

**AGENDA OF THE REGULAR MEETING
OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF UPPER SADDLE RIVER
MARCH 4, 2021 8:00 p.m.**

Meeting held via Zoom
ZOOM SIGN ON INFORMATION
Computer: Link:
<https://zoom.us/j/842319706>
Meeting ID: **842-319-706**
Phone: 1-669-900-6833 or
1-877-853-5247
Then dial meeting ID (842-319-706) followed by #, then #, #9 to raise hand.

**Moment of Silence: In Memory of Fire Chief Larry Rauch
In Memory of Senator Gerald Cardinale**

Pledge of Allegiance

Pursuant to the Open Sunshine Act P. L. 1975, c 231, proper notice of this meeting has been provided by submitting appropriate notice to the Ridgewood News and The Record on December 15, 2020 by email which the time, place and purpose of the meeting was set forth.

❖ Proclamation: Celebrate "Read Across America" and "Read Across America-NJ" beginning March 2, 2021.

Rule 1. Roll Call:

- Mayor Minichetti
- Ms. DeFuccio
- Mr. DiMartino
- Mr. Ditkoff
- Mr. Durante
- Ms. Florio
- Mr. Rotella

Rule 2. Approval of Minutes

- February 4, 2021 Executive, Closed and Regular Meetings **Roll Call:**

Rule 3. Borough Reports

Borough Clerk's Report:

- | | |
|-------------------------|----------------------------------|
| Police | Department of Public Works |
| Fire | Ambulance Corps |
| Library | Planning Board |
| Recreation Commission | Historic Preservation Commission |
| Environmental Committee | Shade Tree Commission |
| Youth Guidance Council | |

Borough Official's Report:

- Borough Attorney
- Borough Engineer
- Construction Code Official

Other Boards & Commissions:

- Municipal Court

Rule 4. Communications, Petitions and Bills:

Motion to Pay Bills:

Roll Call:

Rule 5. Unfinished Business

Rule 6. New Business

Consent Agenda: All items listed with an asterisk (*) are considered to be routine and non-controversial by the Council and shall be so approved. There will be no separate discussion of these items unless a Council member or citizen so requests, in which case the item will be considered in its normal sequence.

Motion to Open to the Public for Consent Agenda Items Only:

- *1. Resolution #55-21: Retroactive Appointment of Firefighter Akira Yamaki
- *2. Resolution #56-21 NBCUA Shared Services Sanitary Sewer Jetting (2021 & 2022)
- *3. Resolution #57-21: NBCUA Shared Services TV Inspection (2021 & 2022)
- *4. Resolution #58-21: Tax Appeal Settlement Blk. 810 Lot 7.10
- *5. Resolution #59-21: Property Tax Overpayment Refund Blk. 1224 Lot 14
- *6. Resolution #60-21: 2021 Temporary Budget
- *7. Resolution #61-21: Transfer of Funds \$11,500
- *8. Resolution #62-21: Purchase of Three DPW Trucks with State Contract
- *9. Resolution #63-21: Document Approval/Affordable - Housing Blk. 1002 Lot 4.02
- *10. Resolution #64-21: Marijuana Legislation
- *11. Resolution #65-21: Return of Escrow
- *12. Resolution #66-21: Sale of DPW Property on Govdeals
- *13. Resolution #67-21: Tricon Enterprises, Inc. - Breach of Contract
- *14. Resolution #68-21: Tax Appeal Settlement Blk. 1205 Lot 2
- *15. Resolution #69-21: Tax Appeal Settlement Blk. 1225 Lot 20
- *16. Resolution #70-21: Tax Appeal Settlement Blk. 1203 Lot 14.09

Motion to Approve Consent Agenda Items:

Roll Call:

***Introduction of Ordinance # 03-21**

BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE ONE LAKE STREET PARK ATHLETIC COMPLEX PROJECT IN, BY AND FOR THE BOROUGH OF UPPER SADDLE RIVER, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$5,500,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

Roll Call:

***Motion to Appoint Connor Sherlock to the Shade Tree Commission for a term to expire on December 31, 2021**

***Motion to approve Raffle License # 404 – Saddle River Valley Junior Woman’s Club**

Rule 7. Public Comment

Rule 8. Adjournment

*****Agenda subject to change***

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #55-21
March 4, 2021**

**Resolution Approving a Retroactive Appointment of a Firefighter to the
Upper Saddle River Fire Department**

WHEREAS, Section 3-51 of the Borough Code establishes the Upper Saddle River Fire Department; and

WHEREAS, Section 3-52C requires that a person seeking to join the Fire Department be approved for membership by the members of the Department; and

WHEREAS, the minutes of the Upper Saddle River Department dated December 4, 2008 reflect that **Akira Yamaki** was approved by the Department as required by the aforesaid Section.

NOW THEREFORE BE IT RESOLVED that **Akira Yamaki** is confirmed as a member of the Fire Department retroactive to December 4, 2008; and

BE IT FURTHER RESOLVED that a copy of the within resolution shall be forwarded to the Upper Saddle River Fire Department.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #56-21
March 4, 2021**

**Resolution Authorizing Shared Services Agreement with NBCUA
for Sanitary Sewer Jetting Services**

WHEREAS, the Uniform Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1, et seq.* permits any local unit to enter into an agreement with any other local unit to receive services if each local unit is empowered to provide or receive within its own jurisdiction; and

WHEREAS, the Borough of Upper Saddle River (“Borough”) and Northwest Bergen County Utilities Authority (“NBCUA”) wish to enter into an agreement whereby NBCUA will provide to the Borough sanitary sewer jetting services for the years 2021 and 2022; and

WHEREAS, a Shared Services Agreement has been prepared in connection with such service.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that Mayor Joanne L. Minichetti and Borough Clerk Joy Convertini be and are hereby authorized to execute the Shared Services Agreement on behalf of the Borough.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #57-21
March 4, 2021

Resolution Authorizing Shared Services Agreement with NBCUA
for TV Inspection of Sanitary Sewers

WHEREAS, the Borough of Upper Saddle River wishes to enter into a Shared Services Agreement with the Northwest Bergen County utilities Authority; and

WHEREAS, the Borough of Upper Saddle River is in need of TV inspection services; and

WHEREAS, the Governing Body of the Borough of Upper Saddle River has agreed to enter into such an Agreement;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Upper Saddle River hereby approves and authorizes the execution of a Shared Services Agreement with the Northwest Bergen County Utilities Authority to provide TV inspection services for the years 2021 and 2022.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #58-21
March 4, 2021

Resolution Authorizing Settlement of Tax Appeal Block 810, Lot 7.10

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, “Ella Raabe v. Borough of Upper Saddle River”, Docket Nos. 006793-2019 and 003586-2020, which matters involve appeals of the assessment on certain premises known as Block 810, Lot 7.10 and being more commonly known as 34 Knights Court, for the 2019 and 2020 tax years; and

WHEREAS, the parcel is assessed for the 2019 and 2020 tax years at \$1,100,000.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2019 and 2020 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2019 tax year shall be withdrawn.
2. The Stipulation of Settlement shall provide that the assessment for the 2020 tax year on said parcel shall be established at \$1,000,000.00.
3. Plaintiff agrees to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owner shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #59-21
March 4, 2021**

Property Tax Overpayment Refund Blk. 1224 Lot 14

WHEREAS, the tax collector has advised Rak, Jacob & Jane owner of Block 1224 Lot 14 located at 43 Dimmig Rd., that a reduction of assessment by the Tax Court of New Jersey for the year 2019 in the amount of **\$1,291.26**

WHEREAS, taxes were paid through the 4th Quarter of 2019 on this property; and

WHEREAS, the application of these credits resulted in Tax Overpayments in the above amount for the listed year amounting to \$1,291.26

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Upper Saddle River, County of Bergen, State of New Jersey that approval be granted to issue a check in the amount of \$1,291.26 **payable to:**

**Beattie Padovano, LLC
50 Chestnut Ridge Rd.
Montvale, NJ 07645**

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #60-21
March 4, 2021**

2021 Temporary Budget

WHEREAS, N.J.S.A. 40A:4-19 provides that where any contract, commitment or payments are to be made prior to the final adoption of the 2021 Budget, temporary appropriations should be made for the purpose and amounts required in the manner and time therein provided; and

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River, that the following appropriations be made and that a certified copy of this resolution be transmitted to the Chief Financial Officer for his records.

2021 TEMPORARY BUDGET APPROPRIATIONS

<u>General Government</u>		Salaries & Wages	Other Expenses
1-01-21-721	Zoning Board	\$ 4,000	
1-01-26-765	DPW		\$ 73,500
1-01-34-832	Capital Imp Fund		\$ 25,000

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER

RESOLUTION #61-21

March 4, 2021

Transfer of Funds

WHEREAS, N.J.S.A. 49:4-58 permits the transfer of appropriations during the last two months of the fiscal year or first three months of the reserve year from accounts showing unexpended balances to accounts in which commitments may exceed the original budget appropriations;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River in the County of Bergen, State of New Jersey that the CFO is hereby authorized to affect the following transfers:

To:

Ambulance	OE	0-01-25-750-030	\$1,500
Bd. Of Health	OE	0-01-27-785-030	\$10,000
	Total		<u>\$11,500</u>

From:

Tax Assessor	S&W	0-01-20-710-010	\$4,000
Recycling	OE	0-01-26-770-030	\$7,500
	Total		<u>\$11,500</u>

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #62-21
March 4, 2021**

Award of State Contract for the Purchase of Three DPW Trucks

WHEREAS, the Department of Public Works of the Borough of Upper Saddle River desires to purchase three (3) 2020 Ford F350 Trucks; and

WHEREAS, the Borough of Upper Saddle River wishes to purchase this equipment by utilizing an approved vendor under the New Jersey State Pricing Co-Operative, pursuant to N.J.S.A. 40A:11-12; and

WHEREAS, Route 23 Auto Mall is an approved vendor and has been awarded State Contract number T-2959 under the New Jersey State Pricing Co-Operative; and

WHEREAS, the actual price of the three (3) 2020 Ford F350 Trucks is expected not to exceed \$160,081.26.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River, County of Bergen as follows:

1. Route 23 Auto Mall of 1301 Route 23 South, Ramsey, NJ 07405 is hereby awarded a contract in the amount not to exceed \$160,081.26 for the purchase of three (3) 2020 Ford F350 Trucks to be utilized by the Department of Public Works.
2. A Certification of Funds has been prepared by the Chief Financial Officer for the said contract assuring that a sufficient appropriation exists in budget account C-04-20-003-300 to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #63-21
March 4, 2021**

**Resolution Approving Execution of Additional Documents Pertaining
to the Construction of Affordable Units on Block 1002, Lot 4.02
(570 Route 17 North)**

WHEREAS, by resolution dated February 4, 2021, the Mayor and Council approved the execution by Borough officials of certain documents pertaining to the construction of an entirely affordable rental residential development on premises designated as Block 1002, Lot 4.02 as depicted on the tax map, being more commonly known as 517 Route 17 North, which property is located east of the Porcelanosa complex; and

WHEREAS, the development of these affordable units is being undertaken by the Housing Authority of Bergen County and various entities affiliated therewith, including the Housing Development Corporation of Bergen County and USR HDC Supportive Housing Urban Renewal, LP; and

WHEREAS, the documents approved by Resolution No. 53-21 included:

1. Ground Lease Agreement between the Borough and Housing Development Corporation of Bergen County.
2. Ground Sublease Agreement between the Housing Development Corporation of Bergen County and USR HDC Supportive Housing Urban Renewal, LP.
3. Financial Agreement pursuant to the Long Term Tax Exemption Law between the Borough and USR HDC Supportive Housing Urban Renewal, LP.
4. Deed of Easement and Restrictive Covenants for Extended Low-Income Occupancy.
5. Deed Restriction for Rental Project With Affordable Units.

WHEREAS, additional documents are required to be executed by Borough Officials which are as follows:

1. Contribution Agreement between the Borough of Upper Saddle River and Housing Development Corporation of Bergen County.
2. Ground Lease Mortgage – Ground Lessor’s Estoppel Certificate.

3. Subordination Agreement – Regulatory Agreement Only – Governmental Entity.

4. Escrow Agreement between the USR HDC Supportive Housing Urban Renewal, LP, the Borough of Upper Saddle River, and TD Bank, N.A.

5. Escrow Agreement between the USR HDC Supportive Housing Urban Renewal, LP, the Borough of Upper Saddle River, and TD Bank, N.A.

6. Construction Agreement between TD Bank, N.A. and USR HDC Supportive Housing Urban Renewal, LP.

NOW THEREFORE BE IT RESOLVED that Mayor Joanne L. Minichetti or her designee, Administrator Theodore Preusch, and Borough Clerk Joy C. Convertini be and are hereby authorized to execute the above documents on behalf of the Borough; and

BE IT FURTHER RESOLVED that the aforementioned Borough officials be and are hereby authorized to execute any additional documents necessary pertaining to the financing of the affordable units, provided that the obligation of the Borough does not exceed the amount set forth in Ordinance No. 01-21 which authorizes the issuance of bonds in the sum of \$2,350,000.00 intended to finance, in part, the development of the affordable units.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #64-21
March 4, 2021

Resolution Urging the Legislature to Amend Senate Bill 3454 (Also Known as Assembly Bill 5342) to Permit Law Enforcement Officers to Perform Their Duties Without Substantial Risk of Civil and Criminal Liability

WHEREAS, Senate Bill 3454 (also known as Assembly Bill 5342) (collectively “the Legislation”);
and

WHEREAS, the Legislation prohibits law enforcement officers from engaging in certain actions when investigating an individual under the age of 21 for possession of marijuana, hashish, cannabis, or alcohol. The legislation criminalizes the conduct of officers who respond to a call for service or are investigating the underage use of marijuana, hashish, cannabis, or alcohol by:

- No longer allowing the odor, possession or consumption of marijuana, hashish, cannabis or alcohol to be used as reasonable articulable suspicion to initiate a stop of an individual under the age of 21, nor does it provide probable cause to search the person’s personal property or vehicle.
- No longer allowing for marijuana, hashish, cannabis or alcoholic beverages, observed in plain sight to constitute probable cause to initiate a search of an individual under the age of 21 or that individual’s personal property or vehicle.
- An individual under the age of 21 shall not be arrested, detained, or otherwise taken into custody except to the extent required to issue a written warning.
- Officers are further prohibited from contacting the minor’s parent or guardian to advise them of the minor’s possession or consumption of marijuana, hashish, cannabis or alcoholic beverages for the minor’s first offense.

WHEREAS, the Legislation will discourage officers from enforcing underage use and possession of marijuana, hashish, cannabis, or alcohol and will specifically expose officers to civil and criminal liability for the deprivation of civil rights, even if the officer did not act with specific intent to deprive a person of his or her civil rights; and

WHEREAS, the Governing Body believes that the Legislation will result in officers avoiding situations where criminal conduct has occurred to limit exposure to civil and criminal liability; and

WHEREAS, the Governing Body is of the opinion that the Legislation creates significant burdens on law enforcement and will obstruct police officers from performing their duties and conducting lawful investigations of individuals under the age of 21, who possess or consume any amount of marijuana, hashish, cannabis, or alcohol in any public place, including a school, criminalizing law enforcement actions; and

WHEREAS, the Legislation will severely limit the ability of law enforcement agencies to police our community effectively, increase risks to children from illicit drugs and alcohol, and fail to protect society from criminal drug activity and impaired drivers to the detriment of public safety.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council that it does hereby indicate its strenuous opposition to the Legislation and urge members of the State Senate and General Assembly to immediately enact amendatory Legislation so as to permit law enforcement personnel to perform their duties in the interest of safety and general welfare without substantial risk of civil and criminal liability.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #65-21
March 4, 2021**

Chief Financial Officer's Approval to Release Escrow Funds

WHEREAS, a request has been received for the return of any professional review escrow funds and/or bonds for the projects listed below; and

WHEREAS, the Chief Financial Officer has determined the appropriate balances as shown below; and

WHEREAS, the Borough is in receipt of a certification as to the completeness of the project from the Building / Land Use Department.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Upper Saddle River that the Chief Financial Officer is hereby directed to return the balance of professional review escrow funds and/or bonds as indicated below:

- **Cushla Kelly** **49 Stone Ledge Rd. BLK. 513 - LT 28** **\$5,040.25**
- **Kenneth & Lorraine Schmidt** **12 Oak Drive** **BLK. 1210 - LT 2** **\$5,000.00**

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Municipal Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #66-21
March 4, 2021**

Authorizing Sale of DPW Department Property on GovDeals

WHEREAS, the following property is not needed by the Upper Saddle River DPW; and

WHEREAS, the Mayor and Council wish to sell property in “as is” condition without express or implied warranties;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of Upper Saddle River, County of Bergen as follows:

1. The sale of the property shall be conducted by GovDeals pursuant to New Jersey State Contract A-709667/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and the State of New Jersey.
2. The sale will be conducted online and the address of the auction site is govdeals.com.
3. The sale is being conducted pursuant to Local Finance Notice 2008-9.
4. The property to be sold is noted below.
5. The property as identified shall be sold in “as is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
6. The Borough of Upper Saddle River reserves the right to accept or reject any bid submitted.

**1. 2007 Ford F350 Vin # 1FTWX31P47EA21367 – 82,985 miles has severe rust all over
To be sold with Western snowplow.**

2. One Meyers snowplow – unusable

3. Two old Meyers plow pumps – unusable

4. Seven steel snowplow edges – unusable

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, RMC
Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #67-21
March 4, 2021**

**Resolution Declaring the Contractor for the Lake Road Culvert Project
in Default of its Contractual Obligations**

WHEREAS, on or about November 7, 2019, the Borough of Upper Saddle River entered into a Contact with Tricon Enterprises, Inc. (“the Contractor”) for a project entitled, “Rehabilitation of Lake Road Culvert of the West Branch of the Saddle River, Borough of Upper Saddle River, Bergen County, New Jersey” based upon Specifications prepared by Boswell Engineering, Kevin J. Boswell, P.E., dated February 25, 2019 (“the Specifications”); and

WHEREAS, the Contractor has breached its contractual obligations having failed to adhere to the Specifications, with numerous deviations from the Specifications including construction of the bridge deck approximately nine (9) inches higher than the design grade; and

WHEREAS, the breach of its contractual obligations are detailed in various correspondence from Borough Engineer Kevin J. Boswell, a summary of which is attached hereto as Exhibit A.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council that it does hereby deem the Contractor to be in default of its contractual obligations, and the appropriate Borough Officials be and are hereby authorized and directed to communicate with QBE Insurance Corp. which posted the Performance Bond as surety on behalf of the Contractor as principal; and

BE IT FURTHER RESOLVED that Borough Officials be and are hereby authorized and directed to take such further action as may be in the best interest of the Borough, including the institution of litigation against the Contractor.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

Dear Mr. Regan,

Tricon Enterprises, Inc. (Tricon) is under contract with the Borough of Upper Saddle River to rehabilitate the Lake Road Bridge. The contract was awarded in late 2019. The Pre-construction meeting was conducted in the spring of 2020 and the construction period commenced on 4/1/20. The 180-calendar day construction period stipulated a completion date of 10/1/20. During the construction period, Tricon worked a total of 34 out of an available 153 working days. On 10/1/20, there was a meeting to review Tricon's lack of performance and there was an agreement reached between the Borough and the contractor that the contractor would continue staffing the job until the road could be opened for traffic. The contractor also agreed the Borough would assess liquidated damages in accordance with the terms of the contract until the road was reopened. The Borough agreed to provide the contractor a period of 30 days in the spring to complete all remaining work prior to reissuance of further liquidated damages.

The contractor submitted a revised project schedule following the 10/1/20 meeting indicating the reopening of the roadway would be achieved by late November. This schedule was rejected by this office since the dates of several milestones indicated as being complete were incomplete at the time of submission.

The contractor continued to staff the project until 12/23/20. On that date, our office became aware of a significant deviation from the approved plans and specifications. The contractor built the bridge deck approximately 9" higher than the design grade. On 12/30/20, our office transmitted the email below directing the contractor to immediately stop further work until such time as a corrective plan can be identified and implemented.

The contractor responded to this email by falsely claiming this office approved the deviation. Our office noted there was no approval of any such deviation from the plans. The contractor subsequently retained Counsel and refused to attend any further project meetings to either discuss corrective plans or continuing concerns associated with the incomplete condition of the worksite.

We respectfully recommend the Borough declare this contractor in default of contract for the reasons set forth above and many other deviations from the approved plans and specifications which will be summarized and transmitted under separate cover.

Thank you
Kevin Boswell
Borough Engineer

EXHIBIT A

BOROUGH OF UPPER SADDLE RIVER

RESOLUTION #68-21

March 4, 2021

Resolution Authorizing Settlement of Tax Appeal Block 1205, Lot 2

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, “Michael R. and Traci R. Altman v. Borough of Upper Saddle River”, Docket Nos. 005634-2020 and 002020-2021, which matters involve appeals of the assessment on certain premises known as Block 1205, Lot 2 and being more commonly known as 348 Lake Street, for the 2020 and 2021 tax years; and

WHEREAS, the parcel is assessed for the 2020 and 2021 tax years at \$1,039,400.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2020 and 2021 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2020 tax year shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2021 tax year on said parcel shall be established at \$962,000.00.

3. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER
RESOLUTION #69-21
March 4, 2021

Resolution Authorizing Settlement of Tax Appeal Block 1225, Lot 20

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Usama Mamary v. Borough of Upper Saddle River", Docket Nos. 005639-2020 and 002517-2021, which matters involve appeals of the assessment on certain premises known as Block 1225, Lot 20 and being more commonly known as 1 Dimmig Court, for the 2020 and 2021 tax years; and

WHEREAS, the parcel is assessed for the 2020 and 2021 tax years at \$1,117,800.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2020 and 2021 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2020 tax year shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2021 tax year on said parcel shall be established at \$950,000.00.

3. Plaintiff agrees to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owner shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

BOROUGH OF UPPER SADDLE RIVER

RESOLUTION #70-21

March 4, 2021

Resolution Authorizing Settlement Of Tax Appeal Block 1203, Lot 14.09

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Eric B. and Suzanne M. Mindich v. Borough of Upper Saddle River", Docket Nos. 002876-2020 and 002523-2021, which matters involve appeals of the assessment on certain premises known as Block 1203, Lot 14.09 and being more commonly known as 15 Mettowee Farms Court, for the 2020 and 2021 tax years; and

WHEREAS, the parcel is assessed for the 2020 and 2021 tax years at \$1,112,700.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2020 and 2021 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2020 tax year shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2021 tax year on said parcel shall be established at \$1,000,000.00.

3. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

Councilperson	Moved	Second	Ayes	Nays	Absent	Abstain
DeFuccio						
DiMartino						
Ditkoff						
Durante						
Florio						
Rotella						

I hereby certify that the above resolution was adopted by the Mayor and Council on March 4, 2021.

Joy C. Convertini, R.M.C., Borough Clerk

**BOROUGH OF UPPER SADDLE RIVER
ORDINANCE # 03-21**

BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE ONE LAKE STREET PARK ATHLETIC COMPLEX PROJECT IN, BY AND FOR THE BOROUGH OF UPPER SADDLE RIVER, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$5,500,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Borough Council of the Borough of Upper Saddle River, in the County of Bergen, State of New Jersey, as follows:

Section 1. The Borough of Upper Saddle River, in the County of Bergen, New Jersey (the "Borough") is hereby authorized to undertake the One Lake Street Park Athletic Complex Project consisting of construction of a multipurpose synthetic turf athletic field, a walking path, a basketball court and parking areas, undertaking of site improvements and installation or construction of related structures, field fixtures, appurtenances and other amenities in, by and for the Borough. Said improvement shall include all work, materials and appurtenances necessary and suitable therefor.

Section 2. The sum of \$5,500,000 is hereby appropriated to the payment of the cost of making the improvement described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the

bonds authorized and the down payment appropriated by this ordinance. Said improvement shall be made as a general improvement and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that (1) said purpose is not a current expense of said Borough, and (2) it is necessary to finance said purpose by the issuance of obligations of said Borough pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law"), and (3) the total estimated cost of said purpose is \$5,500,000, and (4) \$262,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$5,238,000, and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$700,000 which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$262,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets

heretofore adopted for the Borough, are now available to finance said purpose. The sum of \$262,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of said Borough of an aggregate principal amount not exceeding \$5,238,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$5,238,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 7. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of fifteen years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said

Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$5,238,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. Any funds received from private parties, the County of Bergen, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purpose, shall be applied to the payment of the cost of such purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purpose shall be reduced accordingly.

Section 11. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 12. The Borough intends to issue the bonds or notes to finance the cost of the improvement described in Section 1 of this bond ordinance. If the Borough incurs such costs prior to

the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 13. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 14. This ordinance shall take effect twenty days after the first publication thereof after final passage.