) and to authorize and award a contract for the remaining amended proposal for Design Development/Contract Documents Phase in an amount not to exceed five hundred four thousand two hundred fifty dollars and no cents (\$504,250.00), and the Bidding/Construction Phase in an amount not to exceed two hundred forty-two thousand six hundred dollars and no cents (\$242,600.00).
4. Further authorization of the Mayor and Council by way of Resolution shall be required prior to H2M Architects & Engineers performing any additional services for the Schematic Design, Design Development/Construction Documents and Bidding/Construction Administration professional services contained in its amended proposal for the Emergency Services/Fire Station Project.
5. The Mayor is hereby authorized to execute and the Borough Clerk to attest an agreement and/or an amendment or any other necessary documentation between the Borough of Metuchen and H2M Architects & Engineers of 119 Cherry Hill Road, Suite 110, Parsippany, NJ 07054, reflecting a professional services contract consistent with the revised proposal submitted, and the terms and conditions of the within Resolution, acceptable in form to the Borough Administrator, and Mayor.
6. The foregoing contract is awarded in accordance with the Local Public Contracts Law and as the result of a non-fair and open process.
7. A notice of this action shall be printed once in The Home News Tribune.

RESOLUTION 2023-202

RESOLUTION AUTHORIZING AWARD OF A WINDOW CONTRACT FOR OUTDOOR ELECTRICAL LIGHTING

WHEREAS there exists a need for installation and purchase of outdoor electric equipment in the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, the Borough of Metuchen has solicited quotes for outdoor electrical lighting using a fair and open process, with two vendor solicitations issued and one written quote returned; and

WHEREAS, the amount for outdoor electrical lighting is under the bid threshold as set by New Jersey Local Public Contracts Law N.J.S.A. 40A:11-1 et seq, but above \$17,500.00; and

WHEREAS, the Chief Financial Officer's Certification of Funds is made authorizing the award outdoor electrical lighting in the amount not to exceed \$18,000.00 from Ordinance 2023-07, C-04-55-939-007; and

WHEREAS, this procurement is awarded under N.J.S.A. 19:44A20.4 et seq. using a fair and open process to Outdoor Lighting Perspectives of Central New Jersey, who submitted the lowest, responsible, compliant quote for outdoor electrical lighting project for the Borough of Metuchen.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

1. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to Outdoor Lighting Perspectives of Central New Jersey, 25 Misty Pine Lane.

RESOLUTION 2023-203

RESOLUTION AUTHORIZING ESCNJ CONTRACT FOR NEW SENIOR CENTER FLOORING

WHEREAS, there exists a need to purchase and install new flooring at the senior for the Borough of Metuchen, County of Middlesex, State of New Jersey; and

WHEREAS, flooring and installation is available through ESCNJ 19/20-05 Carpet and Flooring -Purchase and Installation and Related Services; and

WHEREAS, the term of contract ESCNJ 19/20-05 is from September 1, 2019 to August 31, 2022, Extended to August 31, 2023; and

WHEREAS, the Chief Financial Officer's certification of funds is made authorizing the award to purchase Carpet and Flooring -Purchase and Installation and Related Services from the Capital Bond Ordinance 2023-07, C-04-55-939-006 in the amount not to exceed \$58,503.50.

WHEREAS, ESCNJ shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a purchase order to Direct Flooring, 12 Minneakoning Road, Building A, Unit 103 Flemington, NJ 08822.

RESOLUTION 2023-204

RESOLUTION AUTHORIZING THE PURCHASE OF FACILITIES MAINTENANCE AND REPAIR OPERATIONAL AND INDUSTRIAL SUPPLIES THROUGH STATE CONTRACT

WHEREAS, there exists a need to tools, supplies related to facilities maintenance and repair and custodial/industrial supplies for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, this can be purchased through State Contract M0002 – Facilities Maintenance and Repair & Operations (MRO) and Industrial Supplies, 19-FLEET-00566 and 19-FLEET-00677 awarded to Grainger, Vendor number V00003164; and

WHEREAS, said contracts are in effect from September 1, 2018 through June 30, 2023, extended to June 30, 2024; and

WHEREAS, the maximum amount of the purchase of tools, supplies related to facilities maintenance and repair and custodial/industrial supplies for the Borough of Metuchen is \$30,000.00 and is certified from 2023 Temporary Budget and 2023 Adopted Budget, designated from Account number Buildings & Grounds, Building and Maintenance 3-01-26-772-024 and Account number Buildings & Grounds, Janitorial Supplies 3-01-26-772-035 for these goods as authorized previously by Resolution 2023-55 in the amount of \$18,000.00 and increased in allowable funds in the amount of \$12,000.00; and

WHEREAS, the authorization to purchase under this award expires on December 31, 2023; and

WHEREAS, public bids are not required when the purchase is under a state contract in accordance with 40A:11-12 of the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

2. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to the Grainger, 1001 Hadley Road, South Plainfield, NJ 07080.

RESOLUTION 2023-205

RESOLUTION AUTHORIZING PURCHASE FROM SOMERSET COUNTY COOPERATIVE PRICING FOR RED DYED #2 DIESEL FUEL (ULTRA LOW SULFUR DIESEL), RED DYED WINTER BLEND DIESEL, AND FUEL OIL

WHEREAS, there exists a need to purchase diesel fuel for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, this can be purchased through the Somerset County Cooperative Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil, Open-ended Contract #CC-0036-21, Cooperative Pricing Bid #2-SOCCP, Second Year of a Two-Year Contract pursuant to the provisions of NJSA 40A:11-11 (5); and

WHEREAS, said contract is the second year of a two-year contract for Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil, Open-ended Contract #CC-0036-21, Co-operative Pricing Bid #2-SOCCP which was approved on October 25, 2022 by the Somerset County Board of County Commissioners is effective from November 9, 2022, to November 8, 2023, with the authorization to purchase diesel fuel under this resolution of award until November 8, 2023; and

WHEREAS, the authorization to purchase under this award expires on November 8, 2023; and

WHEREAS, the maximum amount of the purchase of Unleaded Gasoline, 87 Octane fuel for the Borough of Metuchen is \$100,000.00 and is certified from 2023 Temporary Budget and 2023 Adopted Budget, designated from Diesel and Gasoline Fuel Account Number 3-01-31-821-074 as authorized previously by Resolution 2023-60 in the amount of \$50,000.00 and increased in allowable funds in the amount of \$50,000.00; and

WHEREAS, the vendor chosen for award for purchase of Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil is National Fuel Oil, Inc. for the period of January 9, 2023, through November 8, 2023; and

WHEREAS, the County of Somerset, New Jersey shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

1. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to National Fuel Oil Inc., 175 Orange Street, Newark, NJ 07103.

RESOLUTION 2023-206

RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

WHEREAS, the Borough of Metuchen is the owner of certain surplus property described on Schedule A which is no longer needed for public use; and

WHEREAS, the Borough of Metuchen intends to utilize the online auction services of Municibid located at municibid.com; and

WHEREAS, the sales are being conducted pursuant to NJSA 40A:11—26 and the guidance set forth in the Division of Local Government Services' Local Finance Notice 2021-18.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, that the Borough of Metuchen is hereby authorized to sell the surplus personal property as follows as follows:

- (1) The sale of the surplus property shall be conducted through Municibid pursuant to the New Jersey State Contract 19-GNSV1-00696 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with Municibid are available online at municibid.com and available from the Borough of Metuchen.
- (2) The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
- (3) The Borough of Metuchen reserves the right to accept or reject any bid submitted.

RESOLUTION 2023-207

RESOLUTION AUTHORIZING THE REFUND OF RECREATION TRUST PROGRAM FEES

WHEREAS, the fees collected for attendance at various Borough of Metuchen Recreation Commission events and camps have been collected in 2023; and

WHEREAS, the programs were cancelled or rescheduled, with one refund request made due to an illness; and

WHEREAS, the fees collected are requested by the Recreation Director to be refunded, as detailed in the below schedule.

NOW, THEREFORE, BE IT RESOLVED that the Chief Finance Officer be authorized to process refunds in the amount of \$134.00 as described, from the Recreation Trust account.

Kristina Veit	\$80.00
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Colleen Sommo	\$54.00
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RESOLUTION 2023-208

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE BOND – 50 FINCH STREET – PGL 19-1215

WHEREAS, Robert M. Mannix, III, Planning/Zoning Engineer, in a letter dated March 31, 2023, has reported that the grading and turf stabilization improvements associated with the referenced property has been completed in an acceptable manner; and

WHEREAS, Mr. Mannix has recommended the release of the Performance Bond in the amount of a cash bond of \$1000.00, subject to the paying of all fees.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the Borough Clerk is hereby authorized and directed to release said Performance Bond in the amount \$1000.00 as recommended and directed by the Planning/Zoning Engineer to AD Signature Homes.

RESOLUTION 2023-209

**RESOLUTION AUTHORIZING RELEASE OF
PERFORMANCE BOND – 156 DURHAM AVENUE – PG 15-1073**

WHEREAS, Robert M. Mannix, III, Planning/Zoning Engineer, in a letter dated June 16, 2023, has reported that all improvements associated with the referenced property has been completed in an acceptable manner; and

WHEREAS, Mr. Mannix has recommended the release of the Performance Bond including a bond/letter of credit in the amount of \$34,813.80 and a cash portion in the amount of \$3,868.20, subject to the paying of all fees.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the Borough Clerk is hereby authorized and directed to release of said Performance Bond as recommended and directed by the Planning/Zoning Engineer to Landmark Inspired Properties.

RESOLUTION 2023-210

**RESOLUTION AUTHORIZING ESCNJ CONTRACT FOR DOCUMENT
MANAGEMENT FOR RECORDS RETENTION AND DISPOSAL**

WHEREAS, there exists a need to procure document Management for Records Retention & Disposal for the Borough of Metuchen, County of Middlesex, State of New Jersey; and

WHEREAS, Document Management for Records Retention & Disposal is available through ESCNJ 22/23-11 Document Management; and

WHEREAS, the term of contract ESCNJ 22/23-11 is from July 1, 2022 to June 30, 2024; and

WHEREAS, the Chief Financial Officer's certification of funds is made authorizing the award to purchase Document Management Services from the Capital Bond Ordinance 2022-08, C-04-55-938-003 the amount not to exceed \$78,177.39.

WHEREAS, ESCNJ shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a purchase order to Alpine Consulting, Inc. dba AccuScan, 950 Mt Holly Rd, Edgewater Park, NJ 08010.

RESOLUTION 2023-211

**RESOLUTION AUTHORIZING RETURN OF BID BOND - PG 23FSAFE – FIRE AND
SAFETY SERVICES**

WHEREAS, the Borough of Metuchen advertised to receive bids on or before April 23, 2023 for 2023 Fire Apparatus Service & Repair; and

WHEREAS, one bid was received by the Borough Clerk submitted by Fire & Safety Services, 200 Ryan Street, South Plainfield, NJ 07080 for the Fire Apparatus Service and Repair for the Borough of Metuchen; and

WHEREAS, Fire Apparatus Service and Repair submitted a bid bond of \$1,750.00 in the form of a cashier's check; and

WHEREAS, on May 8, 2028, by way of R2023-148 the Borough of Metuchen awarded the above referenced bid to Fire & Safety Services, 200 Ryan Street, South Plainfield, NJ 07080; and

WHEREAS, the Chief Financial Officer has recommended the return of the bid bond upon the signing of the contract.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen that the bid bond amount of \$1750.00 be refunded to Fire & Safety Services, 200 Ryan Street, South Plainfield, NJ 07080.

Other New Business

R2023-212

RESOLUTION AUTHORIZING THE PAYMENT
OF THE BILL LIST IN THE AMOUNT OF
\$4,298,523.51

Council President Delia made a motion to approve Resolution 2023-212, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

RESOLUTION 2023-212

RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST

BE IT RESOLVED, by the Mayor and Council of the Borough of Metuchen that the proper warrants be drawn, and all bills be paid totaling \$4,298,523.51.

I, Rebecca Cuthbert, Chief Financial Officer of the Borough of Metuchen do hereby certify that funds are available for the payment of bills for the Borough of Metuchen.

Appointment

Mayor Busch recommended the following appointment:

Suhani Modha, Youth Representative to Metuchen CARES Committee, Term Expiring
12/31/2025

Council President Delia made a motion to accept the recommendation of appointment, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Adjournment

Council President Delia made a motion to adjourn the meeting, second by Councilmember Giamboi, with all in favor, 5-0, the meeting was adjourned at 7:53 p.m.

Respectfully Submitted,

Deborah Zupan, RMC, Borough Clerk