



Borough of Middlesex

Mayor and Council Regular Meeting

1200 Mountain Ave
Middlesex, NJ

~ Minutes ~

Gretchen McCarthy
www.middlesexboro-nj.gov

Tuesday, April 9, 2019

7:00 PM

Municipal Building

MAYOR'S STATEMENT

UNDER THE PROVISIONS OF N.J.S.A. 10:4-6 ET SEQ., NOTICE OF THE TIME AND PLACE OF THIS MEETING WAS GIVEN BY WAY OF AN ANNUAL MEETING NOTICE TO THE STAR LEDGER, COURIER NEWS AND HOME NEWS, AND POSTED AT BOROUGH HALL.

SALUTE TO FLAG

1. Mayor DiMura made a motion to add the Appointment of Mike Conahan to the Recreation Committee, a Request to Purchase Property to the Workshop Agenda and move the 911 Agreement with Robert Wood to Executive Session

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dan Parenti, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

ROLL CALL

Mayor Ron DiMura
Council President John Madden
Council Member Douglas Rex
Council Member Jason Carr
Council Member Dan Parenti
Council Member Kevin Dotey
Council Member Jack Mikolajczyk

Also Present:

Christopher Corsini Borough Attorney

Others Absent:

PRESENTATIONS

APPOINTMENTS

Mayor DiMura appointed Michael Conahan to the Recreation Committee.

PROCLAMATIONS

ORDINANCE(S) FOR INTRODUCTION

The Borough Clerk read ordinance 1959-19 by title:

ORDINANCE 1959-19**AN ORDINANCE OF THE BOROUGH OF MIDDLESEX, COUNTY OF MIDDLESEX, NEW JERSEY, AUTHORIZING A SYSTEM TO BE ESTABLISHED TO PROVIDE TAX-DEFERRED INCOME BENEFITS TO ELIGIBLE, ACTIVE VOLUNTEER MEMBERS OF THE MIDDLESEX BOROUGH FIRE DEPARTMENT**

WHEREAS, the Borough of Middlesex deems it appropriate and necessary to act to ensure retention of existing members and to provide incentives for recruiting new volunteer firefighter organization members; and

WHEREAS, the Borough of Middlesex has determined that the creation of a Length of Service Award Program will enhance the ability of the Middlesex Borough Fire Department to recruit volunteer firefighters;

NOW THEREFORE BE IT ORDAINED, by the Borough of Middlesex, County of Middlesex, New Jersey that:

1. A Length of Service Award Program (LOSAP) is herewith in accordance with Chapter 388 of the Laws of 1997, to reward members of the volunteer Middlesex Borough Fire Department for their loyal, diligent, and devoted services to the residents of the Borough of Middlesex.
2. The LOSAP shall provide for fixed annual contributions to a deferred income account for each volunteer member that meets the criteria set forth below; that such contributions shall be made in accordance with a plan that shall be established by the Borough of Middlesex pursuant to P.L. 1997, c. 338; and that such plan shall be administered in accordance with the laws of the State of New Jersey, the U.S. Internal Revenue Code, and this ordinance.
3. The LOSAP shall provide for annual contributions to each eligible member that meets the criteria as set forth in the attached Schedule A
4. The estimated cost of the program has been calculated as follows:
 - a. For regular annual services:
Up to 100 members at \$1,150.00 per member,
for a total cost of \$115,000 per year.
5. Each active volunteer member shall be credited with points for volunteer services provided to the volunteer fire company and in accordance with the following Schedule A.
6. That this ordinance shall not take effect unless approved by voters as a public question at the next general election, said public question shall read as follows:

“BALLOT QUESTION”

Shall the Mayor and Council of the Borough of Middlesex, County of Middlesex, be authorized to establish a Length of Service Award Program (LOSAP) for the benefit of the volunteer firefighters pursuant to the following terms and conditions:

1. The LOSAP program shall provide for a fixed annual contribution to a tax deferred income account for each eligible volunteer member that satisfies the criteria set forth below.
2. The LOSAP program shall provide for an annual contribution for each eligible volunteer member who accumulates 100 points during a calendar year pursuant to the point system adopted by the Borough of Middlesex.
3. The annual contribution amount for each year of future service for each eligible volunteer member shall be \$1,150.00. The estimated annual cost of this provision of the LOSAP program shall be based on 100 members for a total cost of \$115,000.00.

YES _____ NO _____

EXPLANATORY STATEMENT

The Borough of Middlesex seeks to establish a LOSAP program for the volunteer firefighters in order to enhance the providing of firefighting service by the retention and recruitment of volunteers. The specific details of the program are set forth on the ballot and more explicitly set forth in the Ordinance adopted by the Borough of Middlesex establishing the LOSAP program. The Ordinance and New Jersey Statute establishing the LOSAP are available for public inspection and may be examined by contacting the office of the Borough Clerk."

SCHEDULE A**BOROUGH OF MIDDLESEX
LENGTH OF SERVICE AWARD PROGRAM**

A minimum of 100 points per year must be earned to qualify for LOSAP. Five (5) years accumulative years are necessary for vesting purposes.

1 point per year of service shall be awarded to each member. This includes all prior years' service not to be continuous and not to exceed 30 points maximum.

FIRE CALL: 60 points maximum

1 point per fire call can be earned. Member must be in physical attendance and must be affirmed by signature on the department fire call report.

DRILLS/TRAINING 30 points maximum

1 point per drill/training course. Must be in physical attendance with sign in and out. Must last minimum of 1 hour. Four (4) or more members must be present in order to be eligible for LOSAP.

BASIC FIREFIGHTER TRAINING

Upon satisfactorily completing Firefighter 1, member will receive 30 points.
Upon satisfactorily completing Firefighter 2, member will receive 30 points.

MEETINGS 15 points maximum

1 point per company or department meeting can be earned. The following department meetings shall count toward LOSAP. BOFO, committee meetings. The roll call portion of the meeting minutes shall affirm attendance.

DEPARTMENT OR COMPANY OFFICERS 10 points maximum

10 points can be earned by any member who holds an elected office in the department or company. Elected office shall be defined by the By-laws. A member may hold multiple positions and 5 points being awarded to two (2) positions totaling 10 points. These positions consist of company president vice-president, treasurer, secretary. BOFO treasurer, BOFO secretary, captain, lieutenant, engineer, assistant engineer, chief, 1st assistant chief, 2nd assistant chief. The member must hold the office for the entire year to be eligible. Partial terms will not be prorated for partial points.

FUNDRAISING 25 point maximum

Any fundraising activity to include fund drive, coin toss, etc., and each shift at the carnival will earn two (2) points.

MISCELLANEOUS DEPARTMENT COMMITTEES 5 point maximum

1 point can be earned for participation and attendance. Activities to include but not be limited to department committees and others not listed, (i.e. funerals)

WORK DETAILS 25 points maximum

1 point can be earned for each company and/or department work detail.

SPECIAL SITUATION REQUIREMENTS

MILITARY LEAVE OF ABSENCE

No points will be awarded unless Active Volunteer Member is participating (faithfully and actually) in activities of the Length of Service Award Program Point Schedule and their quarterly point percentage is within the scope of the program.

MEDICAL LEAVE OF ABSENCE

No points will be awarded unless the Active Volunteer Member is participating (faithfully and actually) in activities of the Length of Service Award Program Point Schedule and their quarterly point percentage is within the scope of the program.

RESULT:	FIRST READING [UNANIMOUS]	Next: 4/23/2019 7:00 PM
MOVER:	Kevin Dotey, Council Member	
SECONDER:	John Madden, Council President	
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk	

ORDINANCE(S) FOR PUBLIC HEARING AND FINAL ADOPTION

ADOPTION OF MINUTES

1. Approval of the March 26, 2019 Regular and Executive Meeting Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

2. Approval of the April 4, 2019 Special & Executive Meeting Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

MAYOR'S REPORT

Mayor DiMura stated that he attended the Middlesex Little League Opening Day on Saturday and the field looked great. He thanked the Little League for inviting the Mayor and Council to this event.

Mayor DiMura reported that the Borough received a DOT Road Improvement Grant for \$557,200 for roadwork on Ashland, Harris and Fisher Avenue.

Mayor DiMura commended the DPW for the great job that they did decorating the Borough Gazebo.

Mayor DiMura also reported that over the next month South Avenue will finally be paved. This grant was received over three years ago.

REPORTS - STANDING COMMITTEES

Finance/Taxation/Real Estate/Insurance/Public Utilities

Councilman Mikolajczyk reported that the budget will be introduced tonight. Also, he stated that the average Grant Amount for the DOT Grant was \$366,000 and that Middlesex Borough grant received was considered in the top tier.

Fire/OEM/Rescue Squad

No reports were received.

Recreation/Recreation Fields/Swim Pool/Community Celebrations

1. March 2019 Director's summary

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Kevin Dotey, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

2. April 2019 Director's Report

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Kevin Dotey, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

Public Works/Buildings & Grounds/Recycling

No reports were received.

Police/Legal/Code Enforcement & Zoning/Shade Tree/Construction/Municipal Court

No reports were received.

Administration/Department of Senior Services/Legislation/Licensing

1. Approval of the March, 2019 Analytic Report

Councilman Carr received his IT recommendations for his Videotaping of the Regular Meetings Presentation late in the week, and it will require a reassessment be done for this report. He will try to get the Presentation done for the April 23, 2019 Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

PRIVILEGE OF THE FLOOR

Rich Thomasey, 109 Greene Avenue questioned the status of OLMV outstanding funds and also requested to see the Recreation Committee Meeting Minutes.

Bill Coyle, 545 Edgeworth Street questioned the status of the football field construction, as graduation is only 2 months away.

Evan Walter, 837 W. Second Street questioned the status of the CRS Director and also the audit that was done with regard to recertification for officers with regard to EMS telecommunication in the Police Department.

Bob Edwards, 243 Hazelwood Avenue questioned the status of the OLMV Contract issue.

Mayor DiMura addressed all questions from the Public.

NEW BUSINESS/CONSENT AGENDA/RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 96-2019**INTRODUCTION OF THE 2019 MUNICIPAL BUDGET** - *Item Removed from Consent*

Municipal Budget of the Borough of Middlesex, County of Middlesex for the Year 2019.

BE IT RESOLVED, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2019;

BE IT FURTHER RESOLVED that said Budget be published in the Courier News, NJ in the issue of April 17, 2019.

The governing body of the Borough of Middlesex does hereby approve the following as the Budget for the year 2019:

General Appropriations: Appropriations Within "CAPS"	\$14,326,093.00
Municipal Purposes	
Appropriations Excluded from "CAPS" Municipal Purposes	\$5,606,585.63
Reserve for Uncollected Taxes - Based on Estimated 98+% of Tax Collections	\$820,767.70
Total General Appropriations	\$20,753,446.33
Less: Anticipated Revenues Other than Current Property Tax	\$7,538,032.66
Difference: Amount to be Raised by Taxes For Support of Municipal Budget:	
Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes	\$12,696,627.41
Municipal Library Tax	\$518,786.26
Swimming Pool Utility Operating Fund Total Swimming Pool Revenues	\$447,628.00
Total Swimming Appropriations	\$447,628.00

Notice is hereby given that the Budget and Tax Resolution was approved by the Mayor and Borough Council of the Borough of Middlesex, County of Middlesex, on April 9, 2019.

A hearing on the Budget and Tax Resolution will be held at the Municipal Building on May 14, 2019, at 7:00 o'clock P.M. at which time and place objections to said Budget and Tax Resolution for the year 2019 may be presented by taxpayers or other interested persons.

Councilman Mikolajczyk stated that they have come up with a reasonable budget which addresses the needs of the town and does a good job of preparing us for the future in terms of our needs. The budget increase for 2019 is at .58 per average household and Councilman Mikolajczyk thanked Treasurer, Caroline Benson, Matt Hollman and the Finance Committee for this accomplishment.

Mayor DiMura stated that he and Councilman Mikolajczyk worked on this in a bipartisan manner. Although he gave the challenge of a zero increase, it was in the best interest of the borough to increase spending by 1.6%. They have also set aside money for the impending revaluation

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 97-2019

AUTHORIZING THE MAYOR AND COUNCIL TO WAIVE THE DEVELOPER'S AGREEMENT FOR 323 HIGH STREET, BLOCK 40, LOT 41.02

WHEREAS, the Planning Board approved a minor subdivision for a new single family home

located at 323 High Street, Block 40, Lot 41.02; and

WHEREAS, there will be no intrusions on roads or any special work being done that would require such an agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of Middlesex, County of Middlesex, State of New Jersey, as follows:

1. The Governing Body hereby approves the waiver of a Developer's Agreement for the approved single family home to be located at 323 High Street, Middlesex, New Jersey for Block 40, Lot 41.02.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 98-2019

ACKNOWLEDGING THE CHANGE IN STATUS FOR CERTAIN PROPERTIES UNDER THE SENIOR CITIZEN/DISABLED PERSON/VETERAN TAX DEDUCTIONS

WHEREAS, certain Senior Citizens/Disabled Persons/Veterans were the owners of property in the Borough of Middlesex for the year 2017, and

WHEREAS, once homeowner is deceased said Senior Citizens/Disabled Persons / Veteran deductions remain on property until the property is sold or until the end of the year , and

WHEREAS, said deductions were not removed at the end of 2017, and

THEREFORE, the Tax Collector has disallowed the following Senior Citizen/Disabled Person/Veteran deduction for the 2018 year totaling \$250.00.

Name	Block/Lot	Amount	Reason
Sobotka, Robert	338/1	\$250.00	DOD 3/2017

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 99-2019

ACKNOWLEDGING THE CHANGE IN STATUS FOR CERTAIN PROPERTIES UNDER THE SENIOR CITIZEN/DISABLED PERSON TAX DEDUCTIONS

WHEREAS, certain Senior Citizens/ Disabled Persons were the owners of the property in the Borough of Middlesex on or before October 1, 2018, and

WHEREAS, said Senior Citizens / Disabled Persons did file their claims for the Senior Citizen/ Disabled Person deduction with the proper official of the Borough of

Middlesex, Middlesex County prior to December 31, 2018; and

WHEREAS, the Tax Collector has disallowed the following Senior Citizen/ Disabled Person deduction for the 2018 year totaling \$3750.00

Name	Block /Lot	Amount	Reason	Year
Cortese, Michael & Mary	4.01/1	\$250.00	Over Income	2018
Senna, Theresa V	6/6	\$250.00	Over Income	2018
O,Brien, Genevieve	59/10	\$250.00	Form Not Returned	2018
Gentile, Philip & Phyllis	71.01/2	\$250.00	Over Income	2018
Delmont, Robert	97/5	\$250.00	Removed Deduction per Homeowner	2018
Seip, Bruce & Patricia	100/10	\$250.00	Over Income	2018
Catona, Josette	180/9	\$250.00	Form Not Returned	2018
Ortiz, D, Necina, WH & Don J (LE)	239.01/14	\$250.00	Over Income	2018
Pohl, Donald & Marie	242/12.01	\$250.00	Form Not Returned	2018
Lance, Evelyn	244/8	\$250.00	Form Not Returned	2018
Danyov, Nancy	262/1.01/C 039B	\$250.00	Over Income	2018
Macarone, Frank & Eleanor	278/25	\$250.00	Form Not Returned	2018
Errickson, Kimberly	283/41	\$250.00	Form Not Returned	2018
Brarens, Russell & Mary	313/8	\$250.00	Form Not Returned	2018
Vietri, Bridget & Anthony	329/2	\$250.00	Over Income	2018

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 100-2019

AUTHORIZING THE REFUND OF A NON-RESIDENTIAL RESALE CERTIFICATE IN THE AMOUNT OF \$250.00 FOR 663 BOUND BROOK

WHEREAS, Robert Ryan applied to the Construction Office for a Non-Residential Resale Certificate at 663 Bound Brook Rd and

WHEREAS, Robert Ryan submitted Check #5813 in the amount of \$250.00 on 2/27/19 in payment of said Non-Residential Resale Certificate; and

WHEREAS, no inspections were made and the sale of property did not take place.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex that the disbursing officers be and they are hereby authorized to draw a check in the amount of \$250.00 in favor of Robert Ryan 90 Updikes Mill Rd Belle Meade NJ 08502 for refund of fee for Non-Residential Resale Certificate.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 101-2019

SETTING EXTRAORDINARY COMPENSATION FOR THE BOROUGH CLERK

WHEREAS, the Borough of Middlesex ("Borough") offers employees health benefits through the State Health Benefits Program; and

WHEREAS, the Borough further offers employees alternative remuneration in the event they opt out of the Borough's health benefits plan; and

WHEREAS, the Municipal Clerk, Gretchen McCarthy ("McCarthy"), has declined to participate in the Borough's health benefits but, due to her current participation in the State Health Benefits Program, cannot accept the alternative remuneration as offered by the Borough; and

WHEREAS, McCarthy is the duly-appointed Borough Clerk pursuant to Section 68-1 of the Municipal Code of the Borough of Middlesex and the duly-appointed municipal clerk pursuant to N.J.S.A. 40A:9-133(a); and

WHEREAS, Section 68-2 of the Municipal Code of the Borough of Middlesex permits the Mayor and Council, via ordinance or resolution, to award the Borough Clerk such compensation as the Mayor and Council deems appropriate; and

WHEREAS, in compensation for her declination of health benefits under the Borough's plan, and in consideration of her inability to accept the alternate remuneration as offered by the Borough, it is the desire of the Mayor and Council to grant McCarthy additional paid time off; and

WHEREAS, the Borough Clerk's office currently closes at 1:30 p.m. on Fridays between the Memorial Day holiday and Labor Day holiday; and

WHEREAS, in consideration of McCarthy's aforementioned declination of health benefits, and pursuant to the power specifically granted to the Mayor and Council in Section 68-2 of the Municipal Code, the Mayor and Council wish to extend these Friday hours for McCarthy for the entire year; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, does hereby authorize and permit the McCarthy to conclude her work day 1:30 p.m. on Fridays;

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 102-2019

APPROVAL TO ADVANCE PATROLMAN JAMES MORLEY TO PATROLMAN CLASS "C" EFFECTIVE APRIL 9, 2019

WHEREAS, Police Officer James Morley is eligible for advancement in grade pursuant to Article XV of the Police Department Ordinance; and

WHEREAS, On April 2, 2019 Chief Geist recommended Police Officer James Morley be advanced in grade.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that Police Officer James Morley be and is hereby advanced in grade to Patrolman Class "C" effective April 9, 2019 at an annual salary of \$92,677.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 103-2019

APPROVAL OF THE WAIVER OF A PERMIT FEE FOR H.C. PIERCE HOSE COMPANY

The governing body hereby approves waiving the Permit Fees for H.C. Pierce Hose Company for the replacement of their generator.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 104-2019

**AUTHORIZING THE MAYOR TO EXECUTE THE UTILITY ENGINEERING AND
CONSTRUCTION AGREEMENT BETWEEN THE STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION AND THE BOROUGH OF MIDDLESEX - Item
Removed from Consent**

The Governing Body hereby authorizes the Mayor and Borough Clerk to execute the Utility Engineering and Construction Agreement UECA-02-ADA Central Contract 3-154190 between the State of New Jersey Department of Transportation and the Borough of Middlesex. This Agreement is for the verification, design, protection and/or relocation of certain public works facilities in connection with the design and construction of the ADA Central Contract 3 Project for Route 1, Route 206, Route 28, Route 31 and I-78.

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Dan Parenti, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

NON-CONSENT AGENDA/RESOLUTIONS

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 105-2019

PAY ALL CLAIMS

THE DISBURSING OFFICERS BE AND THEY ARE HEREBY AUTHORIZED TO PAY THE ATTACHED CLAIM LIST AS PRESENTED, IF FOUND CORRECT, AND APPROVED BY THE FINANCE COMMITTEE. EXCLUDED VOUCHERS MAY BE PAID UPON BEING FOUND ACCEPTABLE.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 106-2019

EXECUTIVE SESSION

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

WHEREAS, the Governing Body of the Borough of Middlesex has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

WHEREAS, the regular meeting of this Governing Body will reconvene.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Middlesex will go into closed session for the following reason listed below as outlined in N.J.S.A. 10:4-12 and the minutes will be kept, and once the matter involving the confidentiality of the items no longer require confidentiality, the minutes can be made public.

1. Borough Administrator
2. Municipal Court Judge
3. Contract Negotiations with US Dept. of Energy

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

AGENDA WORKSHOP ITEM

1. Update on Zero Lot Line Ordinance No. 1925-17

Mayor DiMura gave an overview of the Zero Lot Line Ordinance and stated that since the ordinance was adopted he has been notified by property owners that their insurance companies were not willing to renew their insurance policy making it harder to refinance and sell their homes. Issues have also come before the Planning Board and this matter was directed to the Administrative Committee to meet with the Planning Board. Councilman Carr stated that his committee recommended that this ordinance go back to the Planning Board to review and work with the Zoning Officer to address issues. Attorney Corsini will work with the Planning Board Attorney, along with the Committee and Planning Board to come up with a document that can come before the Council to move forward.

2. Request from Student for Filming Project at Victor Crowell Park

A student from Montclair State University has requested he film at Victor Crowell Park. Attorney Corsini will speak with our JIF regarding possible Event Insurance from a liability standpoint. If this student fulfills all the requirements to film, a consensus of Council was reached to approve this filming.

3. Limousine Licenses

The Borough Clerk discussed that the borough does not have an ordinance that regulates limousine licenses and requested council's thoughts on adopting an ordinance. Council approved moving forward to have the Borough Attorney prepare an ordinance to be introduced at the April 23, 2019 Regular Meeting.

4. 911 Agreement with Robert Wood

Mayor DiMura indicated that this workshop item is not regarding doing away with the Rescue Squad, and although there is a concern with the Squad and the response to calls has reduced significantly, the mayor and council is willing to work with the squad, but we need to make sure people are protected and we have coverage and protect the residents of this borough.

Mayor DiMura read a letter from Chief Geist making a recommendation for the Mayor and Council to execute an Agreement to provide 9-1-1 Emergency Medical Telephone Screening Services for the Borough and outlined the advantages and savings of this service that is provided by Robert W. Johnson through Med Central. Council agreed to adopt a resolution at the April 23, 2019 Regular Meeting to execute this Agreement.

5. Rescue Task Force - Medical Director Appointment

Mayor DiMura stated in November, 2018 a Memorandum of Understanding was executed between the Police Department, Fire Department and the Borough Rescue Squad to provide response support to the Rescue Task Force for the Borough of Middlesex. Chief Geist is requesting that the governing body appoint Dr. Frank as the Medical Director for the Task Force. Council approved and a resolution will be done at the April 23, 2019 Regular Meeting.

6. Purchase of Property - 602 Seneca Avenue

Mayor DiMura received an email from Ursula Stender who is interested in purchasing the paper road abutting her property at 602 Seneca Avenue. A consensus of Council was taken to have the Mayor speak with the Tax Assessor to establish the value of the property in question and proceed with the transfer of this property.

PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS

EXECUTIVE SESSION

1. Borough Administrator
2. Municipal Court Judge
3. Contract Negotiations with US Dept. of Energy

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 107-2019

**APPOINTING MARCIA A. KARROW, 61 ELWOOD DRIVE, FLEMINGTON, NJ 08822,
BOROUGH ADMINISTRATOR OF THE BOROUGH OF MIDDLESEX PURSUANT TO
CHAPTER 68 OF THE BOROUGH'S CODE**

WHEREAS, the Mayor and Council of the Borough of Middlesex is desires to hire a Borough Administrator pursuant to N.J.S.A. 40A:9-138 and Chapter 68 of the Borough Code; and

WHEREAS, the Mayor and Council of the Borough of Middlesex is desires to hire a CRS Director; and

WHEREAS, the Mayor and Council of the Borough of Middlesex has conducted interviews for these position and have resolved to retain Marcia A. Karrow of 61 Elwood Drive, Flemington, NJ 08822 as Borough Administrator; and

WHEREAS, the Borough is in compliance with all applicable statutes, regulations and ordinances that are applicable to these positions;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, does hereby hire and retain Marcia A. Karrow of 61 Elwood Drive, Flemington, NJ 08822 as Borough Administrator and CRS Director for the Borough of Middlesex; and

BE IT FURTHER RESOLVED, that the Borough shall enter into a contract for services

with Marcia A. Karrow, to which the Mayor is authorized to execute on the Borough's behalf; and

BE IT FURTHER RESOLVED, the compensation for Marcia A. Karrow shall, consistent with the Agreement, be set as follows:

YEAR	BOROUGH ADMINISTRAT OR	CRS DIRECTOR	TOTAL COMPENSATIO N
4/15/19 - 4/14/20	\$95,000.00	\$5,000.00	\$100,000.00
4/15/20 - 4/14/21	\$99,750.00	\$5,250.00	\$105,000.00
4/15/21 - 4/14/22	\$104,737.50	\$5,512.50	\$110,250.00

; and

BE IT FURTHER RESOLVED, further terms of employment between the Borough and Karrow shall be dictated pursuant to the agreement between the parties.

RESULT:	ADOPTED [5 TO 0]
MOVER:	Kevin Dotey, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey, Mikolajczyk
ABSTAIN:	Parenti

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 108-2019

RESOLUTION OF THE BOROUGH OF MIDDLESEX AUTHORIZING MAYOR TO FILE APPLICATION WITH UNITED STATES DEPARTMENT OF ENERGY FOR EARLY TRANSFER OF PROPERTY AND LICENSE AGREEMENT IN CONNECTION WITH REAL PROPERTY LOCATED IN BLOCK 318, LOT 1.01 AND BLOCK 319, LOT 45, COMMONLY KNOWN AS THE MIDDLESEX SAMPLING PLANT PROPERTY

WHEREAS, the United States Department of Energy ("DOE") is the owner of real property designated as the Middlesex Sampling Plant ("MSP") and identified as Block 318, Lot 1.01 and Block 319, Lot 45 on the Municipal Tax Map, hereafter also referred to as the "Property"; and

WHEREAS, the Property is located at 239 Mountain Avenue and consists of

approximately 9.6 acres of vacant, undeveloped land; and

WHEREAS, pursuant to DOE's early transfer of property process, the Borough wishes to have the Property transferred to the Borough for use as the potential site of a new Department of Public Works facility and new public road; and

WHEREAS, in addition, the Borough wishes to request an access license agreement from DOE in order to improve access to a commercial redevelopment at the adjacent property, Block 318, Lots 38.01 and 48, which is located in the Lincoln Boulevard Redevelopment Area and currently a scrap metal facility; and

WHEREAS, the Borough wishes to authorize the Mayor file an application with the DOE for the aforementioned early transfer of property and license agreement; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, that the Mayor is hereby authorized to execute and file the attached application documents with the DOE, in substantially similar form attached hereto as Exhibit A; and

IT IS FURTHER RESOLVED that the Mayor and Borough professionals are hereby authorized and directed to take any action and to execute any documents as may be necessary to effectuate this Resolution.

EXHIBIT A

Gwendolyn Hooten
U.S. Department of Energy
Office of Legacy Management
CERCLA/RCRA/FUSRAP Team Lead
11035 Dover Street
Suite 600
Westminster, CO 80021
gwen.hooten@lm.doe.gov

Re: CERCLA Covenant Deferral Request and Proposed License Agreement
Middlesex Sampling Plant Site
Block 318, Lot 1.01 and Block 319, Lot 45
239 Mountain Avenue
Middlesex, New Jersey

Dear Ms. Hooten:

In connection with the contemplated transfer of the above-referenced property ("Property") from the United States Department of Energy ("DOE") to the Borough of Middlesex ("Borough"), enclosed please find a draft Covenant Deferral Request ("CDR") for DOE's review. This draft CDR would serve as the basis for DOE's request to the United States Environmental Protection Agency ("EPA") to find the Property suitable for transfer prior to completion of all necessary remedial action, and to therefore defer the deed covenant required under Section 120(h)(3)(A)(ii)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

Early transfer of the Property will result in significant benefits to the municipality and

the local community. The benefits include removing the current Department of Public Works ("DPW") facility from a residential area and will allow the Borough to build a new DPW facility with associated parking and an access road in an industrial part of town. The road will also provide the preferred means of access to the adjacent junkyard property that is currently being remediated under New Jersey requirements, which will be redeveloped into a warehouse distribution facility. Thus, early transfer will also help remove a blight from the community while also creating over one hundred and fifty local jobs and significant tax benefits to the Borough. A copy of the Conceptual Site Plan for the DPW facility and road is attached to the draft CDR as Figure 1. We also expect to provide DOE with a surveyed site plan that includes the locations of the groundwater monitoring wells at the Property in approximately one month. The proposed CDR contains all the necessary information to initiate the covenant deferral and transfer process. The proposed transfer supports DOE's mission in relation to the Middlesex Sampling Plant site while helping to remove the current DPW facility from a residential neighborhood and revitalize a blighted area (junkyard) of the Borough.

During discussions with DOE on the subject property, it was also agreed that pending the covenant deferral process and transfer of the property, DOE would grant a license to the Borough for use of a portion of the property in order to construct the new road and facilitate the redevelopment of the adjacent property. In accordance with those discussions, a proposed license agreement between the Borough and DOE to effectuate same is also enclosed for DOE's review and execution. The Borough requests that DOE provide any comments or response to the license agreement as soon as practicable.

Please review the enclosed documents, and contact us if you have any questions. Thank you.

LICENSE FOR ACCESS ROAD

THIS LICENSE FOR ACCESS ROAD ("License Agreement") is entered into as of _____, 2019, by and between:

THE UNITED STATES OF AMERICA DEPARTMENT OF ENERGY, a body politic, with a mailing address of _____ ("**Grantor**");
and

BOROUGH OF MIDDLESEX, with a mailing address of 1200 Mountain Avenue, Middlesex, New Jersey 08846 ("**Grantee**" or "**Borough**").

WITNESSETH:

WHEREAS, Grantor is the owner of certain property with an address of 239 Mountain Avenue in the Borough of Middlesex and commonly designated as Block 318, Lot 1.01 and Block 319, Lot 45 on the Tax Map of the Borough of Middlesex, New Jersey ("**Grantor's Property**"); and

WHEREAS, Grantee has designated a redeveloper to redevelop the adjacent property more particularly described on Schedule A (the "**Redevelopment Property**"); and

WHEREAS, Grantee has requested Grantor to grant to Grantee a License for the purposes set forth in Paragraph 2(a) through, over, upon, under, in, across and along the

portions of Grantor's Property as more fully described on Schedule "B" attached hereto and made a part hereof (the "**Access Road License Area**"); and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Grantee agree as follows:

1. Incorporation of Recitals. The recitals contained in this License Agreement are hereby incorporated herein by reference as a part of the substantive provisions of this License Agreement.

2. License

(a) Access Road License.

(i) Subject to the terms, conditions and provisions of this License Agreement, Grantor grants and conveys to Grantee, its successors and assigns, (i) the irrevocable, perpetual and exclusive right to construct, operate, use and maintain a roadway on and within the Access Road License Area and other similar improvements which are shown on the plans attached hereto as Schedule C ("**Access Road Improvements**") and (ii) the perpetual right of pedestrian and vehicular ingress and egress over and upon the Access Road License Area for access to the Redevelopment Property.

(b) Grantee acknowledges and agrees that under no circumstances shall the grant of the License, the use of the Access Road License Area, or any other term, condition or provision of this License Agreement give Grantee rights in and to any portion of Grantor's Property other than the Access Road License Area.

(c) Grantor acknowledges and agrees that the license and rights granted herein to Grantee may be further assigned or licensed by Grantee to a third party developer for the purposes set forth herein and on the same terms and conditions set forth herein. Grantor hereby agrees to acknowledge and agree to such further license by executing reasonable documentation effectuating same.

3. Grantee's Work and Work Standards.

(a) Except in an emergency (in which case Grantee shall provide such notice which is practicable), not less than ten (10) days prior to commencing any work to construct, repair and/or replace the Access Road Improvements within the Access Road License Area ("**Grantee's Work**"), Grantee shall provide Grantor with written notice of its intent to perform work.

(b) Grantee shall be obligated to obtain and maintain, at all times, at its sole cost and expense, all necessary and/or required permits, approvals, licenses and consents (collectively "**Approvals**") from all federal, state, county and other local governmental, quasi-governmental, public utility or administrative offices, authorities and agencies ("**Governmental Authorities**") in connection with Grantee's Work.

(c) Grantee hereby covenants and agrees that Grantee's Work shall be performed (i) at the sole cost and expense of Grantee, (ii) in a good and workmanlike manner and in accordance with good construction and good engineering practice, (iii) in

accordance with all Approvals and applicable laws, (iv) by only those contractors and subcontractors as have been, to the extent required by applicable laws, duly licensed in New Jersey by the authority having jurisdiction over the appropriate profession, all at Grantee's sole cost and expense, without any contribution by Grantor, and (v) so as not to unreasonably interfere with any work on Grantor's Property or the operation, use or occupancy of Grantor's Property.

(d) Grantee shall, at Grantee's sole cost and expense, repair, replace and/or restore any damage to Grantor's Property to substantially the same condition that existed prior to Grantee's Work, including without limitation, any groundwater monitoring wells, capped areas, grass areas and landscaping, if any.

(e) In the event that Grantee shall desire to perform maintenance on the Access Road License Area, Grantee shall comply with the terms, conditions, and provisions of this Section 3.

4. Construction Liens. If any construction lien and/or notice of unpaid balance (commonly known as a "construction lien") is filed with the Clerk of Middlesex County (or any other applicable governmental agency or office), Grantee shall cause it to be discharged, bonded or satisfied within thirty (30) business days of Grantee receiving notice of said lien.

5. Operation, Maintenance and Repairs.

(a) From and after completion of construction of the Access Road Improvements, Grantee shall be responsible, at its sole cost and expense and at all times, for maintaining, repairing and replacing the Access Road Improvements and/the grading and/or slopes within the Access Road License Area in good condition and in accordance with practices employed of similar Access Road Improvements and in accordance with all applicable laws.

(b) From and after completion of the construction of the Access Road Improvements, Grantee shall, at Grantee's sole cost and expense, maintain the Access Road License Area in good condition and repair, and Grantee shall be obligated to remove all snow and ice from the Access Road License Area, in accordance with all Borough ordinances.

(c) Grantee shall be responsible, at its sole cost and expense, to repair, replace and/or restore any damage to Grantor's Property resulting from the maintenance, repairs and use of the Access Road Improvements, grading and/or slopes and/or any use of the Access Road License Area, including, without limitation, any soil erosion.

Nothing shall prohibit Grantor from entering into an agreement with an independent contractor to provide for the maintenance otherwise to be provided by Grantee pursuant to the terms, conditions and provisions of this License Agreement.

6. Insurance.

(a) Grantee (i) shall carry commercial general liability insurance on an occurrence basis including contractual liability coverage (A) covering Grantee's indemnification obligations hereunder, (B) against claims for injuries to persons (including death) and damage to property, occasioned by, or arising from, the construction,

maintenance, existence, use and/or exercise of the License and (ii) shall furnish certificate(s) of such insurance to Grantor on or before the date on which any such insurance (or renewals thereof) shall become effective. Such insurance shall be maintained under a policy pursuant to which Grantor shall be named as an additional insured, or, alternatively, as a contractual insured.

(b) All of the insurance required to be maintained pursuant to this Section 7 shall be provided under a valid and enforceable policy of insurance issued by insurers licensed to do business or authorized to issue policies in the State of New Jersey and having a Best's rating of "A-VII" or better. The insurance required pursuant to this Section 7(b) in each case shall afford a combined single limit of liability for injury or death and property damage of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate.

7. Grantee Indemnification. Except to the extent caused by the negligence or willful misconduct of Grantor, Grantee shall and does hereby defend, indemnify, and hold harmless Grantor and its officers, directors, shareholders, partners, members, managers, employees and affiliates (collectively "**Grantor Indemnitees**") from and against any and all actual or potential claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, actions, causes of action and costs and expenses, including, without limitation, reasonable attorneys' fees and costs and court costs that arise out of or relate in any way to (a) the failure of Grantee to perform its obligations hereunder in accordance with the terms, conditions and provisions of this License Agreement and/or (b) the existence and/or use of the License. The terms, conditions and provisions of this Section 8 shall survive the termination and/or other expiration of this License Agreement for any reason.

8. Grantor Indemnification. Except to the extent caused by the negligence or willful misconduct of Grantee, Grantor shall and does hereby defend, indemnify, and hold harmless Grantor and its officers, directors, shareholders, partners, members, managers, employees and affiliates (collectively "**Grantee Indemnitees**") from and against any and all actual or potential claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, actions, causes of action and costs and expenses, including, without limitation, reasonable attorneys' fees and costs and court costs that arise out of or relate in any way to (a) the failure of Grantor to perform its obligations hereunder in accordance with the terms, conditions and provisions of this License Agreement and/or (b) the existence of any soil or groundwater contamination at the Grantor's Property. The terms, conditions and provisions of this Section 9 shall survive the termination and/or other expiration of this License Agreement for any reason.

9. Default; Legal Proceedings.

(a) Grantor or Grantee shall be in default ("**Default**") of this License Agreement if either party fails to duly observe or perform any material covenant, condition or agreement to be observed or performed by such party pursuant to the terms, conditions and provisions of this License Agreement. The non-defaulting party agrees to provide the defaulting party with written notice ("**Default Notice**") of such Default upon such non-defaulting party becoming aware of such Default. The defaulting party shall have twenty (20) days from the date of its receipt of said notice to cure the Default; provided, however, if the Default cannot reasonably be cured within said twenty (20) day period and the defaulting party has commenced the cure of the Default and is diligently pursuing such cure, the time

period to cure such Default shall be extended for up to an additional sixty (60) days so long as the defaulting party pursues the cure thereof in a diligent and continuous manner.

(b) In the event that the defaulting party shall have failed to cure any Default beyond all applicable cure periods, then the non-defaulting party may commence one or more legal proceedings against the defaulting party for a cure of such Default and to recover damages. If such a Default arises and the non-defaulting party commences such legal proceedings, the non-defaulting party shall be entitled to recover reasonable attorneys' fees and actual costs and out of pocket expenses if it prevails in such legal proceedings.

10. Forum. Each party to this License Agreement hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any federal court in the District of New Jersey, over any suit, action or proceeding arising out of or relating to this License Agreement. Grantor and Grantee hereby irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Grantor and Grantee hereby agree and consent that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any such state court, may be made by certified or registered mail, return receipt requested, directed to such party at its address for notice stated in Section 15 below and service so made shall be complete five (5) business days after the same shall have been so mailed.

11. Running With the Land; Successors and Assigns. The License and every other covenant, promise, undertaking, condition, right, privilege and restriction made, granted or assumed, as the case may be, by this License Agreement shall run with the land and shall be binding upon Grantor's Property and all current and future owners of Grantor's Property and inure to the benefit of Grantee, the Redevelopment Property and all current and future owners of the Redevelopment Property, as well as mortgagees and others who have rights and interests in and to Grantor's Property and the Redevelopment Property. In addition this License Agreement shall be for the use of the tenants, agents, employees, customers, licensees, guests and invitees of the Redevelopment Property and the general public, for pedestrian and vehicular access to the Redevelopment Property.

12. Captions. The captions of this License Agreement are inserted only as a matter of convenience and for reference. They do not define, limit or describe the scope or intent of this License Agreement, and they shall not affect the interpretation hereof.

13. Amendment. This License Agreement may be amended or otherwise modified only by a writing signed and acknowledged by Grantor and Grantee.

14. Notices. Every notice or other communication required or contemplated by this License Agreement by any party shall be in writing and shall be delivered by (i) postage prepaid, return receipt requested, registered or certified mail, or (ii) internationally recognized express courier, such as Federal Express, UPS or DHL, in each case addressed to the party for whom intended at the following address:

(i) If to Grantor:

(ii) If to Grantee:

Borough of Middlesex
1200 Mountain Avenue
Middlesex, New Jersey 08846

and

Borough Director of Law
Borough of Middlesex
1200 Mountain Avenue
Middlesex, New Jersey 08846

or at such other address as the intended recipient previously shall have designated by written notice to the other parties. Notice by registered or certified mail shall be effective on the date it is officially recorded as delivered to the intended recipient by return receipt or equivalent, and in the absence of such record of delivery, the effective date shall be presumed to have been the third (3rd) business day after it was deposited in the mail. All notices and other communications required or contemplated by this License Agreement to be delivered in person or sent by courier shall be deemed to have been delivered to and received by the addressee and shall be effective on the date of personal delivery. Notice not given in writing shall be effective only if acknowledged in writing by a duly authorized representative of the party to whom it was given.

15. Governing Law. This License Agreement has been made and entered into and shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to the conflicts of law or choice of law provisions thereof.

16. No Agency. This License Agreement shall not constitute an appointment of any of the parties hereto as the legal representative or agent of any other party hereto nor shall any party hereto have any right or authority to assume, create or incur in any manner any obligation or other liability of any kind, express or implied, against, or in the name or on behalf of, the other party hereto. Grantor and Grantee shall not, in any manner or for any purpose, be deemed to be a partner of the other in the conduct of their respective businesses, or otherwise, or a joint venturer or a member of a joint enterprise with the other.

17. Severability. In the event any provision of this License Agreement shall be determined to be invalid or unenforceable under applicable law, all other provisions of this License Agreement shall continue in full force and effect unless such invalidity or unenforceability causes substantial deviation from the underlying intent of the parties expressed in this License Agreement, or unless the invalid or unenforceable provisions comprise an integral part of, or are inseparable from, the remainder of this License Agreement. If this License Agreement continues in full force and effect as provided above, Grantor and Grantee shall replace the invalid provision with a valid provision which corresponds as far as possible to the spirit and purpose of the invalid provision.

18. Interpretation. This License Agreement, including any exhibits, schedules and amendments, has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this License Agreement. Grantor and Grantee have each been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this License Agreement against the party that has drafted it is not applicable and is waived. The provisions of this License Agreement shall be interpreted in a reasonable manner to affect the purposes of Grantor and Grantee and this License Agreement.

19. Consents. Whenever this License Agreement requires or permits consent by or on behalf of any party hereto, such consent shall not be unreasonably withheld and shall be given in writing.

20. Waivers. No delay or omission by Grantor or Grantee in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the terms, conditions, and provisions of this License Agreement by Grantee or Grantor shall be construed to be a waiver thereof. A waiver by Grantor or Grantee of any of the obligations of Grantee or Grantor shall not be construed to be a waiver of any subsequent breach of such obligation or a waiver of any breach of any other terms, covenants or conditions of this License Agreement.

21. Estoppels. The parties agree from time to time upon not less than ten (10) days' prior written request, to execute, acknowledge and deliver a statement, in writing and in form reasonably requested, certifying that this License is unmodified and in full force and effect (or if there have been modifications, stating the modifications and that the same is in full force and effect as modified), and the existence (or absence) of any defaults by any party, it being intended that any such statement delivered pursuant to this Section may be relied upon by third parties, as applicable to the transaction for which such statement is requested.

22. Counterparts; Delivery of Signatures. This License Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument. This License Agreement may be signed by the respective parties on separate pages, and may be delivered on separate signature pages intended to be attached to the License Agreement, and when the signatures of all parties are attached the License Agreement will be deemed fully executed. Signatures may be delivered by facsimile or other electronic transmission. Any party delivering a signature by facsimile or other electronic transmission (i) agrees that any signature so delivered shall be deemed an original signature for all purposes, (ii) acknowledges awareness of the fact that other parties to this License Agreement, and third parties who may examine this License Agreement, including, without limitation, a court or arbitrator, will rely on such signature and (iii) hereby waives any defenses to the enforcement of the terms of this License Agreement based the form or delivery of such signature.

23. Recording. This Agreement shall be recorded with the Clerk of Middlesex County.

IN WITNESS WHEREOF, the parties hereto have set, executed, or caused their duly authorized representatives to execute this License as of the day and year first written above.

INTRODUCTION

The U.S. Department of Energy ("DOE") is proposing to transfer land designated as the Middlesex Sampling Plant ("MSP") and identified as Block 318, Lot 1.01 and Block 319, Lot 45 on the Municipal Tax Map, hereafter also referred to as the "Property," in Middlesex, New Jersey, by deed to the Borough of Middlesex (the "Borough"), and is submitting this Covenant Deferral Request ("CDR") pursuant to Section 120(h)(3)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, and applicable U.S. Environmental Protection Agency ("EPA") guidance. The MSP was first used by the Manhattan Engineering District to sample, store, test and transfer uranium, thorium, and beryllium ores. The U.S. Atomic Commission then used the site as an intermediate shipment point for uranium bars, and then for the storage and limited sampling of thorium residues. The MSP was placed on the National Priorities List ("NPL") in 1999. Environmental investigation and cleanup activities are continuing at the MSP in accordance with CERCLA, the National Contingency Plan ("NCP"), and the Federal Facility Agreement ("FFA"). The FFA was entered into by the DOE (Office of Legacy Management), EPA Region 2, and the United States Army Corps of Engineers ("USACE") in September 2009.

The Property is approximately 9.6 acres and consists of vacant, undeveloped land. The Property is proposed to be transferred to the Borough for use as the potential site of a new Department of Public Works ("DPW") facility and new public road. The road will also serve the purpose of improving access to a commercial redevelopment at the adjacent property, Block 318, Lots 38.01 and 48, which is currently a scrap metal facility (hereinafter referred to as the "Absolute Auto Site").

The response action with respect to soils at the MSP was certified as complete in 2010, and resulted in the excavation of over 40,000 cubic yards of soil. This response action met the CERCLA acceptable risk range for unrestricted future use. Although the soil excavation removed the major source of groundwater contamination at the Property, residual groundwater contamination remains that requires further response action. Once a final Record of Decision is issued for the groundwater Operating Unit after the transfer of property occurs, the USACE will implement the selected response action.

The DOE continues to be responsible for contamination that is present on the Property at the time of transfer and discovered after the date of transfer, if any. The deed transferring the Property contains various restrictions and prohibitions on the use of the Property. These restrictions and prohibitions, including a prohibition against residential use of the property and against the use of ground water at the Property, described in detail herein, are designed to ensure protection of human health and the environment.

CERCLA requires that when the Federal government transfers property where hazardous substances have been stored for one year or more, released, or disposed of, the deed must contain two covenants warranting that: (1) all remedial actions necessary to protect human health and the environment from hazardous substances remaining on the property have been taken before the date of the property transfer, CERCLA § 120(h)(3)(A)(ii)(I)]; and (2) any additional remedial action found to be necessary after the date of the property transfer shall be conducted by the United States, CERCLA § 120(h)(3)(A)(ii)(II)]. Although the deed will contain the second covenant, the property is proposed to be transferred before all necessary remedial actions are taken. In certain circumstances, EPA, with concurrence of the Governor of the State in which the facility is located, may defer the covenant set forth in

CERCLA § 120(h)(3)(A)(ii)(I) warranting all remedial actions necessary to protect human health and the environment have been taken, if EPA determines that the property is suitable for transfer based upon the following findings:

1. The property is suitable for transfer for the use intended by the transferee, and such use is consistent with protection of human health and the environment;
2. The deed proposed to govern the transfer between the United States and the grantee of the property contains the Response Action Assurances described in §120(h)(3)(C)(ii) of CERCLA with regard to a release, or threatened release, of a hazardous substance for which the Federal agency is potentially responsible;
3. The Federal agency requesting deferral has provided notice by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer and of the opportunity for the public to submit, within a period of not less than 30 days after the date of notice, written comments on the suitability of the property for transfer; and
4. The deferral and the transfer of property will not substantially delay any necessary response action at the property.

These findings are intended to ensure that there is a sound basis for the proposed transfer because the intended reuse of the property does not pose an unacceptable risk to human health or the environment. As stated in CERCLA § 120(h)(3)(C)(iv), all statutory obligations required of, and rights granted to, a Federal agency remain the same, regardless of whether the property is transferred subject to a covenant deferral.

DOE hereby requests that EPA Region 2 determine, with the concurrence of the Governor of the State of New Jersey, that the Property is suitable for transfer and that CERCLA § 120(h)(3)(A)(ii)(I) covenant be deferred. The deferral is necessary because a final remedial action has not been completed for groundwater. Once the deferral request is granted, DOE will proceed to convey the Property while DOE continues to complete all necessary groundwater remediation at the MSP in accordance with CERCLA, the NCP, and the FFA. In accordance with CERCLA §120(h)(3)(B), which provides that the covenant requirements do not pertain to the transfer of property to a Potentially Responsible Party, as that phrase is defined under CERCLA, this CDR pertains solely to the transfer of this Property, or any portion thereof, to a non-Potentially Responsible Party. The Borough is not a Potentially Responsible Party.

1.0 Property Description

The MSP Property is located at 239 Mountain Avenue in the Borough, and consists of approximately 9.6 acres. In October 1943, the Manhattan Engineering District ("MED") began utilizing the Property to sample, store, test and transfer ores containing uranium, thorium, and beryllium, and those operations continued under the U.S. Atomic Energy Commission after the MED was deactivated in 1946. During 1951 and 1952, the MSP was used as an intermediate shipment point for uranium bars sent off-site for experimental machining into slugs. Scraps from this operation were returned to the MSP for shipment to a uranium recovery processor. Atomic Energy Commission ceased most operations at the MSP in 1955, although the Property continued to be used for storage and limited sampling of thorium residues. All activities were terminated in 1967. Over the years that the MSP was

utilized, the buildings, grounds, and adjacent parcels became contaminated predominantly with radium and uranium. The Property was added to the NPL in 1999.

The MSP is bordered to the east by residential and commercial properties, to the north and west by a railroad right-of-way and the Absolute Auto Site, and to the south by a small parcel of vacant land. Currently, the MSP consists of vacant, undeveloped land covered with grass that is zoned for industrial use. The Property is also fenced and public access is restricted.

2.0 Nature and Extent of Contamination

The USACE addressed the contamination at the Property under two Operable Units ("OU"): OU1 for soil and OU2 for groundwater, sediment, and surface water. The USACE determined that impacts to the site sediments and surface water do not pose unacceptable risks, and do not require further evaluation or remediation. Thus, the discussion of OU2 addresses groundwater only.

2.1 Soil Contamination

Based on the remedial investigation of OU1, soils throughout MSP were contaminated with semi-volatile organic compounds ("SVOC"), metals, and radionuclides. A summary of the soil contaminants of concern are set forth in Table 1. Radiological contamination was widespread at average levels within an order of magnitude of background concentrations. The EPA selected a remedy for OU1 that involved excavation of contaminated soil and debris, backfilling with clean soil, and off-site disposal at a licensed or permitted facility. This remedy met the CERCLA acceptable risk range for unrestricted future site use because all contaminants of concern were remediated to their respective soil remediation standards. Thus, no institutional or engineering controls were required, and there is no need for the EPA to conduct any five-year reviews. A total of 41,244 cubic yards of contaminated material was excavated from the MSP and shipped to an offsite disposal facility, in addition to 4,454 cubic yards of non-radiological chemically impacted waste. The excavated soil was also dewatered, resulting in the removal and treatment of approximately 1.5 million gallons of water. The EPA issued a Closure Certification for Soils in connection with OU1 on September 21, 2010.

2.2 Groundwater Contamination

The USACE completed its Groundwater Operable Unit Remedial Investigation Report for the MSP in 2005. It also conducted a groundwater investigation in 2004 to delineate contamination off-site. In order to further delineate bedrock groundwater contamination, the USACE also conducted a supplemental bedrock investigation between 2010 and 2016 that involved thirty additional bedrock wells. Contaminants of concern include radionuclides (primarily total uranium) and volatile organic compounds ("VOCs") (including carbon tetrachloride, trichloroethene ("TCE"), and chloroform). SVOCs were previously detected in groundwater but have not been detected since 2001 and are not considered a contaminant of potential concern for the MSP.

Following completion of the soil excavation, groundwater samples evaluating the primary radionuclide of concern, total uranium, indicated that the removal action for the soils OU greatly improved the MSP groundwater quality for radionuclides. Prior to the OU1 Soils Removal Action, total uranium concentrations exceeded the maximum contaminant level

criteria by a factor of 10. Subsequent to the removal action, total uranium exceedances have been limited to four wells, with results marginally above the EPA's maximum contaminant level and New Jersey Department of Environmental Protection's ("NJDEP") Groundwater Quality Standards, where available. No exceedances were detected in the most recent 2014 and 2015 sampling events. See Figure 2. Although the soil remedy successfully removed the major source of groundwater contamination and no further contaminant migration into ground water is expected, residual levels of groundwater contamination remain with respect to radionuclides and VOCs.

3.0 Analysis of Intended Land Use During the Deferral Period

As discussed above, the Property is currently vacant, undeveloped land covered with grass and zoned for Industrial use by the Borough Planning Commission. The industrial-zoned area is surrounded by a Heavy Industrial zone approximately 3,000 feet to the west, Commercial/Light Manufacturing/Whole zone 200 feet to the north, and Attached Residential Cluster 2,100 feet to the east.

During the deferral period, the Borough plans to build an access road and approximately 18,000-square foot DPW facility, which will include slab on grade, consisting of 10-inch reinforced concrete slab and footings on the Property. The associated parking facilities for the new DPW building and new road will also be built on grade, with minimal grading, if any. The DPW facility and access road, which will cover approximately two acres, will be constructed on the southern portion of the MSP Property. A Conceptual Site Plan for the DPW facility and road is attached as Figure 1. The new road that is planned is also, due to logistical and load reasons, the preferred means of access to the proposed warehouse that will be developed at the adjacent Absolute Auto Site, which is currently a contaminated scrapyard that is being remediated under the NJDEP's Site Remediation Program.

There are no exposure scenarios present at the MSP site with respect to soils in light of the completion of the soil remedy, which allows for unrestricted use of the Property. Groundwater presents some limited exposure, however, groundwater at the site is not used for drinking water or for any other purpose, and a public water supply is available to residents and industries. Moreover, the Property will have a Classification Exception Area ("CEA") established to prevent consumption or use of the groundwater. Risk assessments were previously performed to determine whether the Property is acceptable for residential and commercial/industrial use. The results of those risk assessments are presented in Section 4.0 below.

3.1 Significant Benefits of MSP Early Transfer

The early transfer of the Property offers significant benefits to the municipality and the local community. Specifically, the Borough will be able to use a portion of the Property for critical municipal functions through the construction of a new DPW facility. The current DPW facility will be demolished and will no longer be located in a residential area of the Borough. In addition, the construction of a new access road on the Property will allow for the redevelopment and expeditious cleanup of the adjacent Absolute Auto Site. Rather than continuing as a blighted junkyard, the adjacent property will be transformed into a remediated site containing a new state-of-the-art warehouse distribution facility that will promote economic growth by creating over one hundred and fifty jobs in the area. That

redevelopment will also increase the tax ratables, resulting in significant tax benefits for the Borough. Without the Early Transfer of the MSP Property; the construction of a new DPW facility and access road and the proposed warehouse distribution facility, which has the potential to transform the area, will not come to fruition.

4.0 Risk Assessment Results

The EPA generally considers risk to be the likelihood of harmful effects to human health or to ecological systems resulting from exposure to an environmental stressor such as contamination. For carcinogenic health effects, the EPA guidelines for acceptable exposures establish a reasonable maximum individual lifetime excess cancer risk in the range of 1×10^{-6} (which indicates a probability of a 1 in 1,000,000 chance of developing cancer) to 1×10^{-4} (which indicates a probability of a 1 in 10,000 chance of developing cancer, or the upper end of EPA's acceptable risk range). For non-carcinogenic health effects, the EPA requires calculation of a Hazard Index (HI), which represents the sum of individual exposure levels compared to their corresponding reference doses (RfDs).

The USACE performed a Baseline Human Health Risk Assessment ("HHRA") in 2005 as part of the Groundwater OU RI, and evaluated risks from contaminants identified in groundwater onsite. Although the Baseline HHRA addressed hypothetical future residential exposure at the site and is thus a higher exposure use compared to the future intended use of the Property (Industrial), the results of that assessment are summarized below. Note, also, that the Baseline HHRA was conducted prior to the soil remedial action, and concentrations of uranium have decreased significantly.

The potential cancer risk associated with groundwater use by a hypothetical future on-site resident was determined to be approximately 1×10^{-4} for a site-wide average concentration, which is equal to the upper limit of EPA's acceptable risk range. Based on the cancer risks and health hazards calculated, the USACE identified the following contaminants of concern as significant contaminants in the Baseline HHRA: total uranium (as a toxic metal), uranium-238 and uranium-234 (as radiological contaminants), and carbon tetrachloride.

The USACE also prepared a Supplemental HHRA for the MSP in 2017, and evaluated the risks associated specifically with VOCs to hypothetical future on-site workers and hypothetical future off-site residential receptors. The USACE identified carbon tetrachloride, TCE, and chloroform as significant contaminants. Groundwater sample results for the two most recent sampling events (2014 and 2015) within the core of the plume were used for the risk assessment.

For an adult worker's exposure to groundwater, the reasonable maximum exposure cancer risk, which is the highest exposure that is reasonably expected to occur, was calculated to be 1.4×10^{-3} and thus exceeded the EPA's acceptable risk range. The USACE concluded that this risk was driven by carbon tetrachloride. The central tendency exposure cancer risk, which is the median risk, was calculated to be 9.0×10^{-5} and within the acceptable risk range.

Although risks are typically expressed as a total of all contaminants for a particular pathway and receptors, the risks from the Baseline and Supplemental HRRAs were not added because the receptor populations (hypothetical future on-site residential receptor for the Baseline HHRA and hypothetical future on-site worker for the Supplemental HHRA) differed.

Low levels of VOCs have been found and could be impacting groundwater conditions at the MSP. The USACE indicated that it will address VOC contamination in consideration of the future redevelopment of the site consistent with industrial use. The results of the Supplemental HRRA indicate that remedial action would be warranted with respect to VOCs in groundwater, and any remedy implemented at the site will account for those risks and the future redevelopment and use of the site.

The USACE also performed a Screening Level Ecological Risk Assessment in 2005, and concluded that no ecological impacts from contaminants in surface water and sediment were likely. No sensitive habitats were identified onsite, and current and potential future land use made it unlikely that the area would be a significant ecological habitat.

4.1 Vapor Intrusion Pathway Evaluation

USACE also evaluated whether a vapor intrusion pathway existed onsite with respect to VOCs. There is no source of VOCs in site unsaturated soils on the Property that could produce vapors since all soils were removed during the OU1 Removal Action and backfilled using clean soil. Thus, this potential pathway does not exist and will not exist in the future.

Due to elevated levels of VOCs detected in the bedrock aquifer, the USACE indicated that groundwater at the MSP is a potential source of vapor intrusion. Potential future receptors include any workers who may be present if the Property is redeveloped. In addition, the USACE determined that current potential receptors exist due to the presence of residential, commercial and industrial buildings within 200 feet of the Property.

Notwithstanding the above, the USACE concluded that there is no groundwater pathway for vapor intrusion into indoor air due to the presence of a clean water lens and low-permeability bedrock. Specifically, the saturated overburden unit, with an average thickness of three to five feet, meets the criteria for a clean water lens pursuant to the NJDEP's Vapor Intrusion Guidance (NJDEP, 2013). This lens provides a barrier through which VOCs cannot migrate to unsaturated soils above. In addition, low-permeability bedrock overlays the VOC-contaminated bedrock bedding planes, also inhibiting the potential upward migration of vapors. The USACE has found that these conditions render potential human health risk not to exist.

5.0 Response/Corrective Action and Operation and Maintenance Requirements

As discussed above, the unrestricted use response action for Soils OU1 was certified to be completed in 2010, and involving excavation of contaminated soil and backfilling with clean soil. The USACE prepared a Final Feasibility Study Report for Groundwater OU2 in October 2017 ("Feasibility Study"), attached hereto as Attachment A, and developed the following four alternative response actions for groundwater:

- Alternative 1 - No Further Action
- Alternative 2 - Monitored Natural Attenuation and Land Use Controls
- Alternative 3 - Treatment with In Situ Chemical Reduction, Monitored Natural Attenuation, and Land Use Controls
- Alternative 4 - Pump and Treat, Monitored Natural Attenuation, and Land Use Controls

The USACE is currently preparing a draft Remedial Action Plan for submission to EPA, with a recommendation for the remedy. The United States plans to address the groundwater plume at the Property to ensure protection of human health and the environment. Since the Property will be developed with a DPW facility and road following transfer, the objective will be to select a remedy that protects future workers.

The final remedy will be selected through the CERCLA Record of Decision process. Any measures that would be planned to address groundwater contamination are not expected to impact the Property. If there are any such impacts, they will be mitigated through the appropriate health and safety measures. In order to ensure the protection of human health by preventing exposure to contaminants present in the groundwater, the deed for the Property, as discussed below, will also prohibit the consumption or use, in any way, of the groundwater. The deed will also include a provision requiring compliance with applicable Federal, State, and local laws with respect to any development of the Property. Although there are no vapor intrusion pathways present at the Property, any new buildings or structures built on the Property will be designed and constructed with vapor mitigation systems to eliminate potential exposure of workers to VOC vapors.

6.0 Covenants of Deed/Transfer Agreement

This section includes the Deed clauses and/or exhibits required for EPA to evaluate whether the Property is suitable for transfer under an industrial land use risk scenario. The following items are included:

- a. Notice - A copy of the notice as required by CERCLA Section 120(h)(1) and (3) and in accordance with regulations set forth at 40 Code of Federal Regulations (CFR) Part 373;
- b. Covenant - A copy of the covenant warranting that any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States as required by CERCLA Section 120(h)(3)(A)(ii)(II);
- c. Access - A copy of the clause that reserves the United States access to the property in any case in which an investigation, response, or corrective action is found to be necessary after the date of transfer as required by CERCLA Section 120(h)(3)(A)(iii); and
- d. Response Actions Assurances - A copy of the response action assurances that must be included in the deed or other agreement proposed to govern the transfer as required under CERCLA Section 120(h)(3)(C)(ii).

6.1 Summary of Deed

The Quitclaim Deed for the Property will include various prohibitions and restrictions intended to ensure that the proposed transfer is protective of human health and the environment. The deed will prohibit the use of the Property in a manner inconsistent with the land use assumptions of industrial use. In addition, the deed will specifically prohibit residential use, which includes residential housing, schools, or any child care facility or childrens' playground. To ensure the protection of human health from exposure to contaminants in the MSP groundwater, the deed will bar the grantee from consuming or using, in any way, the groundwater underlying the Property. In addition to restrictions in the

deed, a CEA will be established under NJDEP regulations to the extent contaminants of concern remain above applicable NJDEP groundwater quality standards. Although information to date indicates that there are no vapor intrusion pathways at the Property, as a conservative measure the deed will nonetheless require that any buildings newly constructed on the Property, which are intended to be occupied by workers eight hours or more per scheduled work day or by public visitors, will be designed and constructed to minimize exposure to VOC vapors. Finally, the deed will require compliance with all applicable Federal, State, and local laws and regulations with respect to any development on the Property.

6.2 Pertinent Excerpts from the Draft Quitclaim Deed

- THIS QUITCLAIM DEED, made between the UNITED STATES OF AMERICA, its successors, transferees and assignees, hereinafter referred to collectively as the GRANTOR, acting by and through the Secretary of the Department of Energy, under and pursuant to the powers and authority contained in Section 161g of the Atomic Energy Act of 1954, as amended (42 United States Code [U.S.C.] § 2201(g)), and the GRANTEE. The GRANTOR and GRANTEE have agreed that in order to assure enforceability of land use restrictions, this Quitclaim Deed, including all of its exhibits, shall serve as a Deed Notice pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-7, having all the effectiveness and enforceability of such Notice. By acceptance of this Quitclaim Deed or any rights hereunder, the GRANTEE, for itself, its successors and assignees forever, agrees that the transfer of all the Property transferred by this Deed is accepted subject to all terms, obligations, restrictions, reservations, covenants and conditions set forth in this Quitclaim Deed and all exhibits hereto, and that these terms, obligations, restrictions, reservations, covenants and conditions shall run with the land.
- It is the intent of the GRANTEE to utilize the property conveyed herein for purposes consistent with municipal use and objective of economic development for the community. All activities and development of the real property by the GRANTEE shall be consistent with the requirements contained within Exhibit X to this Quitclaim Deed.
- The GRANTEE shall comply with all applicable Federal, State, and local laws and regulations with respect to any present or future development of the property herein conveyed.
- All structures, facilities, and improvements requiring a water supply shall be required to be connected to an appropriate regulatory approved water system for any and all usage. GRANTEE covenants not to extract, consume, expose, or use in any way the groundwater underlying the property or water from any streams or ponds located on the property without the prior written approval of the GRANTOR, the United States Environmental Protection Agency and the United States Army Corps of Engineers.
- The GRANTEE covenants and agrees that any buildings intended to be occupied by workers eight hours or more per scheduled work day or by public visitors will be designed and constructed to include a vapor mitigation system to minimize exposure to volatile organic contaminant vapors.

- The GRANTOR acknowledges that the MSP has been identified as a National Priorities List Site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The GRANTEE acknowledges that the GRANTOR has provided it with a copy of the Middlesex Sampling Plant Federal Facility Agreement (FFA), effective on September 30, 2009, and relevant amendments entered into by the GRANTOR, Region 2 of the United States Environmental Protection Agency, and the United States Army Corps of Engineers. The GRANTEE agrees that should any conflict arise between the terms of such agreement as it presently exists or may be amended and the terms of this Quitclaim Deed, the terms of the FFA will take precedence.
- An Addendum addressing requirements of Section 120(h)(3), including response action assurances and use restrictions, is attached as Exhibit X and is made a part of this Quitclaim Deed and all provisions of that Addendum are fully incorporated herein.

EXHIBIT X
ADDENDUM TO QUITCLAIM DEED

CERCLA SECTION 120(H) REQUIREMENTS AND ASSURANCES

- A. In accordance with CERCLA Section 120(h)(1) and (3) and 40 CFR Part 373, GRANTOR provides notice that a contaminated groundwater plume has been identified at and emanating from the Property. Trichloroethene (TCE), carbon tetrachloride, total uranium (as a metal), chloroform, U-238, and U-234, and [supplement as needed with complete list of contaminants] have historically been detected above comparison criteria in the ground water at the Property. The presence of those constituents in groundwater is considered a release of hazardous substances. The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund"), 42 U.S.C. section 9620(h).
- B. The GRANTOR warrants that any additional response action found to be necessary after the date of transfer for contamination on the Property existing prior to the date of this transfer will be conducted by the United States. The obligation of the United States under this warranty will be limited to the extent that a response action is required by an act or omission of any GRANTEE which either a) introduces new contamination or b) increases the cost or scope of the required response action by negligently managing any contamination present on the Property at the time of the initial transfer by the United States.
- C. The GRANTOR reserves a right of access to all portions of the Property for environmental investigation, remediation, or other corrective action. In the event the GRANTOR must access the Property, the GRANTOR must provide notice to and coordinate access with the GRANTEE, or its successors, and any authorized occupants of the Property. Any such entry, including such activities, responses, or remedial actions, shall be coordinated with the GRANTEE or its successors,

assignees, and tenants and shall be performed in a manner which minimizes, to the extent practicable, interruption with the GRANTEE's activities on the Property. The GRANTOR's right to access the Property shall be exercisable in any case in which a response action or corrective action is found to be necessary by the GRANTOR, or applicable regulatory authority, after the date of conveyance of the Property, or in which the GRANTOR determines access is necessary to carry out a response action or corrective action on adjoining property. Pursuant to this reservation, the United States and its officers, agents, employees, contractors, and subcontractors shall have the right (upon reasonable notice to and coordination with the GRANTEE or the then-owner and any authorized occupant of the Property) at the direction of the GRANTOR to enter upon the Property and (1) conduct investigations and surveys, including but not limited to, sample collection, drilling, data and record compilation, and other activities related to environmental investigation; and (2) to carry out any other response and/or corrective actions as required or necessary under CERCLA and other applicable authorities, including but not limited to installation and operation of groundwater monitoring and/or restoration wells, and any treatment of hazardous substances or materials required under CERCLA and other applicable authorities.

- D. The GRANTEE covenants that the Property shall not be used or developed in a manner inconsistent with the land use assumptions of industrial use contained in any approved applicable Record of Decision. The GRANTEE covenants that it will not at any time cause or allow any portion of the Property to be used for any residential housing, any elementary or secondary school, or any child care facility or childrens' playground.
- E. The GRANTEE covenants that it will not inhibit or hinder the GRANTOR from required remedial investigations, response actions, or oversight activities including, but not limited to, properly constructing, upgrading, operating, maintaining, and monitoring any groundwater treatment facilities or groundwater monitoring on the Property or adjoining property. Further, the GRANTEE covenants that it will not tamper with or willfully destroy any monitoring wells or other monitoring or remediation systems that may be located in the vicinity of the Property.
- F. The GRANTOR will take all necessary action to remediate the groundwater contamination at the Middlesex Sampling Plant. The schedule for completion of the remedial action activities is set forth in the following milestones which are subject to adjustment through amendment pursuant to the FFA:

Final Record of Decision for Groundwater OU2 - projected 20XX
Completion of Remedial Action - TBD

- G. The GRANTOR shall submit on an annual basis, through established channels, appropriate budget requests to the Director of the Office of Management and Budget that adequately address those agreed upon schedules for investigation and completion of all necessary response actions required by the Federal Facility Agreement (FFA) until such time that all necessary remedial action has been taken. The actual amount available for such activities is subject to congressional authorizations and appropriations.
- H. When all response actions necessary to protect human health and the environment with respect to any substance remaining on the Property on the date of transfer have

been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such response actions have been taken.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Madden, Rex, Carr, Parenti, Dotey, Mikolajczyk

ADJOURNMENT

The next Regular Meeting will be April 23, 2019

Respectfully yours,

Borough Clerk