

Resolution 2014-96

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on May 5, 2014 at 6:30 p.m. in the First Aid Building located at 168 Bank Street, Hightstown that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed:

Contract Negotiations – Tomco
Shared Services
Rug Mill Re-Development

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: August 5, 2014 or when the need for confidentiality no longer exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-97

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator, the appropriate Department Head and the Treasurer in the amount of \$ 184,224.07 from the following accounts:

Current	\$125,655.55
W/S Operating	20,736.28
General Capital	30,628.45
Water/Sewer Capital	0.00
Grant	0.00
Trust	6,550.29
Housing Trust	0.00
Animal Control	25.80
Law Enforcement Trust	0.00
Housing Rehab Loans	0.00
Unemployment Trust	5.20
Escrow	<u>622.50</u>
Total	<u><u>\$184,224.07</u></u>

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-98

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

RESOLUTION OF COMPLIANCE REGARDING THE 2012 AUDIT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2012 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of *N.J.S.* 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the audit entitled:

General Comments
Recommendations

; and

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

as evidenced by the group affidavit form of the governing body; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five (45) days after receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, all members of the governing body have received and have familiarized themselves with at least the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid, and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Hightstown hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-99

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**RESOLUTION APPROVING THE 2012 ANNUAL AUDIT CORRECTIVE ACTION
PLAN AND AUTHORIZING THE FILING OF SAID PLAN WITH THE DIVISION OF
LOCAL GOVERNMENT SERVICES**

WHEREAS, the Borough of Hightstown is required, pursuant to the Single Audit Act Amendments of 1996, to prepare a Corrective Action Plan based on the findings and recommendations contained in the Annual Audit for 2012; and

WHEREAS, the Borough is required to submit a Corrective Action Plan to the Division of Local Government Services as part of the annual audit process, and to file a copy of said Plan with the Borough Clerk; and

WHEREAS, the Borough Council has received the 2012 Annual Audit – Corrective Action Plan.

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Council of the Borough of Hightstown, County of Mercer, State of New Jersey:

1. That the 2012 Annual Audit – Corrective Action Plan, a copy of which is attached hereto and incorporated herein by reference, is hereby approved.
2. That the proper Borough officials are hereby authorized and directed to file said Corrective Action Plan with the Division of Local Government Services, and to file a copy in the Borough Clerk's office.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

**BOROUGH OF HIGHTSTOWN
MERCER COUNTY
AUDIT REPORT YEAR: DECEMBER 31, 2012**

DEPARTMENT: FINANCE
GEORGE J. LANG
CHIEF FINANCIAL OFFICER

FINDINGS

12-01

Finding - There are a number of interfunds on the balance sheets as at December 31.

Criteria -All interfund balances should be liquidated by December 31, in accordance with Division of Local Government directives.

Response -Several of the Borough grants work on a reimbursement basis which requires the Borough to pay for the expenses and seek reimbursement.

Recommendation - That an effort be made to liquidate all interfunds prior to December 31.

Corrective Action Plan - Effort will be made to liquidate all interfunds prior to December 31.

Implementation Date - 2013

12-02

Finding - The financial statements and related notes were not completed in a timely manner to allow the audit to be completed by the statutory deadline.

Criteria -N.J.S.A. 40A:5-4 requires the audit to be completed within six months after the close of the fiscal year.

Response -Unlike a majority of towns in New Jersey the Borough of Hightstown's Chief Financial Officer prepares the Annual Financial Statement and Financial Statements for Audit Report. These other municipalities either have the auditor or an outside accounting professional prepare the financial documents for an additional cost. Having the auditor prepare the documents could create an independence issue. Staffing issues and Hurricane Irene were also contributing factors.

Recommendation - That the financial statements and related notes be completed in a timely manner to permit the audit to be submitted by the statutory deadline.

Corrective Action Plan -The financial statements and related notes be completed in a timely manner to permit the audit to be submitted by the statutory deadline.

Implementation Date - June 2014 for 2013 financial statements

Resolution 2014-101

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS PRIOR TO ADOPTION OF THE 2014 BUDGET

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2014 temporary budget; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

WHEREAS, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

WHEREAS, the total emergency temporary appropriations in resolutions adopted in the year 2014 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	<i>THIS RESOLUTION</i>	<i>PREVIOUS TOTAL</i>	<i>CUMULATIVE TOTAL</i>
Current	205,000.00	982,527.00	1,187,527.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	250,000.00	405,413.00	655,413.00
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	0.00	0.00
TOTAL	455,000.00	1,387,940.00	1,842,940.00

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof;
2. Each emergency appropriation listed will be provided for in the 2014 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Borough of Hightstown
Temporary Appropriation No. 6
May 5, 2014

CURRENT FUND

Mayor & Council	S/W	\$	2,000.00
Collection of Taxes	O/E	\$	1,000.00
Assessment of Taxes	S/W	\$	1,000.00
Municipal Court	S/W	\$	2,500.00
Insurance-Medical	O/E	\$	25,000.00
Police	S/W	\$	100,000.00
Police - Communications	S/W	\$	25,000.00
Municipal Prosecutor	O/E	\$	4,000.00
Board of Health	S/W	\$	2,000.00
Maintenance of Parks	S/W	\$	2,500.00
Street Lighting	O/E	\$	10,000.00
Telephone	O/E	\$	5,000.00
Gasoline	O/E	\$	10,000.00
State Uniform Construction Code	S/W	\$	5,000.00
Implementation of 911	S/W	\$	10,000.00

Total Current Fund \$ 205,000.00

Water and Sewer O/E \$ 200,000.00
S/W \$ 50,000.00

Total Temporary Appropriation \$ 455,000.00

Resolution 2014-102

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

SUPPORTING THE GREENWAY WALKING BRIDGE OVER PEDDIE LAKE AND THE TRANSPORTATION ALTERNATIVES PROGRAM GRANT APPLICATION

WHEREAS, the Hightstown Borough Council endorsed a “Greenway Walking Bridge Committee”, appointed by the Mayor, to raise funds, design, and plan for a new walking bridge over the Peddie Lake Dam by resolution on August 16, 2010; and

WHEREAS, the appointed committee consisted of representation from the following Departments, Committees, Commissions, and Community Organizations: Historic Preservation Commission, Hightstown Memorial Library, Hightstown-East Windsor Historical Society, Public Works Department, Environmental Commission, Planning Board, Parks & Recreation Commission, Police Department, Masonic Lodge, Economic Development Committee and the Greater Hightstown East Windsor Improvement Project (GHEWIP); and

WHEREAS, the original bridge was a central part of Hightstown landscape history for almost 100 years and presented a safety hazard causing the bridge to be removed due to its unsafe condition; and

WHEREAS, the current pedestrian path is unsafe due to the close proximity to traffic in a heavily travelled section of Main Street (New Jersey State Highway Route 33); and

WHEREAS, the committee has performed their task with great enthusiasm and success, and raised funds for the design and plan for a new bridge which will exemplify the rich history of Hightstown Borough and provide a safe pedestrian path for residents and visitors; and

WHEREAS, the Greenway Walking Bridge is essential to provide safe pedestrian traffic in the Downtown Hightstown area connecting downtown businesses and shopping, the library, Memorial Park, and residential homes.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown offers its full support to the Greenway Walking Bridge and encourages funding for the construction of the new Greenway Walking Bridge over Peddie Lake allowing for safe pedestrian traffic by connecting downtown businesses and shopping, the library, Memorial Park, and residential homes.

BE IT FURTHER RESOLVED that the Hightstown Borough Mayor and officials of the Borough are hereby authorized to execute all documentation required for this grant.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-103

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

SUPPORTING AND AUTHORIZING THE GENERAL PLANNING SERVICES REQUEST APPLICATION

WHEREAS, the Hightstown Planning Board seeks to develop context sensitive physical forms for Hightstown neighborhoods and business district; and

WHEREAS, the Hightstown Planning Board wishes to preserve the character of Hightstown and develop understandable design guidelines for residents and developers; and

WHEREAS, Hightstown Borough wishes to develop physical form standards to preserve the character of Hightstown and to restore Hightstown to its historic vibrancy, bringing people to a walkable, bicycle, pedestrian-friendly town; and

WHEREAS, Form Based Codes/Zoning has been incorporated into the master plan re-examination and is used to maintain the character of housing stock and to define more specifically the look of the town; and

WHEREAS, the New Jersey Department of Community Affairs has available a grant that will allow Hightstown to partner with them to educate, promote and develop physical form standards at no cost to the Borough; and

WHEREAS, the Mayor and Council of Hightstown Borough has determined that the Hightstown Planning Board should apply for the aforementioned Grant.

NOW THEREFORE, BE IT RESOLVED, by the Hightstown Borough Council that the Mayor is hereby authorized to execute the necessary documents associated with the implementation of this grant.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-104

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING APPLICATION FOR A RECYCLING TONNAGE GRANT

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection and Energy has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the 2013 tonnage grant will memorialize the commitment of this municipality to recycling, and will indicate the assent of the Mayor and Council of the Borough of Hightstown to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown as follows:

1. The Borough of Hightstown hereby endorses the submission of a 2013 recycling tonnage grant application to the New Jersey Department of Environmental Protection.
2. Ken Lewis, Recycling Coordinator, 156 Bank Street, Hightstown, New Jersey 08520, is hereby designated and directed to ensure that the application is properly completed and timely filed;
3. Monies received from the recycling tonnage grant shall be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-105

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

APPOINTING A CODE ENFORCEMENT OFFICER

WHEREAS, There is a need to hire a Code Enforcement Officer to assist with property maintenance issues; and,

WHEREAS, Mr. George Chin, Construction Official, has requested that David Bell be appointed a Code Enforcement Officer for the Borough of Hightstown; and

WHEREAS, the Borough Council finds it in the best interest of the health, safety and welfare of the residents to appoint David Bell as Code Enforcement Officer; and

WHEREAS, the employment of David Bell as Code Enforcement Officer is to be effective April 24, 2014; and,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the designation of David Bell as Code Enforcement Officer is hereby ratified and confirmed effective April 24, 2014.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-106

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**TO AFFIRM HIGHTSTOWN BOROUGH'S CIVIL RIGHTS
POLICY WITH RESPECT TO ALL OFFICIALS, APPOINTEES, EMPLOYEES,
PROSPECTIVE EMPLOYEES, VOLUNTERS, INDEPENDENT
CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME INTO
CONTACT WITH MUNICIPAL EMPLOYEES, OFFICIALS AND
VOLUNTEERS**

WHEREAS, it is the policy of Hightstown Borough to treat the public, employees, prospective employees, appointees, volunteers and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act, and

WHEREAS, the governing body of Hightstown Borough has determined that certain procedures need to be established to accomplish this policy.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of Hightstown Borough that:

Section 1: No official, employee, appointee or volunteer of the Borough by whatever title known, or any entity that is in any way a part of the Borough shall engage, either directly or indirectly in any act including the failure to act that constitutes discrimination, harassment or a violation of any person's constitutional rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Borough's business or using the facilities or property of the Borough.

Section 2: The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether structured as a governmental entity or a private entity, that receives authorization or support in any way from the Borough to provide services that otherwise could be performed by the Borough.

Section 3: Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.

Section 4: The Administrator shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.

Section 5: No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.

Section 6: The Administrator shall establish written procedures that require all officials, employees, appointees and volunteers of the Borough as well as all other entities subject to this resolution to periodically complete training concerning their duties, responsibilities and rights pursuant to this resolution.

Section 7: The Administrator shall establish a system to monitor compliance and shall report at least annually to the governing body the results of the monitoring.

Section 8: At least annually, the Administrator shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Borough. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Borough's web site.

Section 9: This resolution shall take effect immediately.

Section 10: A copy of this resolution shall be published in the official newspaper of the Borough in order for the public to be made aware of this policy and the Borough's commitment to the implementation and enforcement of this policy.

Complaint Procedure:

Any individual who observes alleged wrongdoing on the part of officials, employees, or volunteers associated with the Borough may report such action using this procedure. This includes any action the individual believes to constitute harassment, sexual harassment, or any other wrongdoing. Employees of the (local unity type) shall follow the Employee Complaint Procedure. All other individuals including volunteers and members of the public may report the alleged wrongdoing to the head of the applicable department or volunteer organization, or, if they prefer, or do not think that the matter can be discussed with the head of the applicable department or organization, they should contact the Administrator.

Reporting of such incidents is encouraged, both when an individual feels that he or she is subject to such incidents, or observes such incidents in reference to other individuals. The report or complaint should be in writing, but individuals may make a verbal complaint at their discretion. If an individual has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, they may ask their supervisor or one of the individuals listed above. All reports of harassment, sexual harassment, or other wrongdoing will be promptly investigated by a person who is not alleged to be involved in the alleged harassment or wrongdoing. No individual will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files a good-faith harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven. There will be no discrimination or retaliation against any other individual who participates in the investigation of a complaint.

If the investigation substantiates the complaint, appropriate corrective and/or disciplinary action will be swiftly pursued. Disciplinary action up to and including discharge will also be taken against individuals who make false or frivolous accusations, such as those made maliciously or recklessly. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons involved. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. The complaining individual will be notified of a decision at the conclusion of the investigation within a reasonable time from the date of the report an incident.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-107

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE – EMPIRE ANTIQUES

WHEREAS, an application for a license to hold an auction on Saturday, June 28, 2014 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

WHEREAS, the application has been reviewed and approved by the Police Director; and

WHEREAS, it is the desire of the Mayor and Council that a license be issued to Empire Antiques for this event.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, June 28, 2014 at 278 Monmouth Street.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

Resolution 2014-108

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AMENDING A LEASE AGREEMENT WITH KATSIFIS FAMILY, LLC, RELATING TO CERTAIN BOROUGH-OWNED PROPERTY LOCATED AT BLOCK 7, LOT 41 (ROUTE 130) ON THE HIGHTSTOWN BOROUGH TAX MAP.

WHEREAS, on February 6, 2012, the Mayor and Council of the Borough of Hightstown (the “Borough”) adopted Resolution No. 2012-60, which authorized the execution of a Lease Agreement (the “Lease”) with Katsifis Family, LLC (the “Tenant”), whereby the Borough agreed to rent to the Tenant a portion of certain Borough-owned property located at Block 7, Lot 41 (Route 130) on the Hightstown Borough Tax Map (the “property”), which was not otherwise needed for any public purpose(s) of the Borough, for use as a parking lot for the parking of motor vehicles only; and

WHEREAS, this action followed a publicly advertised bidding process; and

WHEREAS, the portion of the property which is subject to the said Lease measures approximately 36,650 square feet, and is located along or adjacent to the municipal boundary line with the Township of East Windsor; and

WHEREAS, the rent for the property was \$9,500.00 for the first year, payable in monthly increments of \$791.67 each, which payments are due and payable on the first day of each month, with the rental rate to increase annually by two-and-one-half percent (2-1/2%) per year over the rate which was in effect during the prior year; and

WHEREAS, the term of the Lease is for a period of ten (10) years, commencing on February 6, 2012 and concluding on February 5, 2022; and

WHEREAS, the Lease provides the parties with the right to negotiate a renewal of the Lease for two additional terms of ten (10) years each, at a rental rate to be negotiated between the parties and with an annual escalation rate also to be determined by the parties at the time of each renewal (collectively, the “Renewal Option”); and

WHEREAS, all other terms and conditions associated with said undertaking are set forth in detail in the attached Lease Agreement, which includes a copy of a plan depicting the area in question; and

WHEREAS, the Tenant has requested that the Borough consider amending the provisions concerning the “Renewal Option,” as referenced above, which are set forth in more detail in Paragraph 17 of the Lease; and

WHEREAS, in particular, the Tenant has requested that the language of Paragraph 17 be revised to provide the Tenant with the unilateral right to exercise the “Renewal Option” at the time of each renewal, pursuant to the same annual rental increase(s) of two-and-one-half percent (2-1/2%) per year over the rate which was in effect during the prior year, so long as the Tenant has not committed an “Event of Default,” pursuant to Paragraph 11 of the Lease, in which case the Borough may terminate the Lease, re-possess the property, and pursue all other remedies as are available pursuant to the Lease and applicable law; and

WHEREAS, the Borough Council has considered the within request, and wishes to provide its consent to the same.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

1. That the Borough Council hereby provides its consent to the amendment of the Lease Agreement as set forth above.

2. That the Mayor is hereby authorized to execute, and the Borough Clerk to attest, an "Amendment" to the Lease Agreement in order to effectuate said revision, so long as said "Amendment" is in a form satisfactory to the Borough Attorney.

3. That a certified copy of this Resolution shall be provided to each of the following individuals:

- (a) Katsifis Family, LLC
- (b) Mark Shane, Esq.
- (c) Henry Underhill, Borough Administrator
- (d) George Lang, CFO
- (e) Kenneth Pacera, Tax Assessor
- (f) Carmela Roberts, Borough Engineer
- (g) Frederick C. Raffetto, Esq., Borough Attorney

CERTIFICATION

I hereby certify the foregoing to be true copy of a resolution adopted by the Borough Council at a meeting held on May 5, 2014.

Debra L. Sopronyi
Borough Clerk

LEASE AGREEMENT

Made this 5th day of March, 2012, by and between

**THE BOROUGH OF HIGHTSTOWN,
a Municipal Corporation of the State of New Jersey,
148 NORTH MAIN STREET
HIGHTSTOWN, NEW JERSEY 08520
(HEREINAFTER REFERRED TO AS "LANDLORD")**

AND

**KATSIFIS FAMILY LLC
375 ROUTE 130, SUITE 102
EAST WINDSOR, NEW JERSEY 08520**

(HEREINAFTER REFERRED TO AS "TENANT")

In accordance with N.J.S.A. 40A:12-14(a), and Hightstown Borough Resolution No. 2012-60, attached hereto, the Landlord, Borough of Hightstown, hereby enters into the following Lease Agreement with the Tenant, Katsifis Family LLC:

1. **Premises.** The Landlord does hereby lease to the Tenant and the Tenant does hereby rent from the Landlord the following described premises:

A certain portion of a parcel of real property located near or adjacent to Route 130, also known as Lot 41, in Block 7 on the Official Tax Map of the Borough of Hightstown. The portion of the property subject to this Lease, hereinafter the "Premises," measures approximately 35,650 square feet, or 0.82 acres, and is depicted in more detail on a plan prepared by Menlo Engineering Associates, Inc., dated February 3, 2008, which is attached hereto as Exhibit "A".

2. **Term.** This Lease is for a term of ten (10) years, commencing on February 6, 2012 and ending on February 5, 2022.

3. **Use.** The premises are to be used and occupied as a parking lot for the parking of motor vehicles only, and for no other purpose(s). The Tenant will not, and will not allow others to, occupy or use the Premises or any part thereof for any purposes other than as specified in this Paragraph 3, nor for any purpose deemed unlawful, disreputable, or hazardous, on account of fire or other casualty.

4. **Rent.** The Tenant agrees to pay rent in accordance with a bid made by it and accepted by the Landlord pursuant to N.J.S.A. 40A:12-14(a), in the amount of Nine Thousand Five Hundred and 00/100 Dollars (\$9,500.00) annually for the first year. Rent in the amount of \$791.67 per month shall be due on the first day of each month. The Tenant shall also post a security deposit with the Landlord in the amount of Three Thousand Dollars (\$3,000.00). The first payment of rent and the security deposit shall be due upon the signing of this Lease by the Tenant. The Tenant must pay a late charge of One Hundred Dollars (\$100.00) as additional rent for each payment that is more than ten (10) days late. This late charge is due with the monthly rent payment. The Tenant must also pay a fee of Twenty-five Dollars (\$25.00) as additional rent for any dishonored check. After the first year, the rental rate shall increase annually by two-and-one-half percent (2 ½%) of the rental rate in effect for the previous year.

5. **Disclosure of Known Conditions of Leased Premises.** Upon information and belief, the premises or some part thereof may have been used for landfill purposes in the past. Upon further information and belief, this alleged use of the property was terminated some time ago and the alleged landfill was properly closed in accordance with all applicable legal requirements. Tenant acknowledges that it is accepting the premises strictly "AS IS" with full knowledge of the aforesaid conditions, and will not seek redress against Landlord for any damages it may incur as a result of these known conditions.

6. **Liability Insurance.** The Tenant, at Tenant's own cost and expense, will obtain, provide, maintain and keep in full force for the benefit of the Landlord, during the term hereof, general liability insurance coverage, insuring the Landlord against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident or otherwise in or about the Premises for injuries to any persons or property, for limits of not less than Five Hundred Thousand Dollars (\$500,000.00) for property damage, One Million Dollars (\$1,000,000.00) for injuries to one person and Three Million Dollars (\$3,000,000.00) for injuries to more than one person, in any one accident or occurrence. The Tenant shall name the Landlord as an additional insured on its insurance coverage. The insurance coverage shall be with companies authorized to do business in this State and will be delivered to the Landlord, together with proof of payment, not less than fifteen (15) days prior to the commencement of the term hereof or of the date when the Tenant enters into possession, whichever occurs sooner. At least fifteen (15) days prior to the expiration or termination date of any policy, the Tenant will deliver a renewal or replacement policy with proof of the payment of the premium therefor.

7. **Indemnification.** The Tenant will hold harmless and indemnify the Landlord from and against any and all payments, expenses, costs, and reasonable attorney fees (including attorney fees incurred in enforcing the Tenant's obligations under this Lease), as a result of the Tenant's use of the Premises, and will hold harmless and indemnify the Landlord from and against any and all claims and liability (including attorney fees) for losses or damage to property or injuries to persons occasioned on the Premises during the term of this Lease.

8. **Waiver of Subrogation Rights.** The Tenant waives all rights of recovery against the Landlord or the Landlord's agents, employees, or other representatives for any loss, damages or injury of any nature whatsoever to property or persons for which the Tenant is insured. The Tenant will obtain from the Tenant's insurance carriers and will deliver to the Landlord, waivers of the subrogation rights under the respective policies.

9. **Compliance with Laws etc.** The Tenant will promptly comply with all laws, ordinances, rules, regulations, requirements and directives of all Governmental or Public Authorities and of all their subdivisions, applicable to and affecting the Premises, the use and occupancy of the Premises, and will promptly comply with all orders, regulations, requirements and directives of the Board of Fire Underwriters or similar authority and of any insurance companies which have issued or are about to issue policies of insurance covering the Premises and its contents, for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense.

10. **Signs.** The Tenant may not place nor allow to be placed any signs upon, in or about the Premises, except as may be consented to by the Landlord in writing. Any signs permitted by Landlord will at all times conform with all municipal ordinances or other laws and regulations applicable thereto.

11. **Events of Default; Remedies Upon Tenant's Default.** The following are "Events of Default" under this Lease: (a) default by the Tenant in the payment of rent, or any additional rent when due or within 10 days thereafter; (b) a default by the Tenant in the performance of any of the other covenants or conditions of this Lease, which the Tenant does not cure within 30 days after the Landlord gives the Tenant written notice of such default; (c) the death of the Tenant (if the Tenant is an individual); (d) the liquidation or dissolution of the Tenant (if the Tenant is an entity); (e) the filing by the Tenant of a bankruptcy, insolvency or receivership proceeding; (f) the filing of a bankruptcy, insolvency or receivership proceeding against the Tenant which is not dismissed within 30 days after the filing thereof; (g) the appointment of, or the consent by the Tenant to the appointment of, a custodian, receiver, trustee or liquidator of all or a substantial part of the Tenant's assets; (h) the making by the Tenant of an assignment for the benefit of creditors or an agreement of composition; (i) if the Premises are or become abandoned, deserted, vacated or vacant; (j) the eviction of the Tenant; or (k) if this Lease, the Premises or the Tenant's interest in the Premises passes to another by virtue of any court proceedings, writ of execution, levy or judicial or foreclosure sale. If an Event of Default occurs, the Landlord, in addition to any other remedies contained in this Lease or as may be permitted by law, may re-enter, possess and enjoy the Premises. The Landlord may then re-let the Premises and receive the rents therefor and apply the same, first to the payment of such expenses, reasonable attorney fees and costs, as the Landlord may have incurred in re-entering and repossessing the Premises and in making such repairs and alterations as may be necessary; and second to the payment of rents due hereunder. The Tenant will remain liable for such rents as may be in arrears and also the rents as may accrue subsequent to the re-entry by the Landlord, to the extent of the difference between the rents reserved hereunder and the rents, if any, received by the Landlord during the remainder of the unexpired term hereof, after deducting the aforementioned expenses, fees and costs; the same to be paid as such deficiencies arise and are ascertained each month.

12. **Removal of Tenant's Property.** Any equipment, fixtures, goods or other property of the Tenant that are not removed by the Tenant upon the termination of this Lease, or upon any quitting, vacating or abandonment of the Premises by the Tenant, or upon the Tenant's eviction, will be considered as abandoned and the Landlord will have the right, without any notice to the Tenant, to sell or otherwise dispose of same, at the expense of the Tenant, and will not be accountable to the Tenant for any part of the proceeds of such sale, if any.

13. **Reimbursement of Landlord.** If the Tenant fails or refuses to comply with any of the terms and conditions of this Lease, the Landlord may carry out and perform such conditions at the cost and expense of the Tenant, which amounts will be payable on demand to the Landlord. This remedy will be in addition to such other remedies as the Landlord may have by reason of the breach by the Tenant of any of the terms and conditions of this Lease.

14. **Tax Increase.** Tenant shall be responsible to reimburse the Landlord for any increase in the annual County and School taxes assessed against the Premises from the prior year, required to be paid by the Landlord Borough as a result of the within Lease of the Premises. Said amount shall be due and payable by the Tenant within thirty (30) days of written notice of same by the Landlord.

15. **Land Use Approvals.** The Tenant must obtain site plan approval and/or any other approval(s) deemed necessary from the Borough's Planning Board for its intended use of the leased area.

16. **Non-Waiver by Landlord.** The various rights, remedies, options and elections of the Landlord under this Lease are cumulative. The failure of the Landlord to enforce strict performance by the Tenant of the conditions and covenants of this Lease or to exercise any election or option, or to resort to or have recourse to any remedy conferred in this Lease or the acceptance by the Landlord of any installment of rent after any breach by the Tenant, in any one or more instances, will not be construed or deemed to be a waiver or a relinquishment for the future by the Landlord of any such conditions and covenants, options, elections or remedies, but the same will continue in full force and effect.

17. **Renewal Option.** The parties hereto shall have the right to negotiate a renewal option of the within Lease Agreement for two (2) additional terms of ten (10) years each, at a rental rate to be negotiated between the parties, and with an annual escalation rate also to be determined by the parties at the time of each renewal. The renewal option shall be exercised no later than 90 days prior to the termination date of the initial or any renewal lease term.

18. **No Assignment.** Neither this Lease Agreement, nor any of the rights or obligations hereunder is assignable.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:

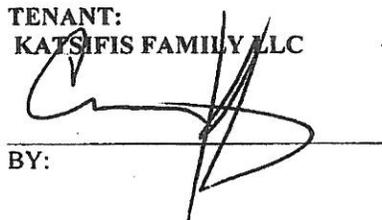

DEBRA L. SOPRONYI, CLERK

LANDLORD:
BOROUGH OF HIGHTSTOWN

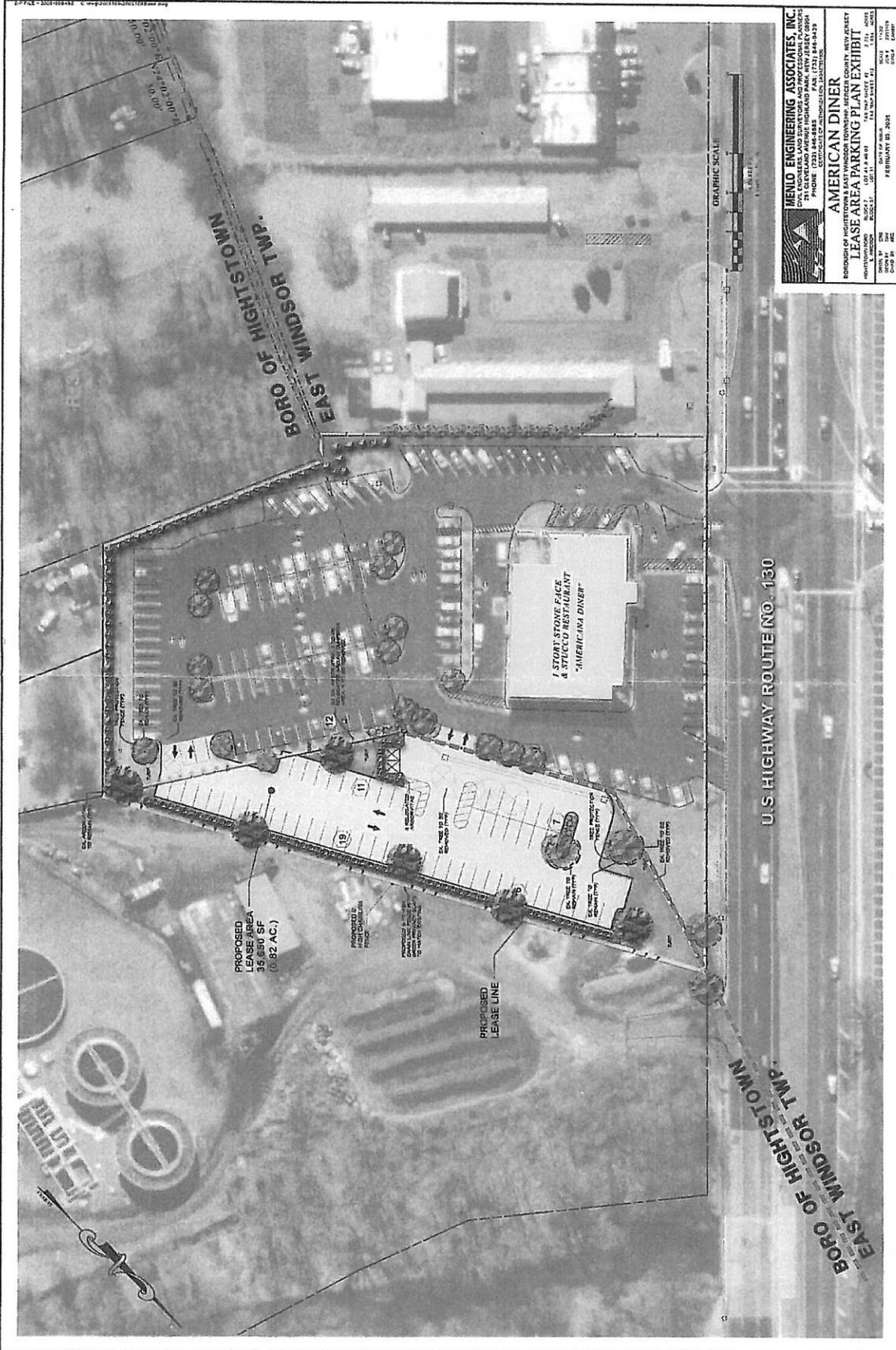

HON. STEVEN KIRSON, MAYOR

TENANT:
KATSIFIS FAMILY LLC

BY:



2/8/08



MENLO ENGINEERING ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS AND PROFESSIONAL PLANNERS
 1000 W. 10TH AVENUE, SUITE 100, DENVER, CO 80202
 PHONE (303) 733-8888 FAX (303) 733-8889
 WWW.MENLOENGINEERING.COM

AMERICAN DINER
 LEASE AREA PARKING PLAN EXHIBIT

PROPERTY OF: AMERICAN DINER, 1000 W. 10TH AVENUE, SUITE 100, DENVER, CO 80202
 DRAWN BY: J. M. MURPHY
 CHECKED BY: J. M. MURPHY
 DATE: FEBRUARY 03, 2008