

REGULAR COUNCIL MEETING  
SEPTEMBER 11, 2018

Council Chamber, Municipal Building  
Irvington, N.J. – Tuesday Evening  
September 11, 2018 - 8:00 P.M.

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call

Present: Renee C. Burgess, Vernal Cox , Charnette Frederic, October Hudley, Paul Inman, Sandra R. Jones, David Lyons

Absent: None

President Lyons read the Statement of Proper Notice pursuant to the Sunshine Law.

4. Hearing of Citizens on Agenda Items Only (limited to three minutes per person and thirty minutes total)

Elouise McDaniel, 214 Nesbit Terrace

5. Hearing of Council Members

Council Members Cox, Hudley, Burgess and Council President Lyons responded to the issues raised by the above referenced citizen.

There were no requests to be heard.

6. Reports & Recommendations of Township Officers, Boards & Commissions

A. Reports

1. Minutes – Directors’ Meeting – August 14, 2018
2. Minutes – Joint Meeting – June 21, 2018
3. Joint Meeting Resolutions – June 21, 2018
4. Joint Meeting – Annual Financial Reports – December 31, 2016 and December 31, 2017
5. Municipal Court Electronic Collections Report Through July, 2018
6. Municipal Engineer – Joint Meeting Issues With Equivalent Dwelling Units

7. Reports of Committees

None

Ordinances, Bills and Claims

None

9. Resolutions & Motions

A. Resolutions

Jones – Frederic 1. Authorize Sale of Abandoned and Unclaimed Motor Vehicles at Public Auction

**AUTHORIZE THE PUBLIC AUCTION OF UNCLAIMED AND ABANDONED MOTOR VEHICLES**

WHEREAS, the Irvington Police Department has taken possession of motor vehicles found abandoned and unclaimed; and

WHEREAS, pursuant to N.J.S.A. 39; 10A-1 provides for the public sale in a public place of such vehicles provided certain notice requirements are met; and

WHEREAS, the Police Department has complied with the provisions of N.J.S.A. 39:10A-1 as such relates to the disposition of such vehicles as identified on the attached list; and

WHEREAS, a request has been made by the department to sell the listed vehicles in accordance with the State statute cited herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that:

1. The Purchasing Agent is hereby authorized to sell unclaimed motor vehicles as described in the attached list in a manner consistent with the requirements of N.J.S.A. 39:10A-1 and pursuant to the satisfaction of any properly documented credited storage and towing lien.
2. The Purchasing Agent is hereby authorized to execute Motor Vehicle Title Certificates pursuant to the attached list on behalf of the Township of said vehicles.
3. Any and all vehicles purchased at said auction shall be removed from the Tower's lot within thirty (30) days of sale.

Adopted

Jones – Hudley 2. Authorize Change Order # 2 and Final for 2016 Road Resurfacing Program – Reduce Contract Price by \$61,447.69 – Final Contract Price - \$1,339,187.10

**RESOLUTION TO APPROVE CHANGE ORDER NO. 2 AND FINAL FOR THE 2016 RESURFACING PROGRAM**

WHEREAS, the Township of Irvington, as part of their capital improvement program, publicly bid and awarded a contract for the project “The 2016 Resurfacing Program” to J.A. Alexander on October 12, 2016 as Resolution DPW 16-1012-28 in the amount of \$1,181,722.25; and

WHEREAS, the Township engaged the firm of Keller & Kirkpatrick to provide construction administration services for this project as Resolution DPW 17-0926-41 for a professional services contract in the amount of \$22,500.00; and

WHEREAS, during the course of construction it was necessary to adjust the actual quantities of constructed items to meet the conditions encountered in the field and additional work that was requested and the Municipal Council approved a change order, Change Order No. 1 on November 9, 2017 as Resolution DPW 17-1109-50 in the amount of \$218,862.61 so that the amended contract amount was \$1,400,634.86; and

WHEREAS, in tabulating the final constructed quantities, it was noted that several items were not required to complete the project resulting in a decrease in the actual quantities of work in the amount of -\$61,447.69 so that the final amount of the contract is \$1,339,187.10 for total net increase of +13.3 %.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a change order, Change Order No. 2 and Final, in the amount of -\$61,447.69 be approved for the project known as the 2016 Resurfacing Program so that the contract amount is amended to a total of \$1,339,187.10.

A Certificate of Availability of Funds has not been supplied as no additional public funds are required to approve this action.

Adopted

Hudley – Frederic 3. Commemorate United Way of Essex and West Hudson County's 95<sup>th</sup> Anniversary

**RESOLUTION COMMEMORATING UNITED WAY OF ESSEX AND WEST HUDSON'S 95<sup>TH</sup> ANNIVERSARY**

WHEREAS, on October 4, 2018, United Way of Essex and West Hudson will celebrate its 95 years of service to the community with a gala to be held at the Mezzanine in Newark. Board Member Jorge A. Caballero from Deloitte Tax, LLP and the NY Jets will be honored; and

WHEREAS, the Municipal Council of the Township of Irvington desires to commemorate this event; and

WHEREAS, United Way of Essex and West Hudson (UWEWH), founded in 1923, seeks to address the root causes of community concerns by aligning resources to best meet the needs of individuals, children and families through its service-area; and

WHEREAS, United Way is working to advance the common good by focusing on education, financial empowerment and health policy; and

WHEREAS, these are the building blocks for a good life - a quality education that leads to a stable job, enough income to support a family through retirement, and good health; and

WHEREAS, United Way serves a population of nearly 700,000 in thirteen communities in Essex and Hudson County; and

WHEREAS, My Very Own Library program gives away free books to more than 20,000 Newark students; and

WHEREAS, the Volunteer Income Tax Assistance program garnered \$13 million in refunds for local residents; and

WHEREAS, United Way's Day of Action brought together dozens of volunteers who give back to the community through service projects; and

WHEREAS, amongst a plethora of other programs, the United Way founded the Celebrity Read program in 1991 and in 2018 more than 600 volunteers read to students in local elementary schools featuring area leaders who help to instill pride in our youth and whose position as role models in our community stand as examples to the young people of their own potential to succeed:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington hereby commemorates United Way of Essex and West Hudson's 95th Anniversary and joins with the organization in celebrating their long standing commitment to the principals outlined in their mission statement.

Adopted

Cox – Jones 4. Authorize Acceptance of Statute of the Late Honorable D. Bilal Beasley From the D. Bilal Beasley Community Fund and the Beasley Family to the Township of Irvington

**A RESOLUTION ACCEPTING A DONATION OF A STATUE OF THE LATE HONORABLE D. BILAL BEASLEY**

WHEREAS, the D. Bilal Beasley Community Fund and Beasley Family has graciously offered to donate a statute of the late Honorable D. Bilal Beasley to the Township; and

WHEREAS, the statute will be place on the steps of Town hall to remember and honor the late Honorable D. Bilal Beasley; and

WHEREAS, it is in the Township's best interest to accept the donation.

NOW, THEREFORE, BE IT RESOLVED by the Township of Irvington, County of Essex, New Jersey as follows:

1. The Township accepts the donation for the purposes set forth above and thanks the D. Bilal Beasley Community Fund and Beasley Family for its generosity and service to the Township.

Adopted

Frederic – Hudley 5. Authorize Purchase of Lead Paint Analyzer Over the Pay to Play Threshold and Under the Bid Threshold of \$40,000.00 - Heuresis Corporation – Based Upon Low Quotation of \$29,810.00

**AUTHORIZING PURCHASES OVER THE PAY TO PLAY THRESHOLD OF \$17,500.00 BUT UNDER THE BID THRESHOLD OF \$40,000.00 FOR LEAD PAINT ANALYZER**

WHEREAS, the Health Department is in need of a lead paint analyzer; and

WHEREAS, the Township has obtained three quotes for this service from Tech Measurement, 1 Norfield Road, Weston, CT 06883, Olympus, 48 Woerd Ave, Waltham, MA 02453 and Heuresis, 330 Nevada Street, Newton, MA 02460 herein attached; and

WHEREAS, Heuresis Corporation, 330 Nevada Street, Newton, MA 02460 has provided the lowest quote for this service; and

WHEREAS, in compliance with 19:44a-20.13 et., seq., Heuresis Corporation will exceed the Pay-to-Play threshold of \$17,500.00 for calendar year 2018; and,

WHEREAS, Heuresis Corporation has completed and submitted the Township C-271, elect reports and political disclosure forms. These forms are on file in the Division of Purchasing Office and the Municipal Clerk; and

WHEREAS, all purchases to the above vendor will not exceed the bid threshold of \$40,000.00; and

NOW, THEREFORE, BE IT RESLOVED, that the Municipal Council of the Township of Irvington hereby authorizes the Qualified Purchasing Agent to pay Heuresis Corporation in excess of the pay to play threshold \$17,500.00 but under the bid threshold of \$40,000.00; and

BE IT FURTHER RESOLVED that the duration of this authorization shall be until December 31, 2018; and

BE IT FURTHER RESOLVED a separate resolution will be submitted to the Municipal Council for all additional vendors exceeding the bid threshold of \$17,500.00.

Adopted

Cox – Hudley 6. Authorize Professional Services Contract for Construction Administration for the 2018 Road Resurfacing Program – Phase 1 Based Upon Lowest Quotation - Keller and Kirkpatrick, Inc. Not To Exceed \$16,780.00

**RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT FOR THE 2018 RESURFACING PROGRAM, PHASE 1**

WHEREAS, the Township of Irvington has publicly bid the project known as the 2018 Resurfacing Program on June 6, 2018; and

WHEREAS, the Township received proposals from three contractors for this project and, on June 25, 2018, awarded a contract to the firm of J.A. Alexander of Bloomfield NJ at their lowest responsive bid price of \$356,014.78; and

WHEREAS, in order to administer this contract the Township Engineer has received quotes from four of the six engineering firms that were awarded an annual contract for engineering services and the Township Engineer has reviewed these proposals and found that the proposal of Keller & Kirkpatrick, in the amount of \$16,780.00 administration for a total fee proposal of \$16,780.00, was the most cost efficient to complete the work on this project; and

WHEREAS, the Township Engineer has reviewed this proposal and recommends this proposal as the most cost efficient proposal to complete the work on this project.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a professional services contract for the 2018 Resurfacing Program, Phase 1 be awarded to Keller and Kirkpatrick, Inc. ,301 Gibraltar Drive, Morris Plains, NJ 07950 at their proposed price of \$16,780.00 for construction administration for this project.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C8-00372 for the above has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure in the amount of \$16,780.00 is Account No. 8-01-21-165-165-299.

Adopted

Lyons – Jones 7. Commemoration – Retirement – Reverend William H. Rutherford

**RESOLUTION OF COMMEMORATION UPON RETIREMENT  
REVEREND H. WILLIAM RUTHERFORD, JR.  
THIRTY-EIGHT YEARS OF PASTORAL SERVICE**

WHEREAS, the Greater New Point Missionary Baptist Church was organized on January 9, 1977 at 9 Wilbur Avenue, Newark, New Jersey with the Reverend C. Young presiding. The organizer, Reverend W. L. Robinson served as the first Pastor until January 1978; and

WHEREAS, worship services were held at Weequahic Presbyterian Church, Newark, New Jersey until the Lord led us to our present location. On October 17, 1979, Reverend Willie Adams was called to serve as Pastor and remained until July 27, 1980. On September 23, 1979 we had our Grand March. Greater New Point was the first Black Missionary Baptist Church in the Township of Irvington; and

WHEREAS, on May 3, 1980, God sent Reverend H. William Rutherford, Jr. to Pastor this church, where he continues to serve faithfully as Pastor, Leader, Teacher and Friend to all; and

WHEREAS, on July 25, 1993, Greater New Point Missionary Baptist Church laid the corner stone, and · burned all mortgages. The Faith of the members and Friends of this church and God's amazing grace made this possible; and

WHEREAS, Greater New Point has continued to grow and on May 12, 1999 God blessed us to purchase property located in the rear of the church building, 10 Hoffman Place. On February 20, 2002 we were blessed to purchase property next to the church at 66 Paine Avenue; all of this property is being utilized for parking; and

WHEREAS, Greater New Point is very active in the community. We serve as the meeting place for the Irvington NAACP; we have served in the past as the headquarters for the New Jersey State Conference of NAACP Units. Greater New Point is a supporter of the Christian Fellowship Missionary Baptist Association of New Jersey where Pastor Rutherford serves as Moderator Emeritus. This church is also a supporter of the General Baptist State Convention and the National Baptist Convention USA, Inc. and the Food Bank, Hillside New Jersey; and

WHEREAS, we are most grateful and appreciative to almighty God for the many souls that have come to Christ the Ministry of this church. We are proud of our young people that are growing up in this congregation, some have gone away to college and returned to work for the betterment of this church; and

WHEREAS, this congregation is made up of many ministries, but the ministry brings a glow to Greater New Point is our Children's Moment in Ministry. This ministry stresses Christian learning and Educational Excellence. We have come this far by faith, leaning on the Lord. God's Grace is sufficient.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that Reverend H. William Rutherford, Jr. is hereby commended upon his retirement from his Thirty-Eight years of pastoral service with the wish for good health, prosperity and happiness during his retirement years.

Adopted

Cox – Lyons 8. Authorize Six Month Extension of Solid Waste Disposal Contract With Suburban Disposal Inc. - Not to Exceed \$918,000.00

#### **RESOLUTION EXTENDING COLLECTION OF SOLID WASTE AND RECYCLING MATERIALS CONTRACT**

WHEREAS, resolution number DPW 16-1025-32 awarded a two years contract to Suburban Disposal Inc for the collection of solid waste and recycling materials; and

WHEREAS, the original specifications included language that allowed for the extension up to three years contract at the existing terms and conditions if mutually accepted to the vendor and Township; and

WHEREAS, pursuant to 40A:11-15.3, the Township may extended the collection and disposition of solid waste and recyclable materials for a term not to exceed five years; and

WHEREAS, in the best interest of our taxpayers, the Township wishes to extended the collection of solid waste and recycling materials contract for six months; and

WHEREAS, the Township would like to extend the service contract with Suburban Disposal Inc, 54 Montesano Road, Fairfield, NJ 07004 for six months; and

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the following contract be extended for six months, starting on November 04, 2018 and ending on May 05, 2019 to Suburban Disposal Inc, 54 Montesano Road, Fairfield, NJ 07004 for an amount not to exceed \$918,000.00; and

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contract extension documents for six months and the Mayor and the Township Clerk is hereby authorized to execute said contract with the above listed company.

BE IT FURTHER RESOLVED, that the required certification of availability of funds C8-00370 in the amount of \$153,000.00 for the first month of service from account number 8-01-32-465-465-118 has been obtained from the Chief Financial Officer and the remaining balance will be certified in the 2018 and 2019 budgets.

Adopted

Hudley – Burgess 9. Authorize Change Order # 2 and Final For Installation of Emergency Generators at the Public Safety Complex and Chris Gatling Recreation Center – Manor II Electric - Increase Contract Price by \$2,421.93 – Final Contract Price \$156,253.83.00

**RESOLUTION TO AWARD CHANGE ORDER NO. 2 AND FINAL FOR THE  
INSTALLATION OF EMERGENCY GENERATORS AT THE PUBLIC SAFETY  
COMPLEX AND THE GATLING CENTER**

WHEREAS, the Township of Irvington received a grant from the Federal Emergency Management Administration (FEMA) in the amount of \$255,500.00 of the installation of Emergency Generators at the Public Safety complex as well as the Gatling Center; and

WHEREAS, the Township engaged the professional Services of CME Associates to prepare plans to be publicly bid for this project and administer the construction of the project; and

WHEREAS, bid for this project were publicly advertised and six bids for this project were received and publicly read on April 13, 2017; and,

WHEREAS, these bids were reviewed and it was determined that the bid Manor II Electric of Holmdel of \$149,362.00 was the lowest responsible bid for this project and a contract for this work be awarded to that firm as Resolution DPW 17-042622; and

WHEREAS, on September 26, 2017, the Municipal Council, as Resolution DPW 17-0926-42 approved Change Order No. 1 in the amount of \$4,520.00 for a 5 year extended warrantee for the generators;



WHEREAS, during the course of construction, additional work was required to relocate the telephone system at the Gatling Center which resulted in an additional cost of \$2,421.93; and

WHEREAS, the Township's consultant for this project, CME Associates, has recommended that this change order be approved.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a change order, Change Order No. 2 and Final, in the amount of \$2,421.93 for the relocation of telephone equipment at the Gatling Center be awarded to Manor II Electric of Holmdel, NJ so that the total contract price will be amended to \$156,253.83.00 for a net change in the contract of + 4.6%.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C8-00376 for the above has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure is in the amount of \$ 2,421.93 is Account No. G-02-xx-805-16A-299.

Adopted

Hudley – Cox 10. Authorize Change Order for Obtain Air Quality Permits For Installation of Emergency Generators at the Public Safety Complex and Chris Gatling Recreation Center – CME Associates - Increase Contract Price by \$2,772.00 - Final Contract Price \$43,320.00

**RESOLUTION TO AWARD A CHANGE ORDER FOR THE OBTAINING OF AIR QUALITY PERMITS FOR THE INSTALLATION OF EMERGENCY GENERATORS AT THE PUBLIC SAFETY COMPLEX AND THE GATLING CENTER**

WHEREAS, the Township of Irvington received a grant from the Federal Emergency Management Administration (FEMA) in the amount of \$255,500.00 of the installation of Emergency Generators at the Public Safety complex as well as the Gatling Center; and

WHEREAS, on July 12, 2016 as resolution DPW 16-0712-22, the Township engaged the professional services of CME Associates to prepare plans and specifications to be publicly bid for this project and administer the construction of the project in a professional services contract in the amount of \$40,548.00; and

WHEREAS, recent New Jersey Department of Environmental regulations require the issuance of Air Quality permits to operate generators of this size and the service required to obtain these permits is beyond that of the current staff; and,

WHEREAS, a Proposal, dated August 28, 2018 was received from CME Associates to provide these services for an amount not to exceed \$2,772.00; and

WHEREAS, the Township Engineer has reviewed this proposal and finds it to be the most cost efficient and timely manner to obtain these permits and recommends that a professional services contract be awarded to CME Associates for this work.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a change order, Change Order No. 1, in the amount of \$ 2,772.00 for the obtaining of Air Quality Permits for the Installation of Emergency Generators at the Public Safety Complex and the Gatling Center be awarded to CEM Associates of Parlin, New Jersey, in the amount of \$2,772.00 so that the total contract price will be amended to \$43,320.00 for a net change in the contract of + 6.8 %.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C8-00375 for the above has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure is in the amount of \$2,772.00 is Account No. 8-01-21-165-165-256.

Adopted

Jones – Cox 11. Authorizing the Naming of Hoffman Place “Reverend William H. Rutherford, Jr. Lane” in Honorarium

“RESOLUTION NAMING HOFFMAN PLACE “WILLIAM H. RUTHERFORD, JR. LANE” IN HONORARIUM

WHEREAS, on May 3, 1980, the Lord sent Reverend H. William Rutherford, Jr. to Pastor this church, where he continued to serve faithfully as Pastor, Leader, Teacher and Friend to all until his retirement after 38 years; and

WHEREAS, William H. Rutherford, Jr. led in the Church's religious teachings along with its civic, moral and historical education of its parishioners, guests and attendees throughout his illustrious career; and

WHEREAS, Reverend William H. Rutherford and his family have contributed to the Township of Irvington's Senior Citizens for many years; and

WHEREAS, Reverend William H. Rutherford and his family broadened the scope of the Greater New Point Missionary Baptist Church's activities by aiding in the distribution of governmental surplus foods; offering the use of its facilities to community associations such as the Civic and Block Associations, the N.A.A.C.P. and for public seminars; and

WHEREAS, the Irvington Municipal Council is desirous of renaming Hoffman Place to “Reverend William H. Rutherford, Jr. Lane” in honor of the hard work of Reverend Rutherford and to erect street signs in the area signifying “Reverend William H. Rutherford, Jr. Lane” in recognition of his many years of service to the Township of Irvington:

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF IRVINGTON that street signs signifying “Reverend William H. Rutherford, Jr. Lane” be placed above all Hoffman Place street signs to recognize Reverend William H. Rutherford, Jr. for his many years of service to the Township of Irvington as a community leader; and

BE IT FURTHER RESOLVED that the Hoffman Place shall hereinafter be known and designated as “Reverend William H. Rutherford, Jr. Lane” in honor of this great man; and

BE IT FURTHER RESOLVED that the Department of Public Works be authorized and directed to take all the necessary steps to see that proper signage is erected to so designate Hoffman Place as “Reverend William H. Rutherford, Jr. Lane” and to erect street signs signifying “Reverend William H. Rutherford, Jr. Lane” above all Hoffman Place street signs.

Adopted

Hudley – Frederic 12. Authorize Non-Fair and Open Contract for Rabies Clinic – People for Animals, Inc. - \$1,205.00 Through December 31, 2018

A RESOLUTION AUTHORIZING A NON-FAIR AND OPEN FOR RABIES CLINIC WHEREAS, the Township of Irvington, in the County of Essex and State of New Jersey, is in need of a Veterinarian for the Township Rabies Clinic; and

WHEREAS, the Township would like to retain the service of a licensed Veterinarian to provide free rabies vaccination clinics to residents; and

WHEREAS, People for Animals, Inc., has provide the Township with a proposal to provide this service for calendar year 2018 for a total sum of \$1205.00; and

WHEREAS, pursuant to the provisions of N.J.S.A. 19:44A-20.4 the vendor has completed the required pay to plays forms; and

WHEREAS, the C-271 Political Contribution Disclosure forms were on file in the Office of the Municipal Clerk and Purchasing Agent on August 28, 2018; and

WHEREAS, the Township would like to award a Non Fair and Open contract to People for Animals, Inc of 401 Hillside Ave, Hillside, NJ 07205; and

WHEREAS, the term of this contract will expire on December 31, 2018; and

WHEREAS People for Animals, Inc has completed and submitted a Business Entity Disclosure Certification which certifies that the organization has not made any reportable contributions to a political or candidate committee in the Township of Irvington in the previous one year, and that the contract will prohibit People for Animals, Inc from making any reportable contributions through the term of the contract, and

NOW THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Irvington authorizes the award of a non-fair and open contract to People for Animals, Inc of 401 Hillside Ave, Hillside, NJ 07205; and,

BE IT FURTHER RESLOVED, that the required certification of availability of funds C8-00371 in the amount of \$1205.00 from account number 8-01-27-335-335-299 has been obtained from the Chief Financial Officer.

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contract, and the Mayor and Township Clerk are authorized and directed to sign the same; and

BE IT FURTHER RESOLVED, notice of this action shall be published in newspapers as required by law by the Municipal Clerk.

Adopted

Cox – Jones 13. Authorizing the Naming of Civic Square “D. Bilal Beasley Square” in Honorarium

**RESOLUTION NAMING CIVIC SQUARE HONORABLE D. BILAL BEASLEY SQUARE**

WHEREAS, Honorable D. Bilal Beasley was educated in the Newark Public School system and has received certificates in several courses of business at the Interracial Congress of Business Opportunities at Rutgers University. His family has operated a business at Newark International Airport for over 43 years. Honorable Beasley was employed with the Newark Housing Authority for 28 years until his retirement in 2002. His work experience includes positions as Security Supervisor, Executive Director’s Staff Assistant and Community Relations Specialist. Beasley worked as a full time Municipal and County legislator.

WHEREAS, Honorable D. Bilal Beasley was first elected to the Irvington Municipal Council in 1988 as the South Ward Member. He was re-elected in 1992 and, at the July 1 reorganization meeting of the government body, his colleagues chose him to serve as vice-president. In 1994, he successfully captured a four-year term as an At-Large Member. Also in 1996, Bilal served as Council President. In a special election following his 1998 bid for the mayoral seat, Beasley again won a seat as the South Ward Member. In 2002, Beasley won a seat as Council At-Large in Irvington and as Essex County Freeholder (District 2). Beasley served on the Budget, Finance, Housing and Redevelopment committees of the Irvington Municipal Council and the Public Safety/Penal, Resource Recovery Oversight, Court Renovations, Work First NJ Review, Budget Review, Economic Development and Chairman of the Affirmative Action Committee of Essex County Freeholder Board. Freeholder/Councilman D. Bilal Beasley was inducted into the New Jersey Municipal Legislator Hall of Fame in 2009.

WHEREAS, Honorable D. Bilal Beasley was driven by care and concern for the citizens of his community, Freeholder/Councilman Beasley established the D. Bilal Beasley Business and Civic Association in 1987. In December 2010, the Association held its 22<sup>nd</sup> Annual Community Service Awards Luncheon to recognize those citizens, who like its standard bearer, are making a difference in Irvington. In addition, the Association sponsors a variety of local educational, recreational and social activities and programs.

WHEREAS, Honorable D. Bilal Beasley was a veteran civic leader and activist, his memberships include; Student and Follower of the Hon. Elijah Muhammad – 1961, Member of NAACP, Irvington, Dr. Martin Luther King, Jr. Commemorative Committee, Irvington Chairman and New Jersey State MLK Commission Member, South Ward Joint Block Coalition, Friends of Irvington Park, Union Avenue School PTA, former Vice President, Citizens for Better Schools and Educational Task Force, Center for Urban

Education Advisory Board Member, Frontiers International – Newark Club, Irvington Housing Authority Commissioner, National Association for Redevelopment and Housing Organization, Certified Public Housing Manager, New Jersey Notary, Newark Emergency Services for Families, Charter Member.

WHEREAS, Honorable D. Bilal Beasley's lengthy political tenure includes the following affiliations and activities; Irvington Democratic Committee, Chairman, 1994 to 2014, Essex County Democratic Committee, 1984 to 2014, Co-district leader for the Essex County (Democratic) Committee, Irvington S-3 (28 years), Coalition for Good Government, National Charter Member, Muslim League of Voters of N.J., Charter Member, NJ Rainbow Coalition, 10<sup>th</sup> Congressional District Member, Irvington Campaign Coordinator for Presidential Candidate Jesse Jackson, 1988, Co-campaign manager for former Irvington mayor, the Hon. Michael G. Steele, 1990, Irvington municipal campaign coordinator for McGreevey for Governor, Muslim League of Voters of New Jersey – Charter Member, New Jersey Alliance for Good Government – Charter Member, American Coalition for Good Government – National Board

WHEREAS, Honorable D. Bilal Beasley was married for 55 years to A. Baseemah Beasley. He was an Irvington resident and homeowner for more than 39 years and had five children, nine grandchildren, and fourteen great-grandchildren. Motivated by his faith and love for his family and community, Honorable D. Bilal Beasley abided by the philosophy that *"Together, we will build and grow."*

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF IRVINGTON, that a street sign stating "D. Bilal Beasley Square" be place above the street sign at Civic Square in the Township of Irvington to recognize D. Bilal Beasley for his many years of community service to the Township of Irvington, and

BE IT FURTHER RESOLVED that the Department of Public Works be authorized and directed to take all the necessary steps to see that proper street signs are erected signifying "D. Bilal Beasley Square" above the street signs on Civic Square in the Township of Irvington.

Adopted

Frederic – Cox 14. Authorize Amendment to Resolution Authorizing Acceptance of Liens Sold, Bids Submitted and Revenue Collected At Special Tax Sale Pursuant to the Abandoned Property Rehabilitation Act

AMENDMENT TO THE RESOLUTION ACCEPTING LIENS SOLD, BIDS SUBMITTED AND REVENUE COLLECTED AT A SPECIAL TAX SALE PURSUANT TO THE ABANDONED PROPERTY REHABILITATION ACT (ASSIGNMENT SALE UNDER N.J.S.A. 55:19-101)

WHEREAS, by resolution No. EDGO18-0814-19 and dated August 14, 2018, the Township of Irvington Municipal Council accept liens sold, bids submitted and revenue collected at a special tax sale pursuant to the Abandoned Property Rehabilitation Act, N.J.S.A. 55:19-101, held on July 27, 2018;

WHEREAS, Resolution No. EDGO18-0814-19 is being amended to reflect changes to the total revenue collected as a result of adjustments made subsequent to the August 18, 2018 adoption as follows: the value of the total liens sold changed from \$1,613,000 to \$1,626,180.00 increasing the total revenue collected from \$1, 421,153.62 to \$1,834,333.62; and,

WHEREAS, the Mayor of the Township of Irvington hereby submits this amended revenue collected from the herein referenced Special Tax Sale and lien redemption payments collected thereof in the total amount of \$1,834,333.62 into the general operation 2018 Township budget.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNUCIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON THAT:

SECTION 1. The Township of Irvington does approve this amendment with the changes reflected on the updated Schedule A attached:

SECTION 2. The Township of Irvington does hereby accept the amount of \$1,834,333.62 into the 2018 general operation budget.

SECTION 3. This Resolution shall authorize a public notice advertising this change only to be published in a newspaper circulating in the Township at least once a week for two (2) consecutive weeks after the adoption of said resolution. .

SECTION 4. This resolution shall take effect immediately.

#### SCHEDULE A

Adopted

Jones – Lyons 18. Authorize Designation of Mecca Properties as Redeveloper of 174 and 176 Maple Avenue, Block 216, Lots 2 and 3 and Authorizing Execution of Redevelopment and Purchase and Sale Agreement

#### **RESOLUTION OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX, APPROVING THE DESIGNATION OF MECCA PROPERTY DEVELOPMENT AS REDEVELOPER OF BLOCK 216, LOTS 2 and 3 IN THE TOWNSHIP OF IRVINGTON AND AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT IN CONNECTION THEREWITH**

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

**WHEREAS**, pursuant to the Redevelopment Law, the Municipal Council (the “**Township Council**”) of the Township of Irvington (the “**Township**”), designated certain

property within the Township, including, without limitation, the property identified on the official tax maps of the Township as Block 216 and Lots 2 and 3, as an area in need of redevelopment (the “**Redevelopment Area**”); and

**WHEREAS**, the Redevelopment Law authorizes municipalities to adopt a redevelopment plan for an area designated as an “area in need of redevelopment or rehabilitation” pursuant to which redevelopment projects are to be undertaken; and

**WHEREAS**, by Resolution dated July 14, 2015 the Municipal Council of the Township (the “**Township Council**”) designated the entire Township as an area in need of rehabilitation (the “**Rehabilitation Area**”) in accordance with the requirements of the *Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et seq.* (the “**Act**”)

**WHEREAS**, the Act authorizes municipalities to adopt a redevelopment plan for an area designated as an “area in need of rehabilitation” pursuant to which redevelopment projects are to be undertaken and the Township Council duly adopted a redevelopment plan by Ordinance MC No. 3549 dated August 11, 2015 and which became effective on September 1, 2015, entitled *An Ordinance of the Township of Irvington, in the County of Essex, New Jersey Adopting a Redevelopment Plan for the Township of Irvington* (the “**Redevelopment Plan**”), governing the Township Rehabilitation Area, including, but not limited to the properties referenced herein, in accordance with *N.J.S.A. 40A:12A-7*; and

**WHEREAS**, to realize the redevelopment of the entire Township, the Township determined to exercise the powers of redevelopment and serve as the “Redevelopment Entity” responsible for carrying out redevelopment projects in the Township-wide Rehabilitation Area in accordance with the Redevelopment Plan, pursuant to *N.J.S.A. 40A: 12A-4(c)*; and

**WHEREAS**, the Redevelopment Area is currently subject to the *Redevelopment Plan for the Township of Irvington* (the “**Redevelopment Plan**”) which was duly adopted by the Township Council pursuant to the Redevelopment Law and in accordance with the procedures set forth therein; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-4*, the Township has determined to act as the “redevelopment entity”, as such term is defined at *N.J.S.A. 40A:12A-3*, responsible for carrying out redevelopment projects in the Township-Wide Rehabilitation Area in accordance with the Redevelopment Plan, pursuant to *N.J.S.A. 40A: 12A-4(c)*; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-15*, with respect to a redevelopment project in an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in *N.J.S.A. 40A:12A-8(g)* specifically “lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan...”; and

**WHEREAS**, the Township of Irvington owns the properties identified on the official tax map of the Township as Block 216, Lots 2 and 3, known, respectively as 176 Maple Avenue and 174 Maple Avenue (the “**Properties**”) and the Township would like to

convey the properties to Mecca Property Development pursuant to the Redevelopment and Purchase and Sale Agreement attached as Exhibit A hereto; and

**WHEREAS**, the Redeveloper has submitted to the Township its plans for the rehabilitation of the Properties (the “**Project**”); and

**WHEREAS**, the Redeveloper submitted information outlining its financial capabilities, experience, expertise and project concept descriptions for the Project and requested designation by the Township as the “redeveloper” (as defined in the Redevelopment Law) of the Property; and,

**WHEREAS**, the Township Council has determined that the Redeveloper meets all necessary criteria, including financial capabilities, experience and expertise, and, as a result, has determined to designate the Redeveloper as the redeveloper for the Property and to enter into an agreement (in the form attached hereto as Exhibit A, the “**Redevelopment Agreement**”), which specifies terms of the redevelopment of the Property and the rights and responsibilities of the Township and the Redeveloper with respect to the Project.

**NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX, NEW JERSEY, AS FOLLOWS:**

1. **Generally.** The aforementioned recitals are incorporated herein as though fully set forth at length.
2. **Designation of the Redeveloper.** Mecca Property Development is hereby designated as redeveloper of the Property, pursuant to the Redevelopment Law, for purposes of carrying out the Project, in accordance with the terms of the Redevelopment Agreement.
3. **Execution of the Redevelopment Agreement.**
  - a. The Mayor, and/or his designee, is hereby authorized to execute the Redevelopment Agreement, substantially in the form attached hereto as Exhibit A, together with such additions, deletions and modifications as are necessary and desirable in consultation with counsel to effectuate same.
  - b. The Municipal Clerk is hereby authorized and directed, upon execution of the Redevelopment Agreement in accordance with the terms of Section 3(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the City upon such document.
4. **Implementation.** Upon the execution and attestation of the Redevelopment Agreement, as contemplated by Section 3 hereof, the Mayor, upon consultation with counsel to the Township, is hereby further authorized to take any and all actions, and execute and deliver such other documents, certificates and instruments necessary, desirable or convenient to effectuate the terms of the Redevelopment Agreement.



5. **Effective Date.** This Resolution shall take effect immediately.

**EXHIBIT A**  
**REDEVELOPMENT AND**  
**PURCHASE AND SALE AGREEMENT**

**By and Between**

**THE TOWNSHIP OF IRVINGTON**

**As Redevelopment Entity**

**and**

**MECCA PROPERTIES, LLC**

**as Redeveloper**

**Dated: \_\_\_\_\_, 2018**

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Exhibits attached to the Agreement:

Exhibit A- Redevelopment plan

Exhibit B -Form of Declaration of Covenants and Restrictions

Exhibit C - Insurance Requirements

**REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT**

**THIS REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT** (the “**Agreement**”) is made on this \_\_\_\_ day of \_\_\_\_\_, 2018 (the “Effective Date”) by and between the **TOWNSHIP OF IRVINGTON**, an instrumentality and agency of the State of New Jersey (the “**Township**”) and **MECCA PROPERTY DEVELOPMENT, LLC**, a limited liability company of the State of New Jersey (the “**Redeveloper**”, and together with the Township, the “**Parties**”).

**WITNESSETH:**

**WHEREAS**, by Resolution dated July 14, 2015 the Municipal Council of the Township (the “**Township Council**”) designated the entire Township as an area in need of rehabilitation (the “**Rehabilitation Area**”) in accordance with the requirements of the *Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et seq.* (the “**Act**”);

**WHEREAS**, the Act authorizes municipalities to adopt a redevelopment plan for an area designated as an “area in need of rehabilitation” pursuant to which redevelopment projects are to be undertaken and the Township Council duly adopted a redevelopment plan by Ordinance MC No. 3549 dated August 11, 2015 and which became effective on September 1, 2015, entitled *An Ordinance of the Township of Irvington, in the County of Essex, New Jersey Adopting a Redevelopment Plan for the Township of Irvington* (the “**Redevelopment Plan**”), governing the Township Rehabilitation Area, including, but not limited to the properties referenced herein, in accordance with *N.J.S.A. 40A:12A-7*; and

**WHEREAS**, to realize the redevelopment of the entire Township, the Township determined to exercise the powers of redevelopment and serve as the “Redevelopment Entity” responsible for carrying out redevelopment projects in the Township-wide Rehabilitation Area in accordance with the Redevelopment Plan, pursuant to *N.J.S.A. 40A: 12A-4(c)*; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-15*, with respect to a redevelopment project in an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in *N.J.S.A. 40A:12A-8(g)* specifically “lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan...”

**WHEREAS**, by Resolution, the Township Council authorize the designation of Mecca Properties, LLC as the “redeveloper” of the Property and further authorize the execution of a redevelopment and purchase and sale agreement by and between the Township and the Redeveloper to acquire 174 Maple Avenue, Block 216 and Lot 3 and 176 Maple Avenue, Block 216 and Lot 2; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, the Parties do hereby covenant and agree each with the other as follows:

## **ARTICLE 1**

### **DEFINITIONS**

**Section 1.01 Governing Law.** This Agreement shall be governed by the provisions of (a) the Redevelopment Law and such other statutes as may be the sources of relevant authority and (b) all other Applicable Laws (as defined herein).

**Section 1.02 Definitions.** As used in this Agreement the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter. Unless otherwise noted, the words "include," "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation". The words "agree," "agreements," "approval" and "consent" when used in this Agreement shall be deemed to be followed by the phrase

"which shall not be unreasonably withheld or unduly delayed," except otherwise specified. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Agreement unless otherwise specified.

**“Act”** shall be as defined in the recitals hereto.

**“Agreement”** shall be as defined in the preamble hereto.

**“Annual Redevelopment Fee”** is defined in Section 5.06.

**“Applicable Laws”** shall mean all federal, state and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Act, the Municipal Land Use Law, relevant construction codes including construction codes governing access for people with disabilities, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, and all applicable environmental laws and applicable federal and state labor standards.

**“Building Permit”** shall mean a building permit issued by or on behalf of the Township for the Project.

**“Certificate of Completion”** means written acknowledgement by the Township in recordable form that the Redeveloper has Completed Construction of the Project in accordance with the requirements of this Agreement.

**“Certificate of Occupancy”** shall mean a temporary or permanent certificate of occupancy as defined in the applicable section of the municipal code of the Township and the applicable provisions of the New Jersey Uniform Construction Code, *N.J.A.C. 5:23-1 et seq.*

**“Closing”** means the conveyance of title to the Property to the Redeveloper by the Township.

**“Closing Date”** is defined in Section 4.02(c).

**“Commence Construction”** and **“Commencement of Construction”** shall mean the date on which the construction force and machinery is mobilized for construction of the Project on the Property.

**“Completion of Construction”** and **“Complete Construction”** shall mean the completion of the Project in accordance with the Redevelopment Plan (sufficient for issuance of a Certificate of Occupancy if required by Applicable Laws) for the Project, subject to (i) completing minor conditions of the Governmental Approvals and (ii) installation of landscaping.

**“Declaration of Covenants and Restrictions”** shall mean the filing with the office of the Essex County Clerk of: (i) a notice of the covenants as set forth in Sections 3.02 of this Agreement and (ii) notice as to the existence of this Agreement by and between the Township and Redeveloper, substantially in the form as attached hereto as *Exhibit B*.

**“Deed”** is defined in Section 4.02(d)(i).

**“Demolition”** is defined in Section 4.02e(i) of the Agreement

**“Effective Date”** shall be as defined in the preamble hereto.

**“Environmental Indemnification”** is defined in Section 4.02(f).

**“Redeveloper Fee”** is defined in Section 5.06.

**“Event of Default”** is defined in Section 6.01.

**“Force Majeure”** shall mean acts of God, fire, earthquake, explosion, the elements, war, riots, mob violence or civil disturbance, inability to procure or a general shortage of labor, equipment or facilities, energy, materials or supplies in the open market, failure of transportation, strikes, walkouts, actions of labor unions, court orders, laws, rules, regulations or orders of governmental or public agencies, bodies and authorities, or any other similar cause not within the control of the Redeveloper or the Township. Compliance with municipal laws regulating land use and construction, any legal requirements under any applicable environmental laws, as well as known NJDEP clearances, approvals, or permits typical of the development process and referred to in this Agreement shall not be considered or construed as events of Force Majeure. Economic factors and market conditions shall also not be considered or construed as events of Force Majeure.

**“Good Faith Deposit”** is defined in 4.02(b).

**“Governmental Approvals”** shall mean all governmental approvals required for the construction of the Project, including, without limitation: the Rehabilitation Plan; county planning board approvals; construction plans and specifications for the obtaining of building permits for the proposed construction; environmental approvals, consents and authorizations from the NJDEP and any other applicable agencies; sewerage capacity approvals, utilities-related permits and any and all other necessary permits, licenses, consents and approvals.

**“Insurance Requirements”** is defined in Section 4.02(e)(iii).

**“Municipal Land Use Law”** shall mean *N.J.S.A. 40:55D-1 et seq.*

**“NJDEP”** shall mean the New Jersey Department of Environmental Protection.

**“Notice”** is defined in Section 7.08.

**“Permitted Exemptions”** is defined in Section 4.02(d)(ii).

**“Planning Board”** shall mean the Township Planning Board.

**“Preliminary Assessment”** shall mean a preliminary environmental investigation of the Property to determine what environmental conditions exists on the Property in

accordance with Applicable Laws, which may include, but not be limited to, the *Comprehensive Environmental Response, Compensation and Liability Act* (“CERCLA”) (42 U.S.C. § 9601-9675); the *Resource Conservation and Recovery Act of 1976* (“RCRA”) (42 U.S.C. § 6901 *et seq.*); the *Clean Water Act* (33 U.S.C. § 1251 *et seq.*); the *New Jersey Spill Compensation and Control Act* (the “Spill Act”) (N.J.S.A. 58:10-23.11 *et seq.*); the *Industrial Site Recovery Act*, as amended (“ISRA”) (N.J.S.A. 13:1K-6 *et seq.*); the *New Jersey Underground Storage of Hazardous Substances Act* (N.J.S.A. 58:10A-21 *et seq.*); the *New Jersey Water Pollution Control Act* (N.J.S.A. 58:10A-1 *et seq.*); the *New Jersey Environmental Rights Act* (N.J.S.A. 2A:35A-1 *et seq.*); and the rules and regulations promulgated thereunder.

**“Prior Redevelopment Agreement”** shall be as defined in the recitals hereto.

**“Professional Services Fee”** is defined in Section 5.07

**“Project”** shall be as defined in the recitals hereto. The Project shall encompass the redevelopment of the Property in compliance with the terms and conditions set forth in the Redevelopment Plan, Applicable Laws, Government Approvals and this Agreement.

**“Property”** shall be as defined in the recitals hereto.

**“Purchase Price”** is defined in Section 4.02(a).

**“Redeveloper”** shall be as defined in the preamble hereto.

**“Redevelopment Entity”** shall mean the Township acting in its capacity as a redevelopment entity pursuant to the Act and/or any permitted successors or assigns.

**“Redevelopment Plan”** shall be as defined in the recitals hereto.

**“Rehabilitation Area”** shall be as defined in the recitals hereto.

**“Rehabilitation Plan”** shall mean the final site plan with respect to the development of the Project submitted to and approved by, the Planning Board or its successor, in accordance with the Municipal Land Use Law.

**“State”** shall mean the State of New Jersey.

**“Termination Notice”** is defined in Section 6.02.

**“Title Commitment”** is defined in Section 4.02(d)(ii).

**“Township”** shall be as defined in the preamble hereto.

**“Township Costs”** shall mean all reasonable and necessary costs and expenses of the Township incurred in negotiation and implementation of this Agreement, including outside engineering and financial consultants fees, costs of counsel and any planning professionals. “Township Costs” shall not include charges for services performed in the ordinary course of employment by Township employees.

“Township Council” shall be as defined in the recitals hereto.

**Section 1.03 Interpretations And Construction.** In this Agreement, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before the Effective Date.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Unless otherwise noted, the terms “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.”

(d) The terms “agree,” “agreements,” “approval” and “consent” when used in this Agreement shall be deemed to be followed by the phrase “which shall not be unreasonably withheld, conditioned or unduly delayed,” except or unless the context or the express terms of this Agreement may otherwise provide, specify or dictate.

(e) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect. Any references to Articles and Sections in this Agreement shall be deemed to be references to the Articles and Sections in this Agreement except or unless the context or express terms of this Agreement may otherwise provide, specify or dictate.

(f) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(g) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than thirty (30) days, unless the context dictates otherwise.

(h) All exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

(i) Each right or obligation of a Party to review or approve any

actions, plans, specifications, or other obligations hereunder shall be made by a person with legal authority to conduct such review or grant such approvals. Any review contemplated by this Agreement shall be made in a prompt and timely manner.

(j) Unless otherwise indicated, any “costs, fees and expenses” shall be required to be actual, out of pocket, necessary, customary and reasonable.

## ARTICLE 2

### REPRESENTATIONS AND WARRANTIES

**2.01 Representations and Warranties of Redeveloper.** Redeveloper hereby makes the following representations and warranties:

(a) Redeveloper has the legal capacity to enter into this Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan as of the date of this Agreement.

(b) Redeveloper is a duly organized and a validly existing legal entity under the laws of the State of New Jersey and all necessary consents have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Agreement to do so for and on the Redeveloper’s behalf.

(c) No receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date.

(d) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code, 11 U.S.C. §101 *et seq.* or any other similar statute that is applicable to the Redeveloper shall have been filed.

(e) No indictment has been returned against any official of Redeveloper with respect to any transaction related to the transactions contemplated by the terms of this Agreement.

(f) Redeveloper’s execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or stockholder agreement of Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party.

(g) Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating, and maintaining the Project.

(h) To the best of Redeveloper’s knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore,



known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse change in Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement.

(i) Redeveloper's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party.

(j) To the best of Redeveloper's knowledge and belief after diligent inquiry all information and statements included in any information submitted to the Township and its agents, including but not limited to, McManimon, Scotland & Baumann, LLC, are true and correct in all respects. Redeveloper acknowledges that the facts and representations contained in the information submitted by Redeveloper are a material factor in the decision of the Township to enter into this Agreement.

(k) To the best of its knowledge after diligent inquiry, Redeveloper is not delinquent with respect to any taxes, payments in lieu of tax, service charge, or similar obligations owed to the Township for any property situated in the Township.

### ARTICLE 3

#### COVENANTS AND RESTRICTIONS

**3.01. Covenants and Restrictions.** Redeveloper agrees to record the Declaration of Covenants and Restrictions in the office of the Essex County Clerk on the Property immediately following the Closing Date.

**3.02. Description of Covenants.** The covenants to be imposed upon Redeveloper, its successors and assigns, and recorded in the form of the Declaration of Covenants and Restrictions shall set forth that:

(a) Redeveloper shall construct the Project on the Property in accordance with the Redevelopment Plan.

(b) Redeveloper shall not sell or otherwise transfer title to all or any portion of the Property without the written consent of the Township, provided however that a Certificate of Completion for the Property shall constitute written approval of such sale or transfer. Notwithstanding the foregoing, the Township consents to Redeveloper's lease of the Property to an affiliate, subsidiary or qualified commercial operator in the normal course of business.

(c) Redeveloper shall, in connection with the use or occupancy of the Property, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial

status.

(d) Redeveloper shall, upon Completion of Construction, obtain all Government Approvals required to authorize the occupancy and use of the Property for the purposes contemplated hereby.

(e) Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense.

(f) Redeveloper shall develop, finance, construct, operate and maintain the Project consistent with Applicable Laws, Government Approvals, the Redevelopment Plan, and this Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Agreement.

(g) Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project.

**3.03. Effect and Duration of Covenants.** It is intended and agreed that the covenants and restrictions set forth in Section 3.02 shall be covenants running with the land. All covenants in Section 3.02, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Article 3.02 shall cease and terminate upon the issuance of a Certificate of Completion for Project improvements, provided however, that the covenant in Section 3.02(c) shall remain in effect without limitation as to time.

**3.04. Enforcement by Township.** In amplification, and not in restriction of the provisions of this Article 3, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 3.02 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

## ARTICLE 4

### PURCHASE AND SALE OF THE PROPERTY

**4.01. Agreement to Sell and Purchase the Property.** Subject to the terms and conditions herein, the Township agrees to sell the Property to Redeveloper, and Redeveloper agrees to purchase the Property from the Township, in consideration of

Redeveloper's undertaking to construct the Project in accordance with the provisions of this Agreement and on the additional terms and conditions herein.

#### **4.02. Terms and Conditions of Purchase and Sale.**

4.02(a) Purchase Price. The agreed upon purchase price for the Properties shall be **FOURTEEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$14,500.00)** and **TWELVE THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$12,500.00)** for 176 Maple Avenue, which the Parties have agreed is non-refundable, to the Township.

4.02(b). Good Faith Deposit. The agreed upon Good Faith Deposit is Two Thousand Five Hundred 00/100 DOLLARS (\$ 2,500.00) per property for a total of \$5,000.00 to be paid to the Township by Redeveloper pursuant to this agreement.

4.02(c) Redeveloper Conditions to Closing. If Redeveloper determines, in consultation with the Township, that the Property cannot be used for the Project due to the environmental condition of the Property based on a complete Preliminary Assessment and/or site investigation, Redeveloper may terminate this Agreement, at any time prior to the Closing Date.

4.02(d) Time and Place of Closing of Title. (i) Closing on the Property shall occur no later than forty-five (45) days from the Effective Date of this Agreement, **time being hereby made of the essence**, at a time to be mutually agreed upon by the Parties (the "**Closing Date**"). The Closing shall be held at the Township of Irvington such other place as the Redeveloper and the Township may mutually agree.

(ii) Redeveloper's failure to appear to pay the Purchase Price and perform as required by the Agreement on the Closing Date shall be an Event of Default not subject to a cure period, and Township may immediately terminate the Agreement at the occurrence of said Event of Default. In the event of such default the deposit of \$2,500 per property will be kept by the Township and not refunded back to the Redeveloper.

4.02(d) Transfer of Ownership; Title. (i) At Closing, the Township shall give the Redeveloper a properly executed Bargain and Sale Deed with Covenants Against Grantor's Acts (the "**Deed**") and an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, a true copy of the Resolution of the Township Council authorizing the sale and conveyance, and such other documentation as may reasonably be requested by Redeveloper's title insurance company. The Deed will contain a limited right of reverter to the Township, which the Township may but is not obligated to exercise in the event this Agreement is terminated by reason of an Event of Default attributable to Redeveloper's acts or omissions after conveyance of the Property to Redeveloper. The Deed's limited right of reverter will specifically reference that it terminates upon issuance of a Certificate of Completion and issuance of a Certificate of Occupancy. Such right of reverter shall be subordinate to any mortgage on the Property. Upon the exercise of such right the Township will reimburse to the Redeveloper or the mortgagee, as the case may be, the Purchase Price; less any unpaid amounts due and owing to the Township by Redeveloper pursuant to the terms of this Agreement at the time the right is exercised.

(ii) The Township shall transfer and convey to the Redeveloper clear and marketable title to the Property, defined for purposes of this Agreement as insurable by a title insurance company licensed to do business in the State of New Jersey at regular rates free of all claims and rights of others, except for: (a) normal utility easements servicing the Property which do not interfere with Redeveloper's intended use thereof, development, construction or operation of the Project; (b) ALTA 1992 preprinted exceptions; and (c) any Permitted Exceptions (as hereinafter defined). Redeveloper shall order a title report and title insurance commitment (the "**Title Commitment**") within twenty (5) days of the Effective Date. Redeveloper shall provide the Township with a copy of the Title Commitment upon receipt thereof and shall notify the Township in writing of any objection to title within twenty (20) days following the receipt of the Title Commitment. Failure to notify the Township of an objection to title within such twenty (20) day period shall be deemed a waiver by Redeveloper of all objections to any lien, encumbrances or other exception revealed by the Title Commitment (as waived, or as otherwise deemed acceptable by Redeveloper, "**Permitted Exceptions**"). In the event Redeveloper does raise title objections, the Township shall have fifteen (15) days from the date of receipt of Redeveloper's written objections in which to decide whether to remedy the title defect(s) identified in such objection. If the Township does undertake to remedy the title defect(s) the Township shall be entitled to postpone the Closing Date for a reasonable period of time in order to effectuate such remedy, or in the case of liens or other unpermitted exceptions outstanding against the Property as of the Closing Date for which Township is responsible and which involve only the payment of money, to elect to apply any portion of the Purchase Price to pay and satisfy those items. In the event the Township is unable to remedy such title defect(s), then Redeveloper may either (a) waive the objection and proceed to Closing without an adjustment in the Purchase Price; or (b) terminate this Agreement, in which case Redeveloper's designation as "redeveloper" (as defined in the Act) shall simultaneously and automatically terminate.

If either the Township or Redeveloper do not comply with the requirements imposed upon them under the Title policy requirements; then and in that event, either party will demand compliance in writing of the other. If a responding party still does not comply within three (3) business days of notification by the notifying party; then and in that event, the notifying party has the right to terminate this Agreement.

#### 4.02(e) Physical Condition of the Property.

(i) The existing structure (commonly known as the Servicemen's Clubhouse) on the Property will be demolished by the Township prior to the Closing Date. The Demolition will include: 1. coordinating the Shut-Offs for water, gas & electricity; 2. rodent abatement of the property; 3. complete demolition of the above grade structure; 4. removing and disposing of all Demolition Debris/Waste; and 5. backfilling/grading of the cavity with "Certified Clean" fill soil (the "**Township Demolition**"). Redeveloper agrees to indemnify and hold the Township harmless against all damages, liability, claims, costs, or expenses and judgments incurred by or asserted against Township or the Property arising out of or in connection with the demolition of the structure. Redeveloper recognizes and acknowledges that the Township is making no representation or warranty as to the condition of the Property or its fitness for Redeveloper's intended use. At Closing, the Township shall deliver possession of the Property in the condition as it is on the date of this Agreement, deterioration from ordinary and reasonable usage and exposure to the elements and the agreed upon Demolition excepted.

(ii) At any time prior to Closing, Redeveloper and Redeveloper's agents, representatives and employees shall have the continuing right, on reasonable prior notice to the Township and at reasonable times, to enter the Property to carry out or perform any inspections, tests, investigations and studies of the Property, including, but not limited to, the Preliminary Assessment, which Redeveloper deems necessary or appropriate for purposes of ascertaining the physical feasibility of redeveloping, or to survey, the Property. The Township agrees to reasonably cooperate with Redeveloper and Redeveloper's professionals and consultants in making the Property available for such investigations and activities. Redeveloper shall promptly restore the Property or any improvements thereon, including the surface of the ground, to the reasonably same condition as just prior to any testing or disturbance. In addition to this Section 4.02, this process is supplemented by, and additionally described, in Sections 7.09, 7.10 and 7.11 below.

(iii) Redeveloper shall provide to the Township evidence of insurance coverage in types and amounts reasonably acceptable to Township and as further set forth herein as *Exhibit C* (the "**Insurance Requirements**"), prior to gaining access to the Property or conducting any tests or investigations thereon. All such Insurance Requirements shall name the Township as an additional insured. Redeveloper agrees to indemnify and hold the Township harmless against all damages, liability, claims, costs, expenses (including reasonable attorneys' fees) and judgments incurred by or asserted against Township or the Property arising out of or in connection with Redeveloper's due diligence activities at or on the Property, excluding, however, liability, claims, costs, or expenses arising out of existing violations of environmental laws or other Applicable Laws identified or discovered at the Property during the course of Redeveloper's investigations but not caused by Redeveloper. Redeveloper shall further be responsible for restoring the Property to its prior condition following any intrusive testing, sampling or similar activity. Redeveloper's obligations under this Section shall survive delivery of the Deed or any termination of this Agreement.

4.02(f) Environmental Indemnification. Redeveloper hereby jointly and severally agrees, at its sole cost and expense, to unconditionally indemnify, defend and hold harmless Township, its employees and agents from any injuries, losses, liabilities, damages, liens, expenses (including, without limiting the generality of the foregoing, the costs of any environmental testing, remediation and the costs of attorney fees), charges, costs penalties, fines, actions, injunctions, suits, claims, judgments, or demands imposed, at any time, upon the Property and/or imposed upon, or incurred by, the Township, directly or indirectly, at any time: (a) as a result of or in connection with compliance with and/or violation(s) of any or all Applicable Laws by Redeveloper; (b) as a result of or in connection with compliance, or an attempt to comply by Redeveloper or any third party duly acting through Redeveloper, with any or all Applicable Laws; or (c) sustained as a result of any environmental conditions on, in, under or migrating to or from the Property, to the extent that any such liability attached to the Township as result of this Agreement, prior ownership by the Township or activities including without limitation claims against the Township by any third party (the "**Environmental Indemnification**").

4.02(g) Building and Zoning Laws. The Property is being sold subject to the Redevelopment Plan and all other Applicable Laws.

4.02(h) Risk of Loss. The Township is responsible for any damage or loss to the Property, except for normal wear and tear, until Closing except as otherwise provided in Sections 4.02 (a) through (g) with respect to Redeveloper's activities and investigations, if any, and with respect to the Demolition of the existing structure by the Township.

4.02(i) Brokerage Fees. The Township represents that concerning the purchase of the Property it has not dealt with or transacted any business with any broker, and the Redeveloper agrees to indemnify, defend and hold the Township harmless from any claim of any broker made as a result of the Township's actions inconsistent with the representations made herein. Township acknowledges that Redeveloper may have otherwise engaged a broker in connection with this transaction. Notwithstanding the foregoing, any obligation to such broker is a sole obligation of the Redeveloper and shall be separate and apart from, and in addition to, the Purchase Price. Under no circumstances shall any brokerage fees be paid from the proceeds of the Purchase Price due to the Township.

4.02(j) Non-Foreign Affidavit. The Township shall provide to the Redeveloper at Closing an adequate Non-Foreign Affidavit stating the inapplicability of 26 U.S.C. § 1445 to the sale of the Property.

4.02(k) Form 1099-B Filing. In compliance with the requirements of the Internal Revenue Code, the Redeveloper's attorney is responsible for collecting certain information from the Township necessary to complete and file Form 1099-B with the Internal Revenue Service. The Township agrees to supply all necessary information to the Redeveloper's attorney in order to facilitate such filing.

4.02(l) Closing Prorations. The following adjustments are to be made at the Closing as of 12:00 midnight of the day preceding the Closing Date as may be applicable: (i) water charges; (ii) sewer rents; (iii) gas; (iv) electric; (v) fuel (at the Township's cost therefore); (vi) real estate taxes; and (vii) any other items which shall be appropriate for adjustment under local closing standards and practices.

4.02(m) Bulk Sales Law. Prior to the Closing, Redeveloper shall have the right to comply with *N.J.S.A. 54:32B-22(c)* and *N.J.S.A. 54:50-38* and the Township shall cooperate in connection with such compliance.

4.02(n) Additional Documents. As reasonably requested by Redeveloper, and at no cost to the Township, the Township shall provide Redeveloper with documents in its possession relating to the condition of the Property including, but not necessarily limited to, surveys, title work, environmental reports or appraisals as of the Effective Date, excluding any privileged documents.

#### **4.03. Default Related to Conveyance of the Property.**

4.03(a) Default by the Township. If title to the Property does not close because of the Township's default under this Agreement, then the Redeveloper shall be entitled to pursue all remedies at law or equity available to it by reason of the Township's default; *provided, however*, that failure of the Township Council to authorize or approve the transaction shall not constitute a default by the Township, but only a failure of the condition precedent to the conveyance; and *provided further*, that under no circumstances

shall the Township be liable for consequential, indirect or special damages or loss of profits or business opportunities of any kind.

4.03(b) Default by Redeveloper. Notwithstanding the contingencies set forth in Section 4.02(b), if title to the Property does not close due to an Event of Default of Redeveloper hereunder, in addition to all other rights and remedies provided hereunder, including but not limited to the termination of this Agreement, the Township shall be entitled to pursue all remedies at law or equity available to it by reason of the Redeveloper's default.

## ARTICLE 5

### PROJECT DETAILS

**5.01. General Scope of Project.** It is understood and agreed by and between the parties that Redeveloper has the right to develop the Property consistent with the terms of Applicable Laws, Government Approvals, Redevelopment Plan, and this Agreement.

**5.02. Redeveloper Deadline: Governmental Approvals, Commencement of Construction and Completion of Construction.** (a) Within fifteen (15) days of the Closing Date, Redeveloper shall apply for full Building Permits. The Township shall use commercially reasonable efforts to timely issue Building Permits, pursuant to and in accordance with all Applicable Laws.

(b) Within fifteen (15) days of the receipt of the full Building Permits, Redeveloper shall Commence Construction.

(c) Within six (6) months year of Commencement of Construction, Redeveloper shall Complete Construction.

**5.03. Certificates of Occupancy and Certificates of Completion.** (a) Upon Completion of Construction pursuant to 5.02, Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy.

(b) Following the issuance of the Certificate of Occupancy and the satisfaction of the terms and conditions of this Agreement, the Township agrees to issue a Certificate of Completion. The Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Agreement and the Redevelopment Plan with respect to the obligations of Redeveloper to construct the Project within the dates for completion of same. Within thirty (30) days after written request by Redeveloper, the Township shall provide Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project in accordance with the provisions of this Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the reasonable opinion of the Township in order for Redeveloper to be entitled to the Certificate of Completion.

**5.04. First Source Employment.** The Redeveloper shall make good faith efforts to employ and shall provide in its contracts with its contractors and subcontractors that

they must make good faith efforts to employ residents of the Township in the construction of the Project in accordance with Chapter 15 of the Township's Municipal Ordinance. In addition to the foregoing, and consistent with market wages, the Redeveloper shall make good faith efforts to employ residents of the Township in the operation of the Project. The Redeveloper agrees to cooperate with the Township or its designee in developing a plan to coordinate training programs and employment recruitment efforts for Township residents. The Redeveloper will cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in the Township job fairs and utilization of its central registry. The Redeveloper agrees to meet with appropriate Township officials to determine the status of recruitment and training efforts, and to plan future employment training and recruitment activities. All contracts entered into by the Redeveloper for the construction of the Project shall contain appropriate language to effectuate this provision. The Redeveloper shall submit quarterly reports to the Township regarding compliance with this Section 5.04. In addition, the Redeveloper covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Section.

**5.05. State and Federal Environmental Remediation Applications.** As reasonably requested by Redeveloper, and at no cost to the Township, the Township will cooperate with the Redeveloper in filing and pursuing applications for potentially available State or Federal governmental funding in connection with remediation activities required for the Property, as applicable, including, but not limited to, applications for monies available through the *Hazardous Discharge Site Remediation Fund* for investigation and remediation of the Property, and in investigating the availability of funding under the *Brownfields Reimbursement Program* administered by the New Jersey Economic Development Authority, Department of Treasury and the New Jersey Department of Environmental Protection, for reimbursement of all or any part of the environmental costs incurred as to the cleanup of the Property, as applicable.

**5.06. Redevelopment Fee.** The Redeveloper shall make payments to the Township in the amount of \$0.00 per year (the “**Annual Redevelopment Fee**”) to defray the costs of investments made by the Township to encourage the redevelopment of the Property. The Redeveloper's obligation to pay the Annual Redevelopment Fee shall commence upon the Closing Date and such obligation shall end and terminate after payment of the Annual Redevelopment Fee for the year during which a Certificate of Occupancy is issued for the Project. The Annual Redevelopment Fee shall be due and payable on January 1<sup>st</sup> of each year for the amount incurred in the preceding year and shall be prorated for the first and last years during which such Annual Redevelopment Fee is payable. The final Annual Redevelopment Fee shall be paid upon issuance of the Certificate of Completion. The Annual Redevelopment Fee shall be deemed fully earned upon each due date thereof and there shall be no refund of the Annual Redevelopment Fee in the event of the termination of this Agreement.

**5.07. Professional Services Fee.** The Redeveloper shall reimburse the Township in the amount of \$0.00 and 00/100 DOLLARS (0.00) for fees and costs incurred by the Township for services rendered by the Township's professionals in connection with the Project (the “**Professional Services Fee**”). The Professional Services Fee shall be paid to the Township in immediately available funds upon execution of this Agreement.



## ARTICLE 6

### EVENTS OF DEFAULT; TERMINATION

**6.01. Events of Default.** Any one or more of the following shall constitute an “Event of Default” hereunder, subject to Force Majeure extension and tolling as provided elsewhere in this Agreement:

(a) Redeveloper’s failure to close on or prior to the Closing Date.

(b) Failure of Redeveloper to observe or perform any covenant, condition, representation, warranty or agreement hereunder and any other failure, act or omission by Redeveloper designated elsewhere in this Agreement as a “default”, and except as otherwise specified below the continuance of such default for a period of fifteen (15) days after Notice from the Township specifying the nature of such default and requesting that such default be remedied; *provided, however*, if the default is one that cannot be completely remedied within fifteen (15) days after such Notice, it shall not be an Event of Default as long as Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than forty-five (45) days after such Notice unless this Agreement specifically provides otherwise; *provided further, however*, Redeveloper’s failure to close on the Closing Date shall not be subject to a cure period, and Township may immediately terminate the Agreement at the occurrence of said Event of Default.

(c) Redeveloper’s failure or refusal to make any payment or deposit of funds required hereunder as and when required.

(d) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of his assets; (ii) a custodian shall have been legally appointed with or without consent of Redeveloper; or (iii) Redeveloper, (1) has made a general assignment for the benefit of creditors, or (2) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors.

(e) Redeveloper (i) fails to perform its obligations with respect to the acquisition of the Property or the implementation of the Project in accordance with this Agreement, including but not limited to failure to Commence Construction or Complete Construction in accordance with this Agreement; or (ii) abandons the Project or substantially suspends construction work without the prior knowledge and consent of the Township.

(f) Redeveloper’s failure to pay, or delinquency in the payment of, real property taxes or assessments, which failure or delinquency is not cured within fifteen (15) days of Notice by the Township.

(g) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion bond, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit

of the Township, immediately upon cancellation or termination thereof if not replaced with no resulting gaps in coverage.

**6.02. Remedies Upon Event of Default.** Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (a “**Termination Notice**”) terminate this Agreement and Redeveloper’s designation as Redeveloper hereunder, and take whatever other action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of Redeveloper under this Agreement.

**6.03. Force Majeure Extension.** For the purposes of this Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to his obligations hereunder because of a delay in performance arising from a Force Majeure event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for the period of the delay; *provided, however*, that such delay is actually caused by or results from the Force Majeure event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of such Force Majeure event.

**6.04. No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default by the other party, shall not operate as a waiver of such default, or of any such rights or remedies, or to deprive the non-defaulting party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

**6.05. Remedies Cumulative.** No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

**6.06 Termination Rights Related to Litigation.** If third party litigation is commenced challenging the validity of (i) the designation of the Rehabilitation Area, (ii) the Redevelopment Plan, or (iii) execution of this Agreement by the Township, the commencement of such litigation shall be a Force Majeure event effective as of the date of the filing of the summons and complaint if Redeveloper invokes the Force Majeure provisions of this Agreement; *provided, however*, that (a) if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either party hereto may terminate this Agreement by written notice to the other, and (b) if such litigation is not finally determined (inclusive of the expiration of any applicable appeal period) but the Force Majeure extension has been in effect for at least eighteen (18) months from the date the complaint was filed, either party hereto may elect to terminate this Agreement.

## ARTICLE 7

### MISCELLANEOUS

**7.01. No Consideration for Agreement.** Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township any money or other consideration for or in connection with this Agreement.

**7.02. Non-Liability of Officials and Employees of the Township.** No member, official or employee of the Township shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to Redeveloper or its successor, or on any obligation under the terms of this Agreement.

**7.03. Modification of Agreement.** No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by Redeveloper and the Township.

**7.04. Exhibits.** Any and all Exhibits annexed to this Agreement are hereby made a part hereof.

**7.05. Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

**7.06. Severability.** The validity of any one Article, Section, clause or provision of this Agreement shall not affect the validity of the remaining Articles, Section, clauses or provisions hereof.

**7.07. Indemnification.** Redeveloper, for itself and its successors and assigns, covenants and agrees, at its sole cost and expense to indemnify, defend and hold harmless the Township, its governing body, their respective officers, employees, agents, attorneys, consultants, representatives, and their respective successors and assigns, from any third party claims, liabilities, losses, costs, damages, penalties and expenses (including reasonable attorney's fees) resulting from or in connection with (i) any breach by Redeveloper or its agents, employees or consultants, of Redeveloper's obligations under this Agreement, or (ii) the acts or omissions of Redeveloper or of Redeveloper's agents, employees, or consultants in connection with the development, financing, design, construction, operation, or maintenance of the Project, provided, however, that no indemnification shall be required pursuant to this Section 7.07 in the event that the indemnification otherwise due pursuant to this Section 7.07 is attributable to the gross negligence of the Township.

**7.08. Notices.** Formal notices, demands and communications ("Notice") between the Township and Redeveloper shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested,

or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In this case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written Notice.

Copies of all notices, demands and communications shall be sent as follows:

To Township:	Township of Irvington Attn: Hon. Tony Vauss, Mayor 1 Civic Square Irvington, New Jersey 07111
With copies to:	Township of Irvington Attn: Ramon Rivera, Esq. 1 Civic Square Irvington, New Jersey 07111  Genia C. Philip, Director Department of Economic Development & Grants Oversight 1 Civic Square, Room 102 Irvington, New Jersey 07111
To Redeveloper:	Mecca Property Development, LLC. Attn: Dennis Jenkins 71 South Orange Avenue, Suite 148 South Orange, New Jersey 07079
With copies to:	REDEVELOPER’S ATTORNEY

**7.09. Contingency for Approvals of Rehabilitation Plan, Government Approvals and/or Building Permits.** In addition to all other portions of this Agreement, Redeveloper's obligation to proceed to Closing under this Agreement is expressly contingent upon receipt of Rehabilitation Plan Approval; Franchisor Approvals defined herein; and an acceptable Environmental Inspection.

(a) Approvals. Redeveloper's final obligation to proceed to Closing under this Agreement is contingent upon the ability of Redeveloper to verify: (i) the Township's full and final approval of the Rehabilitation Plan of the Redeveloper for the subject Property (ii) obtain all required final and approvals, not subject to any opportunity of appeal by anyone, from the Township of Irvington, County of Essex, State of New Jersey, and/or such other necessary governmental and quasi-governmental boards or agencies having jurisdiction over the Property (collectively known as the “Government Entities”) which are necessary to develop the Property in order to construct and operate residential housing. This shall include all final and non-appealable contractual arrangements, approvals, licenses, agreements, permits and authorizations required for the lawful use, construction, ingress and egress, drainage, utilities, sewer and water capacity, parking and signage necessary by Redeveloper to develop the Property in the configuration and design

set forth by Redeveloper in its plans and applications. Notwithstanding the forgoing, if such approvals set forth in this Section 7.09(a) are not obtained by the Closing Date, as such term is defined in Section 4.02(c), the Township may, in its sole discretion, terminate this Agreement.

(b) Approval Period Extension. During the process of construction, provided Redeveloper has submitted applications for various building permits and any other required Government Approvals necessary from the Township pursuant to the approved Rehabilitation Plan; and is diligently pursuing same and they are delayed through no fault of Redeveloper, Redeveloper, upon written notice to Township ("Extension Notice"), shall be entitled to one (1) automatic extension comprised of a maximum period of ninety (90) days in order to complete the process necessary to achieve a Certificate of Completion and Certificate of Occupancy.

#### **7.10. Environmental Representations and Contingency.**

(a) Redeveloper, prior to the Closing Date, has its own right to conduct an independent environmental hazard investigation and inspection of the Property, and shall conduct such reasonable inspections and investigations as Redeveloper deems necessary.

(b) Redeveloper shall, at its option and prior to the Closing Date, be permitted to timely conduct what are commonly known as Phase I and Phase II inspections (with both parties representing that they are aware of the general nature of evaluations conducted under each phase) at its discretion. Copies of any such report obtained by the Redeveloper shall be forwarded to the Township upon completion. As separately defined, the Township does not have any mandatory obligation to remedy any condition determined by the Redeveloper which would prevent Closing.

(c) Redeveloper may have the Property inspected by any qualified and/or licensed third party inspection professional(s) including one that may be designated as a Licensed Site Remediation Professional. All inspection fees, appraisal fees, engineering fees, title inspection fees, and other costs and expenses of any kind incurred shall be at the sole expense of Redeveloper.

(d) Prior to the Closing, Township shall provide Redeveloper with a continuing right of reasonable access to the Property for the purpose of conducting surveys, architectural, engineering, geotechnical, and environmental inspections and tests. Redeveloper shall have the right to test the property for the existence of any underground storage tanks. Redeveloper shall keep the Property free and clear of any liens or encumbrances as a result of such entry by its agents, employees or representatives. If any inspection or test disturbs the Property, then it shall be restored to substantially the same condition as existed prior to any such inspection or test.

(e) At any time prior to the Closing Date, if the Redeveloper determines the existence of an environmental condition which it deems prohibitive of Closing, then and in that event, Redeveloper is permitted to terminate the Agreement and there will not be a Closing.

#### **7.11. Miscellaneous Township Representation.**

(a) The Parties acknowledge the Property was subject to a lease agreement with the Servicemen's Clubhouse dated April 4, 1991 (the "**Lease**"), which Lease was terminated by the Township on April 10, 2015. Prior to termination, the Volunteer Network for Veterans, Inc. instituted an action by filing of a complaint against the Township in the Superior Court of New Jersey, Law Division, Essex County, entitled Volunteer Network for Veterans, Inc. v. Township of Irvington, Docket No. ESX-L-4803-14 (the "**Action**"), which was dismissed in accordance with the terms of the Settlement Agreement dated March 6, 2015 (the "Settlement Agreement"). The Township represents that as of the date of this Agreement and continuing through Closing, to its best knowledge, and other than in connection with the Lease, the Action and/or Settlement Agreement:

(a) There is no current or pending litigation against Township for which it has received written notice and which, if deemed adversely to Township, could reasonably be expected to materially and adversely affect the Property.

(b) As of the date of this Agreement, Township has not entered into any contracts affecting the Property and which would prevent Closing.

(c) The Township has not received any written notice of default from any third party entity or individual which has not or cannot be cured prior to Closing.

(d) As of the date of this Agreement, any tenants, if any, at the Property shall have their occupancy fully and completely terminated, without any right of redemption or repossession, on or before the Closing.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURES APPEAR ON THE FOLLOWING PAGE].

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective as of date first written above.

**Attest:**

**TOWNSHIP OF IRVINGTON**

\_\_\_\_\_  
Harold E. Wiener, Township Clerk

By: \_\_\_\_\_  
Hon. Tony Vauss, Mayor

SEAL

**Witness/Attest:**  
**DERVELOPMENT, LLC**

**MECCA**

**PROPERTY**

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

By: \_\_\_\_\_  
*Dennis Jenkins, Managing Member*

**EXHIBIT A**

**REDEVELOPMENT PLAN**

**EXHIBIT B**

**FORM OF DECLARATION OF COVENANTS AND RESTRICTIONS**

Record and Return to:

Prepared by:

**DECLARATION OF COVENANTS AND RESTRICTIONS  
Block , Lot , Township of Irvington, New Jersey (the “Property”)**

**(Record in Mortgage Book)**

This Declaration of Covenants and Restrictions (“Declaration”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by and between **THE TOWNSHIP OF IRVINGTON, NEW JERSEY** (the “**Township**”), a public body corporate and politic of the State of New Jersey having its offices at 1 Civic Square, Irvington, New Jersey 07111, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A: 12A-4(c)*; and

**MECCA PROPERTY DEVELOPMENT, LLC**, a limited liability company of the State of New Jersey, having its offices at 71 South Orange Avenue, Suite 148 New Jersey 07079 (together with permitted successors or assigns hereinafter provided, referred to as the “**Redeveloper**”):

**W I T N E S S E T H**

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

**WHEREAS**, by Resolution dated July 14, 2015 the Municipal Council of the Township (the “**Township Council**”) designated the entire Township as an area in need of rehabilitation (the “**Rehabilitation Area**”) in accordance with the requirements of the *Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et seq.* (the “**Act**”);

**WHEREAS**, the Act authorizes municipalities to adopt a redevelopment plan for an area designated as an “area in need of rehabilitation” pursuant to which redevelopment projects are to be undertaken and the Township Council duly adopted a redevelopment plan by Ordinance MC No. 3549 dated August 11, 2015 and which became effective on September 1, 2015, entitled *An Ordinance of the Township of Irvington, in the County of Essex, New Jersey Adopting a Redevelopment Plan for the Township of Irvington* (the “**Redevelopment Plan**”), governing the Township Rehabilitation Area, including, but not limited to the properties referenced herein, in accordance with *N.J.S.A. 40A:12A-7*; and

**WHEREAS**, to realize the redevelopment of the entire Township, the Township determined to exercise the powers of redevelopment and serve as the “Redevelopment Entity” responsible for carrying out redevelopment projects in the

Township-wide Rehabilitation Area in accordance with the Redevelopment Plan, pursuant to *N.J.S.A.* 40A:12A-4(c); and

**WHEREAS**, pursuant to *N.J.S.A.* 40A:12A-15, with respect to a redevelopment project in an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in *N.J.S.A.* 40A:12A-8(g) specifically “lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan...”

**WHEREAS**, in order to implement the development, financing, construction, operation and management of the Project, the Municipal Council by duly adopted resolution authorized the execution of a redevelopment agreement with the Redeveloper dated \_\_\_\_\_ (the “**Agreement**”) in accordance with *N.J.S.A.* 40A:12A-8(f) of the *LRHL*; and

**WHEREAS**, *N.J.S.A.* 40A:12A-9(a) of the *LRHL* requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . .”; and

**WHEREAS**, the Agreement contains such a covenant by the Redeveloper, and its successor or assigns, as well as three (3) perpetual covenants by the Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of age, race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Rehabilitation Area or any building or structures erected thereon, to comply with Applicable Laws, Governmental Approvals, the Agreement and the Redevelopment Plan and to maintain in good condition any improvements made on the Property (as defined above) in accordance with Article III of the Agreement; and

**WHEREAS**, the Agreement also provides that the Property, the Agreement and Redeveloper’s interest therein shall not be transferable, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Township for violations of the covenants and defaults under the Agreement; and

**WHEREAS**, the Agreement requires that such covenants be memorialized in a Declaration of Covenants and Restrictions and that said declaration be recorded in the office of the Essex County Register/Clerk.

**NOW THEREFORE, IT IS AGREED AS FOLLOWS:**

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Agreement.

Section 2. Redeveloper covenants and agrees that:

(A) Redeveloper shall construct the Project on



the Property in accordance with the Redevelopment Plan.

(B) Until a Certificate of Completion has been issued for the Property in accordance with the Redevelopment Plan, Redeveloper shall not sell or otherwise transfer title to all or any portion of the Property without the written consent of the Township which shall not be unreasonably withheld.

(C) Redeveloper shall, in connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status.

(D) Redeveloper shall, upon Completion of Construction, obtain all Government Approvals required to authorize the occupancy and use of the Property for the purposes contemplated under the Agreement.

(E) Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense.

(F) Redeveloper shall develop, finance, construct, operate and maintain the Project consistent with Applicable Laws, Government Approvals, the Redevelopment Plan, and the Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in the Agreement.

(G) Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project.

(H) Redeveloper will promptly pay all outstanding Township Costs, and any and all taxes, service charges or similar obligations when owed to the Township with respect to any property situated in the Township.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 of this Declaration shall run with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement and this Declaration, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any person in possession or occupancy of the

Property or any part thereof. The covenants and restrictions herein shall be binding on Redeveloper itself, each successor in interest to Redeveloper and each party in possession or occupancy, respectively, only for such period as Redeveloper or such successor or party shall be in possession or occupancy of the Property, the Project or any part thereof.

Section 4. In amplification, and not in restriction, of the provisions of Section 2 of this Declaration, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the covenants and restrictions set forth in the Agreement and this Declaration, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such covenants and restrictions have been provided. Such covenants and restrictions shall run in favor the Township for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein. The Township shall have the right, in the event of any material breach of any such covenant or restriction, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of covenant or restriction, to which it or any other beneficiaries of such agreement or covenant may be entitled.

Section 5. Upon redevelopment of the Property and completion of the Project, the covenants contained herein shall terminate and this Declaration will be discharged of record upon Redeveloper's receipt from the Township of a Certificate of Completion with respect to the Project, provided however, that the covenants in Section 2(c) of the Agreement shall remain in effect without limitation as to time.

**IN WITNESS WHEREOF**, the parties hereto have caused this **Declaration of Covenants and Restrictions** to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers, all as of the date first written above.

**Attest:**

**TOWNSHIP OF IRVINGTON**

\_\_\_\_\_  
Harold E. Wiener, Township Clerk

By: \_\_\_\_\_  
Hon. Tony Vauss, Mayor

SEAL

**Witness/Attest:**  
**LLC**

**MECCA PROPERTY DEVELOPMENT,**

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

By: \_\_\_\_\_  
Dennis Jenkins, Managing Member

**EXHIBIT C**

**INSURANCE REQUIREMENTS**

**General.** At all times the Redeveloper shall maintain, or cause to be maintained, insurance for the mutual benefit of the Township and Redeveloper as their interest may appear:

(1) Loss or damage by fire, and such other risks as may be included in the standard form of extended coverage insurance from time to time available, with minimum limits of \$50,000 each occurrence;

(2) Commercial General Liability insurance or its equivalent for bodily injury, personal injury, and property damage including loss of use, with minimum limits of \$1,000,000 each occurrence, \$1,000,000 personal injury, \$1,000,000 general aggregate and \$1,000,000 products/completed operations, plus excess ("umbrella") liability policy(s) with coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate. It is further understood that the Commercial General Liability insurance is primary and non-contributory, with the Township named as Additional Insured.

(3) Workers compensation insurance in an amount not less than \$500,000 or such greater amount as may be required under Applicable Laws for employees of Redeveloper and the Contractors.

Redeveloper's obligation to provide insurance as to the Project shall cease upon the issuance of a Certificate of Completion.

**Restrictions.** All insurance provided for under this Agreement will be reasonably effected under valid enforceable policies issued by insurers rated "A-" or better by A.M. Best and reasonably acceptable to the Township. Within seven (7) days of the execution of this Agreement, a certificate procured by Redeveloper pursuant to this Exhibit C (or certificates thereof) will be delivered to the Township. At least 30 days prior to the expiration date of any policy, the original renewal policy (or certificates thereof) for such insurance will be delivered by the Redeveloper to the Township as aforesaid, together with satisfactory evidence of payment of the premium thereon. All policies referred to in this *Exhibit C* will, to the extent then generally obtainable, contain agreements by the insurers that (a) any loss will be payable to the Redeveloper and the Township, as their interest may appear and (b) such policies may not be canceled except upon 30 days prior written notice to the named insured, additional insured/certificate holder and loss payee.

**Township as Insured.** All policies of insurance required herein shall name the Redeveloper as the insured and the Township as the additional insured, as their respective interests may appear.

**Additional Insurance.** Nothing in this Article shall prevent the Redeveloper from taking out insurance of the kind and in the amounts and with companies under a blanket insurance policy or policies which can cover other properties as well as the Property; provided, however, that any such policy of insurance must (a) specify therein, or the Redeveloper shall furnish the Township with a written statement from the insurers under such policies specifying the amount of the total insurance allocated to the Project, which amount will not be less than the amount required herein to be carried, and (b) Property will be written on a replacement cost, completed value basis.

**Deductibles.** All insurance provided under this *Exhibit C* may contain loss deductible clauses in such maximum amounts as the Township approves in its reasonable discretion.

**Subrogation.** All insurance policies obtained pursuant to this *Exhibit C* must include waivers of subrogation against the Township and Redeveloper.

Adopted

Cox – Hudley 16. Authorize Professional Services Contract for Foreclosure Counsel Services on 393-395 21<sup>st</sup> Block 137 Lot 25 and 740 Springfield Avenue Block 137 Lot 30 and 744-748 Springfield Avenue Block 137 Lot 1 – \$1,200.00 Per Property - Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill – Total \$3,600.00

#### RESOLUTION RATIFYING PROFESSIONAL SERVICES CONTRACT FOR FORECLOSURE COUNSEL SERVICES

WHEREAS, resolution number TA 18-0530-14 qualified three firms to foreclosure counsel services for the Township of Irvington from July 1, 2018 until June 30, 2019; and

WHEREAS, the resolution requires that all cases assigned to counsel for this purpose must be approved by the Municipal Council; and

WHEREAS, the Township Attorney has assigned Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill to represent the Township in the three (3) foreclosure matters; 393-395 21<sup>st</sup> Block 137 Lot 25 and 740 Springfield Avenue Block 137 Lot 30 and 744-748 Springfield Avenue Block 137 Lot 1; and

WHEREAS, the Township Attorney has recommended that a contract be awarded to Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill, 660 New Road, Suite 1A, Northfield, NJ, 08225; and

NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a contract for Foreclosure Counsel services be awarded to Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill, 660 New Road, Suite 1A, Northfield, NJ, 08225 for a contract amount not to exceed \$3,600.00. The billing rate shall not exceed \$1,200.00 per foreclosure complaint and \$150.00 per hour for any contested matters; and

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contracts for this case and the Mayor and Township Clerk are authorized and directed to sign the same; and

BE IT RESOLVED that the required Certification of Availability of Funds, certification number C8-00337 was obtained from the Chief Financial Officer and the appropriation to be charged for this expenditure is C-04-56-849-016-905 in the amount of \$3,600.00.

Adopted

Cox – Hudley 17. Authorize Special Tax Assignment Sale Pursuant to the New Jersey Abandoned Property Rehabilitation Act, N.J.S.A. 55:19-101

**RESOLUTION AUTHORIZING A SPECIAL TAX SALE (ASSIGNMENT SALE)  
PURSUANT TO THE NEW JERSEY ABANDONED PROPERTY  
REHABILITATION ACT N.J.S.A. 55:19-101**

**WHEREAS**, the Township of Irvington contains properties that are abandoned by their owner and that are in a state of disrepair and neglect contributing to blight;

**WHEREAS**, said properties by virtue of their condition and proximity to neighboring properties are having a negative effect on said neighboring properties and have a negative effect on the quality of life of adjacent residents and property owners, increasing the risk of damage through arson and vandalism and discouraging neighborhood stability and revitalization; and,

**WHEREAS**, many of these buildings or land on which the abandoned properties are situated can be rehabilitated for productive use, which will further the revitalization and redevelopment of the Township of Irvington and improve its economic and social position; and

**WHEREAS**, the Township of Irvington is the owner of certain tax sale certificates within the Township of Irvington and that are attached to many of these abandoned properties; and,

**WHEREAS**, the Township of Irvington desires to make available for public sale said tax sale certificates in accordance with the New Jersey Abandoned Property Rehabilitation Act, specifically, N.J.S.A. 55:19-101, to facilitate the transfer of these abandoned properties to redevelopers with the expertise and experience to rehabilitate abandoned properties and return them to productive use;

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

**SECTION 1.** The Municipal Council hereby declares that the tax sale certificates should be sold in accordance with the appropriate statutes of the State of New Jersey and ordinances of the Township of Irvington.

**SECTION 2.** The Township of Irvington via resolution number EDGO 18-0626-15 has authorized Max Spann Real Estate & Auction Co. (hereinafter “Auctioneer”), to offer for sale to the highest bidder by open public sale at an auction some or all of the properties on the list in Schedule A attached hereto and made a part hereof.

**SECTION 3.** The public sale shall take place in the Township of Irvington, New Jersey before the end of the 2018 or as soon thereafter as the matter may be heard and publicly announced, provided the sale is not canceled.

**SECTION 4.** The public sale, if not canceled, shall take place by open public sale at auction to the highest bidder.

**SECTION 5.** All bidders at the time of sale must present a bank cashier's check, cash or money order in the amount of \$5,000.00, payable to themselves (to be endorsed to the Township of Irvington, or its designee if successful). In addition, the successful bidder shall submit a bank cashier's check, cash or money order for the balance of the total purchase price plus Buyer's Premium at the end of the auction.

**SECTION 6.** At time of purchase, purchaser shall also pay a buyer's premium in the amount of ten (10%) percent of the bid amount to Auctioneer Max Spann to conduct the sale.

**SECTION 7.** The Township reserves the right to waive any and all defects and informalities in any bid and to accept or reject any and all bids at the public sale and to not award to the highest bidder. No bid shall be considered finally accepted until passage of a resolution by the Municipal Council as set forth in Paragraph 12 hereof.

**SECTION 8.** Acceptable bids shall be confirmed by resolution of the Municipal Council no later than the first regular meeting of the Municipal Council following the date of such sale.

**SECTION 9.** This resolution shall constitute and serve as the public notice to be published in a newspaper circulating in the Township at least once during the two (2) consecutive weeks after the sale.

**SECTION 10.** This resolution shall take effect immediately.

Adopted

10. Communications and Petitions

A. Communications

None

11. Pending Business

None

12. Miscellaneous

A. Bingos and Raffles

None

\*\*\*\*\*

NON-CONSENT AGENDA ITEMS

8. Ordinances, Bills & Claims

A. Ordinances on 1st Reading

Jones – Burgess 1. Limit Compensation for Full Time Non-Union Employees

AN ORDINANCE TO PROVIDE FOR SALARY CAPS FOR NON-UNION ELECTED OFFICIALS, DEPARTMENT DIRECTORS, DEPUTY DEPARTMENT DIRECTORS, AND STATUTORY OFFICERS OF THE TOWNSHIP OF IRVINGTON

Adopted

B. Ordinances on 2nd Reading

1. President Lyons: An ordinance providing for the salary of the Public Defender and providing for a fee by defendants represented by a Public Defender will be heard at this time. The Clerk will read the notice of hearing.

The Clerk read the notice of hearing.

The Clerk will read the ordinance by title.

AN ORDINANCE TO AMEND CHAPTER 5-53 (PUBLIC DEFENDERS) OF THE CODE OF THE TOWNSHIP OF IRVINGTON ESTABLISHING SALARY FOR MUNICIPAL PUBLIC DEFENDERS

WHEREAS, The Mayor shall appoint in the Office of the Business Administrator one or more Municipal Public Defenders who shall, prior to their appointment, have been duly admitted to the practice of law in this state. The salary for this position shall be \$30,000.00 annually. The Municipal Public Defender's days and hours of assignment shall be as designated by the Business Administrator.

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Township of Irvington hereby amends and supplements Chapter 5-53 (public Defenders) of the Code of the Township of Irvington as follows:

A. (REMAINS THE SAME).

B. Any person applying for representation by the Municipal Public Defender must pay a fee of \$250.00. The application fee can only be waived after a review and determination of the Municipal Court Judge that such person cannot afford to pay the same and thus may be deprived of the right to counsel. (AMENDED AND SUPPLEMENTED).

All ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

This ordinance shall take effect upon final passage in accordance with law.

The public hearing on this ordinance is now open.

There were no requests to be heard.

Lyons – Burgess

Motion to close public hearing

Adopted

Lyons – Burgess

Motion to adopt this ordinance on second reading after public hearing

Adopted

2. President Lyons: An ordinance authorizing a qualified rehabilitation entity application fee will be heard at this time. For the record this notice of hearing is identical to the first notice of hearing. The Clerk will read the ordinance by title.

AN ORDINANCE TO AUTHORIZE A QUALIFIED REHABILITATION ENTITY APPLICATION FEE

CHAPTER 140: ABANDONED PROPERTY

WHEREAS, the Township of Irvington has adopted an Abandoned Property Ordinance, MC 3281, pursuant to N.J.S.A.55:19-78 et seq.;

WHEREAS, the Abandoned Property Ordinance was amended by ordinance MC 3281 to designate a public office and to give the Township the authority to designate “Qualified Rehabilitation Entities” to assist with the rehabilitation of abandoned properties; and,

WHEREAS, the Township of Irvington would like to establish a “Qualified Rehabilitation Entity” Application Fee in Chapter 140 of the municipal code to be paid by any entity who is applying to be designated as a “Qualified Rehabilitation Entity”;

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON AS FOLLOWS:

SECTION 1.

1. There shall be a “Qualified Rehabilitation Entity Application Fee” in the amount of \$100.00 to be paid by any entity who is applying to be designated as a “Qualified Rehabilitation Entity” by the Abandoned Property Public Officer.

2. The Qualified Rehabilitation Entity Application Fee is non-refundable under any circumstances.

SECTION 2. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect upon final passage and publication according to law.

The public hearing on this ordinance is now open.



SECTION 3. This ordinance shall take effect upon final passage and publication according to law.

The public hearing on this ordinance is now open.

There were no requests to be heard.

Burgess – Lyons                      Motion to close public hearing

Adopted

Burgess – Lyons                      Motion to adopt this ordinance on second reading after public hearing

Adopted

4. President Lyons: An ordinance authorizing a voluntary property transfer application and processing fee and title binder processing fee will be heard at this time. For the record this notice of hearing is identical to the first notice of hearing. The Clerk will read the ordinance by title.

AN ORDINANCE TO AUTHORIZE A VOLUNTARY PROPERTY TRANSFER APPLICATION AND PROCESSING FEE AND A TITLE BINDER PROCESSING FEE

WHEREAS, the Township of Irvington has created the Voluntary Property Transfer Program (VPTP) to enable property owners who no longer desire to financially or physically maintain their property to transfer title to the Township of Irvington;

WHEREAS, the VPTP requires the completion of an application, collecting of supporting administrative documents, preparation of and recording of title transfer deeds and related documents;

WHEREAS, the VPTP also requires the request of and payment for a title binder to confirm ownership and to identify whether the Township can accept clean and clear title;

WHEREAS, the Township desires VPTP applicants who are financially capable to cover the cost of the application processing, the cost of the title binder and the recording fees in lieu of the Township;

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON AS FOLLOWS:

SECTION 1.

1. There shall be a Voluntary Property Transfer Program Application and Processing Fee between \$100.00 to \$125.00 to be paid by the property owner to cover the administrative cost incurred by the Township in processing the VPTP Application and to facilitate the recording of the transfer deed and related documents.

2. There shall be a Title Binder Fee which shall be between \$400 and \$600.00.

3. The Voluntary Property Transfer Program Application and Processing Fee and the Title Binder Fee are not refundable after the Township has paid the title company vendor, the

[illegible]

\$1,616,858.79                      \$145,054.06                      \$60,502.51                      \$1,822,415.36

August 11, 2018 through August 24, 2018

REGULAR	OVERTIME	OTHER EARNED	TOTAL
\$1,599,053.47	\$160,893.74	\$132,226.99	\$1,892,173.20

Adopted  
No: Inman

9. Resolutions & Motions

A. Resolutions

Cox – Burgess 18. Authorize Amendment to Calendar Year 2018 Municipal Budget

TOWNSHIP OF IRVINGTON  
COUNTY OF ESSEX  
RESOLUTION TO AMEND BUDGET

WHEREAS, the local Municipal Budget for the CY 2018 was approved on 26th day of June, 2018, and

WHEREAS, the public hearing on a said Budget has been held as advertised, on August 14, 2018 and

WHEREAS, it is desires to amend said approved Budget.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Township of Irvington, County of Essex, that the following amendments to the approved Budget of CY 2018 be made:

RECORDED VOTE

	(		Abstained	(
	(			(
	(			(
Ayes	(	Nays	(	(
	(		Absent	(

	FROM	TO
<b><u>GENERAL REVENUES</u></b>		
1. Surplus Anticipated	2,990,000.00	2,990,000.00
2. Surplus Anticipated with Prior Written Consent of Director of Local Government Services		
3. Miscellaneous Revenue-Section A: Local Revenue		
Fees & Permits		

Interest & Cost On Taxes		
Parking Meters		
Total Section A: Local Revenue	11,531,004.53	11,531,004.53
3. Miscellaneous Revenue-Section B: State Aid Without Offsetting Appropriations		
State School Building Aid Allowance	-	-
Total Section B: Local Revenue	11,641,169.00	11,641,169.00
3. Miscellaneous Revenue-Sections C: Dedicated Uniform Construction Code Fees		
Offset with Appropriations		
Uniform Construction Code Fees	-	-
Total Section C: Local Revenue	550,000.00	550,000.00
3. Miscellaneous Revenues - Section F: Special Items of General Revenue Anticipated with		
Prior written Consent of Director of Local Government Services- Public and Private		
Revenues Offset with Appropriations: State & Federal Grants		
<u>Unappropriated Grants</u>		
County of Essex - Service Block Grant	-	-
Total Section F: Special Items of General Revenue Anticipated, Public and Private		
Revenue Offset with Appropriations:	1,046,891.00	1,046,891.00
3. Miscellaneous Revenue - Section G: Special Items of General Revenue Anticipated with		
Prior Written Consent of Director of Local Government Services - Other Special items:		
Assignment/Special Tax Lien Sale Auction	-	723,049.00
State School Building Aid Allowance	-	-
Total Section G: Special Items of General revenue anticipated with prior written		
consent of the Director of Local Government Services	2,836,702.40	3,559,751.40
4. Receipts from Delinquent Taxes	2,999,730.22	3,028,681.22
<u>Summary of Revenues</u>		
1. Total Surplus Anticipated	2,990,000.00	2,990,000.00
2. Surplus Anticipated with Prior Witten Consent of Director of Local Government Services		
3. Miscellaneous Revenues:		
Total Section A: Local Revenue:	11,531,004.53	11,531,004.53
Total Section B: State Aid without Offsetting	11,641,169.00	11,641,169.00

Appropriations:		
Total Section C: Dedicated Uniform Construction Code Fees offset with Appropriations	550,000.00	550,000.00
Total Section D: Special Items of General Revenue, Inter local Muni. Services	-	-
Total Section E: Special Items of General Revenue, Additional Revenues	-	-
Total Section F: Special Items of General Revenue, Public and Private Revenue	1,046,891.00	1,046,891.00
Total Section G: Special items of General Revenue, Other Special Items	2,836,702.40	3,559,751.40
Total Miscellaneous Revenue	27,605,766.93	28,328,815.93
4. Receipts from Delinquent Taxes	2,999,730.22	3,028,681.22
5. Subtotal General Revenues ( Items 1,2,3 and 4)	33,595,497.15	34,347,497.15
6. Amount to be Raised by Taxes for support of Municipal Budget:		
a) Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes	72,839,937.95	72,644,617.85
b) Addition to Local District School Tax	2,544,279.25	2,739,599.35
c) Minimum Library Tax	657,616.95	657,616.95
7. TOTAL GENERAL REVENUES	\$109,637,331.30	\$110,389,331.30
<u>8. GENERAL APPROPRIATIONS</u>		
Division of Engineering - O & E	1,150,000.00	1,277,000.00
Telephone	485,000.00	570,000.00
(A) Operations Within "CAPS"		-
Total Operations (Item 8 (A) Within "CAPS"	71,220,239.74	71,432,239.74
(E) Deferred Charges and Statutory Expenditures - Municipal Within "CAPS"		
<u>STATUTORY EXPENDITURES</u>		
	-	-
Total Deferred Charges and Statutory Expenditures - Within "CAPS"	12,504,213.17	12,504,213.17
(H-1) Total General Appropriations for Municipal Purposes Within "CAPS"	83,724,452.91	83,936,452.91
<u>8. GENERAL APPROPRIATIONS</u>		
(A) Operations - Excluded from "CAPS"		
Total Other Operations - Excluded from "CAPS"	6,259,705.00	6,259,705.00
(A) Operations - Excluded from "CAPS"		
Public and Private Programs Offset by Revenues		
<u>Unappropriated Grants</u>		

Clean Communities		
County of Essex - SSH Block Grant		
County of Essex - Service Block Grant		
Total Public and Private Program Offset By Revenue	1,057,286.00	1,057,286.00
Total Operations Excluded from "CAPS"	7,316,991.00	7,316,991.00
<u>8. General Appropriations</u>		
(C) Total Capital Improvements - Excluded from "CAPS"		
Capital Improvement fund		
Total Capital Improvements - Excluded from "CAPS"	225,000.00	225,000.00
( D) Municipal Debt Service - Excluded from "CAPS"		
Tax Appeals Bonds- Principal requirement	-	540,000.00
Total Municipal Debt Service - Excluded from "CAPS"	7,755,471.75	8,295,471.75
(E) Deferred Charges - Municipal - Excluded from "CAPS"		
Emergency Authorizes 5 year- Terminal Payout	639,474.12	639,474.12
Total Deferred Charges - Municipal- Excluded from "CAPS"	639,474.12	639,474.12
(H-2) Total General Appropriations for Municipal Purposes Excluded from "CAPS"	15,936,936.87	16,476,936.87
( I ) Type 1 District School Debt Services		
Total Local School Purposes	4,759,906.35	4,759,906.35
(O) Total General Appropriations - Excluded from "CAPS"	20,696,843.22	21,236,843.22
(L) Subtotal General Appropriations {items (H-1) and (O)}	104,421,296.13	105,173,296.13
(M) Reserve for Uncollected Taxes	5,216,035.17	5,216,035.17
9. Total General Appropriation	\$109,637,331.30	\$110,389,331.30
<u>Summary of Appropriations:</u>		
(H-1) Total General Appropriations for Municipal Purposes within "CAPS"		
	83,724,452.91	83,936,452.91
(a) Operations - Excluded from "CAPS"		
Other Operations	6,259,705.00	6,259,705.00
Public & Private Progs Offset by Revenues	1,057,286.00	1,057,286.00
( C ) Capital Improvement	225,000.00	225,000.00
(D) Municipal Debt Service	7,755,471.75	8,295,471.75
(E) Total Deferred & Statutory Charges - Excluded from "CAPS"	639,474.12	639,474.12
(F) Judgments		
(G) Cash Deficit - With Prior Consent of LFB		
(K) Local District School Purpose	4,759,906.35	4,759,906.35
(N) Transferred to Board of Education		
(M) Reserve for Uncollected Taxes	5,216,035.17	5,216,035.17

9. Total General Appropriation	\$109,637,331.30	\$110,389,331.30
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Adopted  
No: Inman

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# ALCOHOLIC BEVERAGE CONTROL BOARD

SEPTEMBER 11, 2018

1. Chairman Cox calls the Meeting to Order

Roll Call

Present: Commissioners Burgess, Frederic, Hudley, Inman Jones, Lyons, Cox, Chairperson

Absent: None

2. New Business

Frederic – Burgess A. Authorize Renewal of Plenary Retail Inactive Pocket Distribution License for the 2018 – 2019 Licensing Year - Dhanshree, Inc.

WHEREAS, the following named individuals, partnerships or corporations, being applicants for Plenary Retail Distribution Licenses for the year 2018-2019, to sell alcoholic beverages under the provisions of N.J.S.A. Title 33 having been investigated as required by said Law, and the Alcoholic Beverage Control Board being satisfied that said applicants in all things have met the requirements of the law and are suitable and proper individuals, partnerships or corporations to whom Plenary Retail Distribution Licenses for the sale of alcoholic beverages should be issued:

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL ACTING AS THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE TOWNSHIP OF IRVINGTON that permanent Plenary Retail Distribution Licenses be issued to the following named individuals, partnerships and corporations for the sale of alcoholic beverages in original containers for consumption off the licensed premises for the year 2018-2019 at the address set opposite their respective name, viz:

0709-44-012-005	Dhanshree, Inc 170 Hayes Mill Road Atco, N.J. 08004	(POCKET LICENSE)
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BE IT FURTHER RESOLVED that the said licenses be issued in the name of and under the seal of the Township of Irvington and be signed by a representative of the License Bureau, in order to fulfill the provisions of the Irvington Township Code, known as Ordinance MC 2622, which license, after being so signed, shall be released by the License Bureau to the licensee.



3. Adjournment

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12. Miscellaneous

B. General Hearing of Citizens and Council Members (limited to five minutes per person)

Elouise McDaniel, 214 Nesbit Terrace

Omar Bilal Beasley and the Family of Former Council

Member D. Bilal Beasley, 608 Chancellor Avenue

Council President Lyons and Council Member Cox responded to the matters raised by the above referenced citizens

13. Adjournment

There being no further business, the meeting was adjourned at 8:30 P.M.

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David Lyons, Council President

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Harold E. Wiener, Municipal Clerk