

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

July 14, 2011

The Marlboro Township Council held its regularly scheduled meeting on July 14, 2011 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Marder opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meetings of the Township Council of the Township of Marlboro was faxed and e-mailed to the Asbury Park Press, the Star Ledger and News Transcript on January 10, 2011; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building, filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

PRESENT: Council Vice President Cantor, Councilman LaRocca, Councilwoman Mazzola, Councilman Metzger and Council President Marder.

Also present were: Mayor Hornik, Louis Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Deborah Usalowicz.

Council Vice President Cantor moved that the minutes of June 16, 2011 be approved. This was seconded by Councilman Mazzola and passed on a roll call vote of 5 - 0 in favor.

Council President Marder opened the Public Hearing on Ord. #2011-16. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-246/Ordinance #2011-16 (Amending Chapter 94 - Animal Impoundment - Recoup of Costs) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-246

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2011-16

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 94 OF THE CODE OF THE TOWNSHIP OF MARLBORO, ENTITLED, "ANIMALS", ARTICLE II, "VICIOUS AND POTENTIALLY DANGEROUS DOGS", SECTION 94-11, "IMPOUNDING OF DOGS AND ANIMALS", SUB-SECTION 94-11(C), TO INCREASE THE REDEMPTION FEES AND TO INCLUDE PROVISIONS FOR REIMBURSEMENT OF FEES FOR IMPOUNDMENT/BOARDING OF DOGS OR OTHER ANIMALS

which was introduced on June 16, 2011, public hearing held July 14, 2011, be adopted on second and final reading this 14th day of July, 2011.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Marder opened the Public Hearing on Ord. #2011-17. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-247/Ordinance #2011-17 (Amend Chapter 271 - Peddling and Soliciting - Fee and Background Check) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 0 in favor, with Councilwoman Mazzola abstaining.

RESOLUTION # 2011-247

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2011-17

AN ORDINANCE AMENDING CHAPTER 271 PEDDLING AND SOLICITING

which was introduced on June 16, 2011, public hearing held July 14, 2011, be adopted on second and final reading this 14th day of July, 2011.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Councilwoman Mazzola recused herself and left the room. Council President Marder opened the Public Hearing on Ord. #2011-18. After the Public Hearing was held and closed, the following Resolution #2011-248 /Ordinance #2011-18 (Authorizing Financial Agreement with Camelot at Urban Renewal, LLC) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 0 in favor. (Absent: Mazzola).

RESOLUTION # 2011-248

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2011-18

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCIAL AGREEMENT BY AND BETWEEN THE TOWNSHIP OF MARLBORO AND CAMELOT AT MARLBORO URBAN RENEWAL, LLC

which was introduced on June 16, 2011, public hearing held July 14, 2011, be adopted on second and final reading this 14th day of July, 2011.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Marder opened the Public Hearing on Ord. #2011-19. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-249/Ordinance #2011-19 (Authorizing Participation Bond Financing Program - MCIA) was introduced by reference, offered by Council Vice President Cantor and seconded by Councilman Metzger. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-249

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2011-19

ORDINANCE AUTHORIZING THE LEASING OF CERTAIN CAPITAL EQUIPMENT BY THE TOWNSHIP OF MARLBORO, NEW JERSEY FROM THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY AND THE EXECUTION OF A LEASE AND AGREEMENT RELATING THERETO

which was introduced on June 16, 2011, public hearing held July 14, 2011, be adopted on second and final reading this 14th day of July, 2011.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2011-19

ORDINANCE AUTHORIZING THE LEASING OF CERTAIN CAPITAL EQUIPMENT BY THE TOWNSHIP OF MARLBORO, NEW JERSEY FROM THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY AND THE EXECUTION OF A LEASE AND AGREEMENT RELATING THERETO

BE IT ORDAINED by the Township Council of the Township of Marlboro, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

Section 1. Pursuant to Section 78 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44, et seq., the Township of Marlboro (the "Municipality") is hereby authorized to unconditionally and irrevocably lease certain items of capital equipment from The Monmouth County Improvement Authority (the "Authority") pursuant to a Lease and Agreement, substantially in the form submitted to this meeting (the "Lease"), a copy of which is on file in the office of the Clerk to the Municipality. The Mayor is hereby authorized to execute the Lease on behalf of the Municipality in substantially such form as submitted to this meeting and with such changes as may be approved by the Mayor, which approval shall be conclusively evidenced by the execution thereof, and the Clerk to the Municipality is hereby authorized to affix and attest the seal of the Municipality.

Section 2. The following additional matters are hereby determined, declared, recited and stated:

(a) In recognition of the fact that the lease payment of the Municipality under the Lease will be based, in part, on the amount of bonds issued by the Authority to finance the acquisition of the leased equipment and the interest thereon, the maximum amount of bonds which the Authority shall issued to finance the acquisition of the equipment to be leased to the Municipality shall not exceed \$150,000 and the interest rate on said bonds shall not exceed five and fifty hundredths percent (5.50%) per annum;

(b) The items to be leased from the Authority shall be as set forth in Schedule A hereto; provided that the Mayor or any authorized municipal representative (as defined in the Lease) may substitute or add items of equipment in accordance with the provisions of the Lease; and

(c) The lease term applicable to a particular item of leased equipment shall not exceed the useful life of such item.

Section 3. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by law.

SCHEDULE A - EQUIPMENT LIST

Township of Marlboro

<u>Equipment</u>	<u>Useful Life (Years)</u>	<u>Lease Term (Years)</u>	<u>Estimated Cost</u>
5 Police Cars	3	3	\$123,000

Council President Marder opened the Public Hearing on Ord. #2011-20. After the Public Hearing was held and closed, the following Resolution #2011-250/Ordinance #2011-20 (Authorizing Guaranty Bonds - MCIA) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-250

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2011-20

ORDINANCE AUTHORIZING THE GUARANTY BY THE TOWNSHIP OF MARLBORO, NEW JERSEY OR PAYMENT OF PRINCIPAL AND INTEREST ON THE CAPITAL EQUIPMENT LEASE REVENUE BONDS, SERIES 2011 (MARLBORO PROJECT) OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY

which was introduced on June 16, 2011, public hearing held July 14, 2011, be adopted on second and final reading this 14th day of July, 2011.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2011-20

ORDINANCE AUTHORIZING THE GUARANTY BY THE TOWNSHIP OF MARLBORO, NEW JERSEY OR PAYMENT OF PRINCIPAL AND INTEREST ON THE CAPITAL EQUIPMENT LEASE REVENUE BONDS, SERIES 2011 (MARLBORO PROJECT) OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY

BE IT ORDAINED by the TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. Pursuant to Section 80 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44 et. seq., the Township of Marlboro,

New Jersey (the "Municipality") is hereby authorized to unconditionally and irrevocably guaranty the punctual payment of the principal of and the interest on the Capital Equipment Lease Revenue Bonds, Series 2011 (Marlboro Project) (the "Bonds") of The Monmouth County Improvement Authority (the "Authority") Outstanding (as that term is defined in the following described resolution ) under the resolution of the Authority entitled "Capital Equipment Lease Revenue Bond Resolution (Marlboro Project)" (the "Bond Resolution") to be adopted in a form approved by counsel to the Municipality. The Authority plans to issue the Bonds to finance the acquisition and subsequent leasing of certain capital equipment to the Municipality pursuant to a lease and agreement to be entered into by the Authority and the Municipality (the "Lease"). Such guaranty shall be given in accordance with the guaranty agreement (the "Guaranty Agreement") between the Municipality and the Authority in substantially the form submitted to this Board, a copy of which is on file in the office of the Clerk of the Municipality, with such changes as may be approved by counsel to the office of the Clerk of the Municipality, with such changes as may be approved by counsel to the Municipality. The Mayor is hereby authorized to execute the Guaranty Agreement on behalf of the Municipality in substantially such form as submitted hereto and with such changes as may be approved by the Mayor, and the Clerk of the Municipality is hereby authorized to attest such signature affixing the seal of the Municipality. All representatives, officials and employees of the Municipality are hereby authorized to enforce and to implement the Guaranty Agreement.

Section 2. The following additional matters are hereby determined, declared, recited and state:

- (1) The maximum principal amount of the Bonds of the Authority hereby and hereunder to be guaranteed as to payment of principal and interest shall not exceed the sum of the amount necessary to acquire the Municipality's equipment as set forth in Schedule A which will be subject to the Lease and to pay the Municipality's share of the costs of issuance, but in no event shall such principal amount exceed \$150,000.
- (2) The Bonds shall mature within eleven years of the date of issue.
- (3) The Bonds shall remain Outstanding to their respective stated maturity dates and the guaranty authorized herein shall remain effective until all Bonds shall have been paid in full in accordance with their terms notwithstanding the occurrence of any other event.
- (4) The guaranty authorized herein may be made and this ordinance may be adopted notwithstanding any statutory debt or

other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, N.J.S.A. 40A:2-1, et. seq., but the principal amount of any Outstanding Bonds shall be included after their issuance in the gross debt of the Municipality for the purpose of determining the indebtedness of the Municipality under or pursuant to the Local Bond law. The principal amount of the Bonds included in the gross debt of the Municipality shall be deducted from the gross debt of the Municipality under and all for all the purposes of the Local Bond Law (a) from and after the time of issuance of the Bonds until the end of the fiscal year beginning next after the acquisition of the equipment to be financed from the proceeds of the Bonds and (b) in any Annual Debt Statement filed pursuant to the Local Bond law as of the end of such fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and the interest on all such Bonds, all bonds of the Municipality issued as provided under N.J.S.A. 40:37A-79 and all bonds of the Authority issued under the County Improvement Authorities Law.

Section 3. Upon payment of the principal of and the interest due on the Bonds by the Authority or by the defeasance of the Bonds pursuant to the Bond Resolution, the guaranty authorized herein will cease to exist and the gross debt of the Municipality shall be reduced to the extent that such Bonds cease to be Outstanding under the Bond Resolution.

Section 4. This ordinance shall take effect 20 days after the first publication thereof after final adoption in accordance with the County Improvement Authorities Law and the Local Bond Law.

SCHEDULE A - EQUIPMENT LIST

Township of Marlboro

<u>Equipment</u>	<u>Useful Life</u> <u>(Years)</u>	<u>Lease Term</u> <u>(Years)</u>	<u>Estimated Cost</u>
5 Police Cars	3	3	\$123,000

As the Planning Board Meeting which would have considered this ordinance had been cancelled and the 35-day time period had not expired, Res. #2011-251/Ord. #2011-21 (Amending Section 220-99 - Temporary Political Signs) was tabled to August 11, 2011 which will be heard at the Greenbriar Clubhouse, 21 Clubhouse Lane, Marlboro, NJ 07746 at 7 PM. The Clerk was asked to re-notice accordingly.

The following Resolution #2011-252 (Endorse Acquisition of Development Easement by Mon. County Agri. Development Board Peppadew Farm - Block 170, Lot 8.01) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-252

RESOLUTION OF THE TOWNSHIP OF MARLBORO TO APPROVE AND ENDORSE  
THE ACQUISITION OF AN AGRICULTURAL DEVELOPMENT EASEMENT BY THE  
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD PEPPADEW  
FRESH LLC - BLOCK 170 LOT 8.01

WHEREAS, the Monmouth County Agriculture Development Board is considering the purchase of an agricultural development easement on a property located in the Township of Marlboro, more specifically identified as:

Peppadew Fresh LLC, Block 170 Lot 8.01 in Marlboro Township, comprising approximately 14 acres, with one proposed 1.5-acre nonseverable exception, zero single-family residences, and 0 agriculture labor housing units

WHEREAS, N.J.A.C. 2:76-6.7 requires the governing body to review applications for the purchase of agricultural development easements as a condition of receiving State Agriculture Development Committee grant funds; and

WHEREAS, the Municipal Council of the Township of Marlboro is aware of the future restrictions on property protected from development as a result of the purchase of an agricultural development easement in accordance with the Right to Farm Act and the Agriculture Retention and Development Act; and

WHEREAS, on October 21, 2010, the Municipal Council of the Township of Marlboro adopted Resolution 2010-383 endorsing the acquisition of this agricultural development easement; and

WHEREAS, the Monmouth County Agriculture Development Board has established a policy of requiring local cost share commitment for all easement purchases; and

WHEREAS, the purchase price of the agricultural easement is \$22,500.00 per acre and the certified market value is \$20,000.00 per acre; and

WHEREAS, Marlboro's anticipated cost share would be 25.33% of the total consideration, or \$5,700.00 per acre; and

WHEREAS, the landowners will be requesting an application amendment to shift the nonseverable exception area to the east, further away from the utility right of way; and

WHEREAS, no installment purchase is anticipated; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-969-801 in the amount of \$79,800.00; and

NOW, THEREFORE, BE IT RESOLVED that the Township of Marlboro, County of Monmouth, State of New Jersey does hereby approve and endorse the acquisition of the development easement on Block 170 Lot 8.01, comprising 14 acres with one proposed nonseverable exception, zero single-family residences and zero agricultural labor housing units.

BE IT FURTHER RESOLVED that the Municipal Council hereby approves of the use of funds dedicated to the preservation of farmland and open space to assist the County in the purchase of the agricultural development easement on the property specifically identified as "Peppadew Fresh LLC, Block 170 Lot 8.01 in Marlboro Township" at the rate specified within the Monmouth County Agriculture Development Board's "Procedures Governing the Funding of Easement Purchases" policy adopted August 7, 2002 and that the estimated cost and Municipal Share is subject to adjustment.

BE IT FURTHER RESOLVED that two certified copies of the Resolution be sent to the Monmouth County Agriculture Development Board office and one copy each to the Marlboro Township Planning Board, Tax Assessor and Tax Collector.

The following Resolution #2011-253 (Authorizing All Actions in Connection with MCIA Bonds) was introduced by reference, offered by Councilman Metzger, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-253

A RESOLUTION OF THE TOWNSHIP OF MARLBORO, NEW JERSEY APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER OF REPRESENTATION AND A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY'S CAPITAL EQUIPMENT POOLED LEASE REVENUE BONDS, SERIES 2011 AND AUTHORIZING AN AUTHORIZED MUNICIPAL REPRESENTATIVE TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF SUCH BONDS

WHEREAS, the Township of Marlboro, New Jersey (the "Municipality") desires to lease and permanently finance the cost of acquisition of five (5) police cars (the "Equipment") from The Monmouth County Improvement Authority (the "Authority"); and

WHEREAS, the Authority will provide for the financing of the cost of the acquisition of the Equipment by the issuance of its Capital Equipment Lease Revenue Bonds, Series 2011 (Marlboro Project) (the "Bonds") payable from rentals by the Municipality pursuant to a Lease and Agreement by and between the Municipality and the Authority ( the "Lease"); and

WHEREAS, in order to induce the Authority to issue and deliver the Bonds and its Capital Equipment Pooled Lease Revenue Bonds, Series 2011, there has been prepared and submitted to the Municipality a Letter of Representative in the form attached hereto as Exhibit A; and

WHEREAS, there has been prepared and submitted to the Municipality a Continuing Disclosure Agreement in the form appended hereto as Exhibit B for execution by the Municipality if the Authority shall determine that the Municipality is or will be an "obligated person" with respect to the Authority's Capital Equipment Lease Revenue Bonds, Series 2011 within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission (an "Obligated Person"):

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF MARLBORO AS FOLLOWS:

Section 1. That the Letter of Representation, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative (as that term is defined in the Lease) is hereby authorized to, and one of such officers shall execute the Letter of Representation, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addressees designated on such Letter of Representation, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. That the Continuing Disclosure Agreement in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Continuing Disclosure Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same upon the determination by the Authority that the Municipality is or will be an Obligated Person, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. That any Authorized Municipal Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or property for carrying out the sale, issuance and delivery of the Bonds, the Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2011 and all related transactions contemplated by this resolution.

Section 4. All resolutions or proceedings or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed.

Section 5. This resolution shall become effective immediately.

The following Resolution #2011-254 (Bond Release Triangle Valley/Sarasota Estates) was introduced by reference, offered by Council President Marder and seconded by Councilman Metzger. Township Attorney Greg Valesi was present and answered Council's questions after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-254

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES FOR  
THE SITE KNOWN AS TRIANGLE VALLEY (SARATOGA ESTATES),  
BLOCK 159, LOT 10, PLEASANT VALLEY ROAD,  
TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request from K. Hovnanian Homes for release of the Township held Performance Guarantees in the form of a Bond and cash deposit for site improvements ("Public Improvements") on the Site known as "Triangle Valley (Saratoga Estates)" (the "Site"), property known as Block 159, Lot 10, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by K. Hovnanian at Marlboro Township IX, LLC (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated June 16, 2011, regarding the completion of the Public Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid report recommends that the current Performance Guarantee in the form of a Bond, Bond No. K07007693 issued by Westchester Fire Insurance Company in the original amount of \$1,134,927.20, and current value of \$378,309.07 and cash deposit in the

original amount of \$126,103.02, and current value of \$37,830.90 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release and the posting of a two (2) year, fifteen percent (15%) maintenance bond in the amount of \$157,628.78; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance Guarantee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the above-described Performance Guarantee in the form of a Bond, Bond No. K07007693 issued by Westchester Fire Insurance Company in the original amount of \$1,134,927.20, and current value of \$378,309.07 and cash deposit in the original amount of \$126,103.02, and current value of \$37,830.90 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release and the posting of a two (2) year, fifteen percent (15%) maintenance bond in the amount of \$157,628.78; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. K. Hovnanian at Marlboro Township IX, LLC
- b. Westchester Fire Insurance Company
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Chief Financial Officer
- f. Township Engineer
- g. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-255 (Cash Bond Release Maple Woods - B. 120, L. 59.02 to 59.05 - 333-339 Texas Road) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-255

RESOLUTION AUTHORIZING RELEASE OF A CASH MAINTENANCE GUARANTEE  
FOR THE SITE KNOWN AS MAPLE WOODS SUBDIVISION, BLOCK 120,  
LOTS 59.02 to 59.05, ALSO KNOWN AS 333-339 TEXAS ROAD,  
TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for release of the Township held Maintenance Guarantee in the form of a cash deposit for site improvements ("Public Improvements") on the Site known as "Maple Woods Subdivision" (the "Site"), property known as Block 120, Lots 59.02 to 59.05, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by Echo Lake Development, LLC (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated June 20, 2011, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid report recommends that the current Maintenance Guarantee in the amount of \$7,208.00 which sum has been posted by the Developer as cash, and is being held by the Township, may be released in its entirety with no restrictions; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid cash Maintenance Guarantee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the cash Maintenance Guarantee posted in connection with site improvements for the Maple Woods subdivision, Block 120, Lots 59.02 to 59.05, 333-339 Texas Road, Marlboro Township, New Jersey shall be released in its entirety; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Echo Lake Development, LLC
- b. Steven Plinio, Esq.
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Chief Financial Officer
- f. Township Engineer
- g. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-256 (Cash Bond Release Select Representatives Site - B. 176, L. 110 - 711 Ginesi Drive ) was

introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-256

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR THE PROPERTY KNOWN AS SELECT REPRESENTATIVES, BLOCK 176, LOT 110 ; 711 GINESI DRIVE, MARLBORO TOWNSHIP, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of Township held Performance Guarantees in the form of a cash deposit posted to guarantee the installation of drainage system improvements on the property known as 711 GINESI DRIVE, Block 176, Lot 110, Morganville, New Jersey, (the "Site") posted by Select Representatives, Inc. (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated June 21, 2011 regarding the completion of the Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantee, in the form of a cash deposit in the original and present amount of \$6,000.00 posted by the Developer and being held by the Township, be released in its entirety with no restrictions; and

WHEREAS, the Township Council now wishes to accept the recommendation of the Township Engineer concerning the aforesaid Performance Guarantee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the current Performance Guarantee for the Site (as defined and described hereinabove), a cash deposit in the original and present amount of \$6,000.00 posted by the Developer (as defined and described hereinabove) and being held by the Township shall be released in its entirety, and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Stravitz Associates, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-257 (Plenary Retail Distribution License - Michael Stein - Exit 123 Liquors, LLC) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-257

A RESOLUTION AUTHORIZING THE ISSUANCE OF A PLENARY RETAIL DISTRIBUTION LICENSE TO EXIT 123 LIQUORS, LLC

WHEREAS, on April 7, 2011 the Township of Marlboro adopted Resolution #2011-154, authorizing the award of a Plenary Retail Distribution License to Matthew R. Stein; and

WHEREAS, issuance of such Plenary Retail Distribution License was subject to the following terms and conditions:

- (a) Payment of the balance of the bid by certified check made payable to the "Township of Marlboro" by June 30, 2011;
- (b) Payment of the State License Application Fee;
- (c) Payment of the Annual Municipal Retail License Fee;
- (d) Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the license;
- (e) Receipt of favorable State and/or Federal criminal background checks; and
- (f) Compliance with the publication, hearing and Resolution requirements under *N.J.A.C. 13:2-2.1 et seq*; and

WHEREAS, Matthew R. Stein subsequently formed a New Jersey limited liability company with the name of Exit 123 Liquors, LLC, of which Matthew R. Stein is the sole member, for the purpose of holding such Plenary Retail Distribution License; and

WHEREAS, Exit 123 Liquors, LLC prepared the required amended pages to the plenary retail distribution license application to reflect that Exit 123 Liquors, LLC will be the owner of such license; and

WHEREAS, Exit 123 Liquors, LLC shall be situated at Marlboro Diamond Plaza, located at 167 Route 9 South, Marlboro Township New Jersey; and

WHEREAS, Exit 123 Liquors, LLC has satisfactorily fulfilled all of the above terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that

the issuance of a Plenary Retail Distribution License to Exit 123 Liquors, LLC, to be located at Marlboro Diamond Plaza, 167 Route 9 South, Marlboro Township, New Jersey, be and is hereby authorized and approved for the license year commencing July 1, 2011; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Exit 123 Liquors, LLC;
- b. State of New Jersey Bureau of Alcoholic Beverage Control;
- c. Michael Vitiello, Esq.
- d. Township Business Administrator;
- e. Township Chief Financial Officer; and
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-258 (Changing Sept. 22 Council Meeting Location to Rosemont Clubhouse - 246 Everton Blvd.) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-258

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Council meeting location for the regularly scheduled Council Meeting of September 22, 2011 be changed from Town Hall to the Rosemont Clubhouse, 246 Everton Blvd., Marlboro, N. J. 07746.

BE IT FURTHER RESOLVED that the meeting will begin at 7:00PM.

The following Resolution #2011-259 (Changing October 20 Council Meeting Location to Marlboro Greens Clubhouse - 1 Ivy Hill Drive, Engl.) was introduced by reference, offered by Councilman Metzger, seconded by Councilman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-259

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Council meeting location for the regularly scheduled Council Meeting of October 20, 2011 be changed from Town Hall to the Marlboro Greens Clubhouse, 1 Ivy Hill Drive, Englishtown, N. J. 07726.

BE IT FURTHER RESOLVED that the meeting will begin at 7 PM.

The following Resolution #2011-260 (Award of Bid - Library Air Handler Unit - 2011 Capital) was introduced by reference, offered by Councilman

Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-260

A RESOLUTION AWARDING CONTRACT TO AIRHANDLERS MECHANICAL SERVICES, INC. FOR THE REMOVAL AND REPLACEMENT OF EXISTING HVAC UNIT AT MARLBORO FREE PUBLIC LIBRARY FOR THE MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2011 capital program (122-1) authorized the REMOVAL AND REPLACEMENT OF EXISTING HVAC UNIT AT MARLBORO FREE PUBLIC LIBRARY for the Department of Public Works; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for REMOVAL AND REPLACEMENT OF EXISTING HVAC UNIT AT MARLBORO FREE PUBLIC LIBRARY, and on June 21, 2011, received four (4) bids, as follows:

COMPANY		BID PRICE
Airhandlers Mechanical Services	Haddon Heights	25,911.00
Air Systems Maintenance	Kenilworth	31,864.00
WHL Enterprises, Inc. T/A Bill Leary AC & Heating	Metuchen	36,600.00
Amco Enterprises	Kenilworth	90,400.00

WHEREAS, the bid submission of the apparent low bidder, AIRHANDLERS MECHANICAL SERVICES has been determined to be responsive as detailed in a May 20, 2011 memo transmitted by the Department of Public Works; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Department of Public Works as set forth herein;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to AIRHANDLERS MECHANICAL SERVICES whose address is 208 N. White Horse Pike, Magnolia, NJ 08049 in an amount not to exceed \$25,911.00 for REMOVAL AND REPLACEMENT OF EXISTING HVAC UNIT AT MARLBORO FREE PUBLIC LIBRARY; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with AIRHANDLERS MECHANICAL SERVICES in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$25,911.00 are available for the aforesaid contract in Capital Account X-04-55-968-903; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Airhandlers Mechanical Services
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Director of Public Works
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-261 (Award of Bid - 2011 Road Improvement Program - 2011 Capital) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-261

A RESOLUTION AWARDING CONTRACT TO JADS CONSTRUCTION CO. INC.  
FOR THE 2011 ROAD IMPROVEMENT PROGRAM FOR THE  
MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2011 capital program (60-1,9,14,15) authorized the 2011 ROAD IMPROVEMENT PROGRAM for the Department of Public Works; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the 2011 ROAD IMPROVEMENT PROGRAM, and on June 29, 2011, received nine (9) bids, as follows:

COMPANY	BASE BID + Add Items A & B
Jads Construction Co. Inc.	1,160,300.50
S. Brothers Construction	1,178,550.40
Earle Asphalt	1,187,113.13
Lucas Construction	1,194,404.50
Meco Inc.	1,243,000.00
DeFino Contracting	1,305,000.00
Intercounty Paving	1,324,445.20
Black Rock Enterprises	1,439,604.06
AMC Industries	1,484,169.95

WHEREAS, the Township Engineer has reviewed the bids received, and in a July 5, 2011 memo advised that Jads Construction Co. Inc. is the apparent responsive low bidder regardless of the award of the additional bid items, and has recommended that the contract for the services be awarded to Jads Construction Co. Inc., PO Box 513, South River, New Jersey 08882; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer as set forth herein;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to Jads Construction Co. Inc., PO Box 513, South River, New Jersey 08882 in an amount not to exceed \$1,160,300.50 for the 2011 ROAD IMPROVEMENT PROGRAM; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with Jads Construction Co. Inc. in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$1,160,300.50 are available for the aforesaid contract in Capital Accounts X-04-55-959-937, X-04-55-960-960, 1-04-55-940-271, 1-04-55-940-279, X-04-55-965-901, X-04-55-967-900 and X-04-55-968-902; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Jads Construction Co. Inc.
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Director of Public Works
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-262 (Award of Bid - 2011 Vanderburg Road Improvements - 2011 Capital/NJDOT Grant) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-262

A RESOLUTION AWARDING CONTRACT TO LUCAS CONSTRUCTION  
GROUP INC. FOR IMPROVEMENTS TO VANDERBURG ROAD  
PHASE I FOR THE MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2011 capital program (60-18) authorized the IMPROVEMENTS TO VANDERBURG ROAD PHASE I for the Department of Public Works; and

WHEREAS, the Township of Marlboro has been awarded a grant from the New Jersey Department of Transportation in the amount of \$250,000.00 for IMPROVEMENTS TO VANDERBURG ROAD PHASE I; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for IMPROVEMENTS TO VANDERBURG ROAD PHASE I, and on June 29, 2011, received ten (10) bids, as follows:

COMPANY	BASE BID
Lucas Construction Group Inc.	\$ 264,554.20
S. Batata Construction	270,464.00
Meco Inc.	285,000.00
A&A Curbing	296,163.60
Earle Asphalt	297,413.13
Jads Construction	299,220.30
Black Rock Enterprises	316,420.16
AMC Industries	350,630.85
DeFino Contracting	357,481.00
Seminole Contractors	364,895.15

WHEREAS, the bid submission of the apparent low bidder, LUCAS CONSTRUCTION GROUP INC. has been determined to be responsive as detailed in a July 5, 2011 memo transmitted by the Township Engineer; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer as set forth herein;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to LUCAS CONSTRUCTION GROUP INC., 173 Amboy Road, Morganville, NJ 07751, in an amount not to exceed \$264,554.20 for the IMPROVEMENTS TO VANDERBURG ROAD PHASE I; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with LUCAS CONSTRUCTION GROUP INC. in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$264,554.20 are available for the aforesaid contract in Capital Account X-04-55-968-902; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Construction Group Inc.
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Director of Public Works
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-263 (Award of State Contract Purchase Pickup Truck DPW - 2011 Capital) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-263

A RESOLUTION AUTHORIZING THE PURCHASE OF 2011 GMC SIERRA 2500HD  
4 WHEEL DRIVE PICKUP TRUCK WITH SNOW PLOW UNDER STATE  
CONTRACT # A78847 FROM FLEMINGTON BUICK CHEVROLET PONTIAC  
GMC LLC FOR THE MARLBORO TOWNSHIP DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2011 capital program (123-1) authorized the replacement of a 1988 pickup truck that has been removed from service for the Department of Public Works; and

WHEREAS, the Township of Marlboro Department of Public Works recommends the purchase of one GMC SIERRA 2500HD 4 WHEEL DRIVE PICKUP TRUCK WITH SNOW PLOW from FLEMINGTON BUICK CHEVROLET PONTIAC GMC LLC ("FLEMINGTON GMC") under STATE CONTRACT # A78847 for the amount of \$27,545.00; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to replace the 4 WHEEL DRIVE PICKUP TRUCK WITH SNOW PLOW utilized by the Department of Public Works; and

WHEREAS, funds are available in Account X-04-55-968-911 and have been certified to by the Chief Financial Officer of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase one GMC SIERRA 2500HD 4 WHEEL DRIVE PICKUP TRUCK WITH SNOW PLOW from FLEMINGTON BUICK CHEVROLET PONTIAC GMC LLC, Route 202 & 31 SOUTH, PO BOX 487, FLEMINGTON, NJ 08822 under STATE CONTRACT # A78847 for the amount of \$27,545.00; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. FLEMINGTON BUICK CHEVROLET PONTIAC GMC LLC
- b. Township Administrator
- c. Township Division of Police
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole LLP

The following Resolution #2011-264 (Authorizing Contract Birdsall - Green Acres/SADC Surveys - Geoghegan, Tennent Road and Peppadew, Harbor Road) was introduced by reference, offered by Councilman LaRocca, seconded by Council President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-264

A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL SERVICES GROUP AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF ENGINEERING SERVICES IN CONNECTION WITH GREEN ACRES FUNDING OF THE GEOGHEGAN PROPERTY ACQUISITION LOCATED AT 82 TENNENT ROAD (BLOCK 120, LOT 36) AND SADC FUNDING OF AN AGRICULTURAL DEVELOPMENT EASEMENT AT THE PEPPADEW PROPERTY LOCATED AT 97 HARBOR ROAD (BLOCK 170, LOT 8.01) IN THE TOWNSHIP OF MARLBORO

WHEREAS, by Resolutions 2007-212 and 2007-256, the Township of Marlboro authorized and amended a Professional Services agreement with Birdsall Services Group for the provision of engineering services in connection with the acquisition of the Geoghegan Property located at 82 Tennent Road in Marlboro, Block 120, Lot 236 ("Geoghegan"); and

WHEREAS, the Township requires additional professional engineering services in connection with obtaining Green Acres funding to offset the acquisition costs and County Open Space Trust funding to develop the site; and

WHEREAS, by Resolution 2010-383, the Township of Marlboro authorized the expenditure of monies and endorsement of the acquisition of development easements with the assistance of the Monmouth County Agriculture Development Board including Block 170, Lot 8.01 also known as the Anderson Farm and Peppadew Fresh LLC located at 97 Harbor Road ("Peppadew"); and

WHEREAS, the Township requires additional professional engineering services in connection with the utilization of State Agricultural Development Committee (SADC) funding to offset the agricultural easement acquisition costs; and

WHEREAS, Birdsall Services Group has provided a proposal dated June 23, 2011 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and Birdsall Services Group have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$17,300.00 for such Professional Services, as further described and set forth in Birdsall's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-969-801; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with Birdsall Services Group to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Birdsall has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Services Group has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between Birdsall Services Group and the Township of Marlboro, to expand the scope of services to include PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH GREEN ACRES FUNDING OF THE GEOGHEGAN PROPERTY ACQUISITION LOCATED ON TENNENT ROAD (BLOCK 120, LOT 36) AND SADC FUNDING OF AN AGRICULTURAL DEVELOPMENT EASEMENT AT THE PEPPADEW PROPERTY LOCATED AT 97 HARBOR ROAD (BLOCK 170, LOT 8.01) ("Professional Services"), at a fee not to exceed \$17,300.00 for such Professional Services, as further described and set forth in Birdsall's Proposal dated June 23, 2011, be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$17,300.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Services Group, 611 Industrial Way West, Eatontown, NJ 07724
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-265 (Authorizing Contract CME - NJDEP - Licensed Site Remediation Professional Services - LSRP - 30-acre parcel Tennent Road) was introduced by reference, offered by Councilman LaRocca, seconded by Council President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-265

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR LICENSED SITE REMEDIATION PROFESSIONAL (LSRP) SERVICES IN CONNECTION WITH THE ACQUISITION OF TENNENT ROAD BLOCK 180, LOT 6

WHEREAS, CME prepared a Preliminary Assessment / Phase I Environment Site Assessment Report in connection with the acquisition of the property known as Tennent Road Block 180, Lot 6 ("the Project"); and

WHEREAS, two (2) areas of concern were investigated and no contamination was found; and

WHEREAS, the enactment of the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. ("SRRA") on May 7, 2009 established a program for the licensing of Licensed Site Remediation Professionals ("LSRP"s) who will have responsibility for oversight of environmental investigation and cleanup; and

WHEREAS, the Township desires to have a Response Action Outcome "RAO" for the project which is a written determination that the areas of concern were remediated in accordance with all applicable regulations and statutes; and

WHEREAS, CME Associates has provided a proposal dated July 5, 2011 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$3,900.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-06-55-902-999; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include LICENSED SITE REMEDIATION PROFESSIONAL (LSRP) SERVICES IN CONNECTION WITH THE ACQUISITION OF TENNENT ROAD BLOCK 180, LOT 6 by way of its Township Engineers ("Professional Services"), at a fee not to exceed \$3,900.00 for such Professional Services, as further described and set forth in CME's Proposal dated July 5, 2011 ("Proposal"), be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$3,900.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-266 (Authorizing Amendment to Contract - Birdsall for EECBG Reporting - under DOE Grant) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-266

A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL SERVICES GROUP AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF ENGINEERING SERVICES IN CONNECTION WITH GRANT REPORTING COMPLIANCE REQUIRED BY THE UNITED STATES DEPARTMENT OF ENERGY UNDER THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) AWARDED TO THE TOWNSHIP OF MARLBORO

WHEREAS, by Resolutions 2009-457 and 2010-070, the Township of Marlboro authorized and amended a Professional Services contract with Birdsall Services Group for the provision of engineering services in connection with grant reporting compliance required by the United States Department of Energy under the Energy Efficiency and Conservation Block Grant (EECBG) awarded to the Township of Marlboro ("the Project"); and

WHEREAS, the Township requires additional professional engineering services in connection with the Program, consisting of assistance in compliance with the Program's grant reporting requirements; and

WHEREAS, Birdsall Services Group has provided a proposal dated May 9, 2011 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and Birdsall Services Group have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$6,900.00 for such Professional Services, as further described and set forth in Birdsall's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # G-07-41-809-301; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with Birdsall Services Group to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Birdsall has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Services Group has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between Birdsall Services Group and the Township of Marlboro, to expand the scope of services to include PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH GRANT REPORTING COMPLIANCE REQUIRED BY THE UNITED STATES DEPARTMENT OF ENERGY UNDER THE ENERGY EFFICIENCY AND

CONSERVATION BLOCK GRANT (EECBG) AWARDED TO THE TOWNSHIP OF MARLBORO ("Professional Services"), at a fee not to exceed \$6,900.00 for such Professional Services, as further described and set forth in Birdsall's Proposal dated May 9, 2011, be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$6,900.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Services Group, 611 Industrial Way West, Eatontown, NJ 07724
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-267 (Award of State Contract - Police Ammunition) was introduced by reference, offered by Councilman Metzger, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-267

RESOLUTION AUTHORIZING AWARD OF STATE CONTRACT #A75931  
TO EAGLE POINT GUN SHOP FOR THE PURCHASE OF AMMUNITION  
FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT

WHEREAS, the Township of Marlboro Police Department is in need of ammunition for qualifications and range training; and

WHEREAS, the Marlboro Police Department has recommended that the Township purchase the ammunition from Eagle Point Gun Shop, 1707 Third Street, Thorofare, New Jersey 08086 under State Contract #A75931 in an amount not to exceed \$30,269.88; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey for the Police Department to obtain the ammunition from Eagle Point Gun Shop; and

WHEREAS, funds are available in Account 0-01- -106-262 for an amount not to exceed \$30,269.88 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said ammunition;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase the ammunition from Eagle Point Gun Shop, 1707 Third Street, Thorofare, New Jersey 08086 under State Contract #A75931 in an amount not to exceed \$30,269.88; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- f. Eagle Point Gun Shop
- g. Township Administrator
- h. Township Police Department
- i. Township Chief Financial Officer
- j. DeCotiis, FitzPatrick & Cole, LLP

Councilwoman Mazzola recused herself and left the room. The following Resolution #2011-268 (Authorizing Execution of Amendment to Redevelopment Agreement K-Land Corp. - Block 132, Lot 8) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Mazzola).

RESOLUTION # 2011-268

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE REDEVELOPMENT AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND K-LAND CORPORATION FOR THE PROPERTY KNOWN AS TAX BLOCK 132, LOT 18 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH

COUNTY, NEW JERSEY FOR THE DEVELOPMENT OF AN INCLUSIONARY  
DEVELOPMENT CONSISTING OF 250 RESIDENTIAL UNITS OF WHICH 50  
UNITS ARE AFFORDABLE FAMILY RENTAL HOUSING AS WELL AS  
A RETAIL/OFFICE COMPONENT

WHEREAS, on August 24, 2010, the Township Council of the Township of Marlboro adopted Resolution # 2010-309 authorizing the execution of a Redevelopment Agreement with K-Land Corporation ("Redeveloper"), which provided for the redevelopment of the Property known as Block 132, Lot 18, Township of Marlboro, Monmouth County, New Jersey and designated and known as the "Entron Industries Redevelopment Area", which is consistent with the Entron Industries Redevelopment Plan (the "Redevelopment Plan" or "Plan"); and

WHEREAS, the Redevelopment Agreement was executed by all parties on September 2, 2010; and

WHEREAS, the Redeveloper subsequently requested that Article 5, The Project, Section 5.03, Site Work, of the Redevelopment Agreement be revised to waive the requirements pursuant to Chapter 337, Trees, of the Township Code, because the application of such requirements would impose a substantial additional financial obligation on the Redeveloper to pay for the required net tree removal amount, and that such obligation would be inconsistent with the overall rationale behind the Plan and Redevelopment Agreement, to provide affordable housing units within the Entron Industries Redevelopment Area in furtherance of the Township's affordable housing obligation; and

WHEREAS, the Township Administration has reviewed Redeveloper's Request and finds that, if applied, the provisions of Chapter 337, Trees, would impose a substantial, additional financial obligation on the Redeveloper in conflict with the Redeveloper's efforts to construct affordable housing units within the Entron Industries Redevelopment area and with the Township's efforts to fulfill its affordable housing obligations; and

WHEREAS, the Township Administration has agreed to amend 5, Project, Section 5.03, Site Work, of the Redevelopment Agreement to waive the requirements of Chapter 337, Trees; provided that Redeveloper shall pay to the Township the amount of \$50,000.00, in lieu of such requirements; and provided that Redeveloper shall, in addition to such payment, carry out the landscaping improvements required pursuant to the Township Planning Board's Resolution of Approval, Adopted on May 4, 2011; and

WHEREAS, such payment of \$50,000.00 shall be made as follows: three (3) equal installments of \$16,666.67, with each such installment to be paid upon the issuance of the first Building Permit for each of the three (3) residential phases of the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that it hereby approves and authorizes the Amendment to Article 5, The Project, Section 5.03, Site Work, of the Redevelopment Agreement between the Township of Marlboro and K-Land Corporation; and

BE IT FURTHER RESOLVED, that such Amendment shall waive the requirements as to tree removal and replacement pursuant to Chapter 337, Trees, of the Township Code, provided that: in addition to undertaking all required landscaping improvements as set forth in the Township Planning Board's Resolution of Approval dated May 4, 2011, the Redeveloper shall pay to the Township the amount of \$50,000.00 in three (3) equal installments of \$16,666.67, each such installment to be paid upon the issuance of the first building permit for each of the three residential phases of the project; and

BE IT FURTHER RESOLVED, that the Mayor and the Township Clerk are hereby authorized to, respectively, execute and witness, the Amendment to the Redevelopment Agreement in a form substantially consistent with the form of agreement attached hereto; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. K-Land Corporation
- b. Ronald S. Blumstein, Esq.
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Chief Financial Officer
- g. Kenneth Biedzynski, Esq.
- h. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-269 (Award of Bid - Repairs Glenbrook Retaining Walls) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-269

A RESOLUTION AWARDING CONTRACT TO A-TECH CONCRETE FOR  
THE REMEDIATION OF THE RETAINING WALLS AT GLENBROOK ESTATES  
TO PRESERVE EXISTING AFFORDABLE HOUSING CREDITS FOR  
THE TOWNSHIP OF MARLBORO

WHEREAS, the Governing Body of the Township of Marlboro desires to preserve existing affordable housing credits by authorizing improvements

and repairs to the retaining walls at Glenbrook Estates in the Township of Marlboro, and

WHEREAS, the Township has sought and received written approval from the Commissioner of the Department of Community Affairs to utilize funds from the Township's Affordable Housing Trust Fund to supplement \$150,000 in funds received from Glenbrook Estates for this purpose; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for REMEDIATION OF GLENBROOK RETAINING WALLS, and on June 16, 2011, received one (1) bid, as follows:

COMPANY		BID PRICE FOR BASE + ADDS A-D
A-Tech Concrete	Edison	\$ 409,650.00

WHEREAS, the bid submission of the apparent low bidder, A-Tech Concrete has been determined to be responsive as detailed in a July 5, 2011 memo transmitted by the Township Engineer; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer as set forth herein;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to A-Tech Concrete, 11 Taylor Road, Edison, NJ 08817 in an amount not to exceed \$409,650.00 for the REMEDIATION OF THE RETAINING WALLS AT GLENBROOK ESTATES; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with A-Tech Concrete in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$409,650.00 are available for the aforesaid contract in Capital Accounts X-04-55-966-901 and X-04-55-970-901; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. A-Tech Concrete
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Director of Public Works
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-270 (Authorizing Amendment to Agreement with Glenbrook for Improvements to Retaining Walls) was introduced by reference, offered by Councilman LaRocca, seconded by Council President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-270

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDED AGREEMENT WITH GLENBROOK CONDOMINIUM ASSOCIATION, INC. FOR THE REPAIRS TO THE RETAINING WALLS AT GLENBROOK ESTATES - SECTION 2

WHEREAS, the Township of Marlboro has established an Affordable Housing Trust Fund ("Trust Fund") for the collection, maintenance and expenditure of development fees pursuant to N.J.S.A. 40:55D-8.1 et seq., and the New Jersey Council on Affordable Housing ("COAH"); and

WHEREAS, the condominium complex known as Glenbrook Estates located in Marlboro, New Jersey, which is controlled and administered by Glenbrook Condominium Association, Inc. (collectively, "Glenbrook") is comprised of two (2) sections: Section 1 is a large market rate development; and Section 2 contains eighty (80) age-restricted units that are income restricted to low and moderate income households, such income-restricted units serving as COAH credits under the Township of Marlboro's ("Township") Fair Share Plan; and

WHEREAS, the retaining walls in Section 2, the COAH Qualified Affordable Housing section of the Development require extensive repair and/or replacement (the "Project"); and

WHEREAS, Glenbrook received \$150,000.00 as the net amount of a settlement payment for the repair of the retaining walls in Section 2 from a litigation action entered in the Superior Court of New Jersey, Monmouth County, entitled, Glenbrook Condominium Association, Inc. v. R. Curley Backhoe Services, et als, Docket No. MON-L-1924-05 (the "Litigation"); and

WHEREAS, Glenbrook requested the Township to provide additional funds in the amount of \$50,000.00, solely for the repair of the Section 2 retaining walls from the Township's Affordable Housing Trust Fund and further requested that the Township administer all repair funds, including the \$150,000.00 received by Glenbrook from the Litigation, by the establishment of a special trust account ("Special Account") for all funds totaling \$200,000.00 and Glenbrook additionally requested that the Township oversee the construction process for the repair of the Section 2 retaining walls, including the review of the bid specifications, bid

process, construction plans, construction, billing, payment and inspection and approval processes;

WHEREAS, all fees for the Project were to be funded from the Special Account to the extent of the available funds within the Special Account; and

WHEREAS, COAH agreed that the Township could provide to Glenbrook additional funds in the amount of \$50,000.00, from the Township's Affordable Housing Trust Fund for the Project because such funds would be a valid expense in furtherance of affordable housing goals; and

WHEREAS, on November 3, 2009 the Township and Glenbrook entered into an Agreement pursuant to the terms set forth hereinabove and the Township established the Special Account for the Project funds in the total amount of \$200,000.00, comprising \$50,000.00 from the Township's Affordable Housing Trust Fund and \$150,000.00 that Glenbrook received from the Litigation; and

WHEREAS, due to financial hardship Glenbrook is unable to undertake the Project and has requested additional Project funds from the Township's Affordable Housing Trust Fund in the amount of \$275,000.00, in addition to originally contemplated \$50,000.00, for a total contribution from the Township of \$325,000.00, in addition to the Litigation funds in the amount of \$150,000.00, for total Project funds in the amount of \$475,000.00 ("Total Funds"), to be held in the Township's Special Account for the Project; and

WHEREAS, Glenbrook has further requested that the Township undertake, manage, supervise and review all aspects of the Project, including the bid process; and

WHEREAS, the Township has agreed to provide the additional funds as set forth hereinabove and undertake all aspects of the Project, provided that, after the completion of the Project, Glenbrook shall be solely responsible, in perpetuity, for the maintenance, repair and the costs thereof for the Section 2 retaining walls.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that it hereby authorizes and approves:

1. that the Township shall deposit the amount of \$275,000.00 from the Township's Affordable Housing Trust Fund into the Special Account to fund the Project and such funds shall be in addition to the \$200,000.00 already deposited within the Special Account previously, such amount comprising the \$50,000.00 originally deposited by the

Township and the \$150,000.00 deposited by Glenbrook from the settlement monies it received from the Litigation; and

2. that the Township shall be responsible for the administration and disposition of the monies contained in the Special Account; and

3. that the Township shall undertake the Project, undertake the bid process and undertake the management, supervision and administration of the Project construction, provided that, after the completion of the Project, Glenbrook shall be solely responsible, in perpetuity, for the maintenance, repair and the costs thereof for the Section 2 retaining walls; and

4. that the Township's engineer shall conduct and be responsible for all construction management and oversight associated with the Project, including, but not limited to, preparation of bid specifications and meeting all timetables and deadlines as are required by the bid specifications and approved plans. The Township's engineer shall supervise, direct and have control over any contractors' work and shall have authority over, and responsibility for, the means, methods, techniques, sequences or procedures of construction selected by the contractor, for safety precautions and programs incident to the work of the contractor or for any failure of the contractor to comply with applicable laws, rules, regulations, ordinances, Township Code or orders; and

5. that all funds for the construction of the Project, and for any professional services incurred by Glenbrook in connection with the Project, shall be paid solely from the Special Account, to the extent of the available funds; and

6. the Mayor and Town Clerk may execute, seal and deliver the Amended Agreement Glenbrook Condominium Association, Inc. for the Repair of the Section 2 Retaining Walls, setting forth the terms and conditions for additional funding for the Project, the administration of the Special Trust Account and for the undertaking of the Project; and

7. that a certified copy of this Resolution shall be provided to each of the following:

- a. Glenbrook Condominium Associates, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Stephen Sukel, Esq.
- f. Ken Biedzynski, Esq.

- g. CME Associates
- h. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-271 (Authorizing Grant Application Sustainable Jersey) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-271

A RESOLUTION AUTHORIZING A GRANT APPLICATION  
FROM THE SUSTAINABLE JERSEY SMALL GRANTS PROGRAM

WHEREAS, the Sustainable Jersey program is the product of a coalition of New Jersey public and private organizations working to identify actions municipalities need take to become green and sustainable, and to develop guidance material and resources municipalities need to make progress in such areas; and

WHEREAS, in an effort to promote sustainability, education, and public/private partnerships, Wal-Mart Stores Inc. ("Wal-Mart"), the New Jersey League of Municipalities Education Foundation (the "NJLM"), and the NJLM Mayors' Committee for a Green Future (the "MCGF") have established the Sustainable Jersey Small Grants Program (the "Program"), which provides grants intended to support New Jersey municipalities that participate in the Sustainable Jersey Certification Program to institute greening and sustainability initiatives within their communities and to improve the quality of life for their residents; and

WHEREAS, the Program will award eight (8) \$10,000.00 grants, three (3) \$25,000.00 grants, and twenty (20) \$1,000.00 grants to local governments; and

WHEREAS, the Township Council of the Township of Marlboro has determined that it would be in the best interests of the Township to apply for a Sustainable Jersey Small Grant.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that the Mayor and Township Clerk are hereby authorized to submit a grant application to the Sustainable New Jersey Small Grants Program for grant funds in the amount of \$25,000 to support the Township of Marlboro's efforts to institute greening and sustainability initiatives within the community, specifically, for use in the development of sustainable land use planning and transportation under the guidelines of Form Based Code which has been supported by DEP smart growth themes and is in coordination with the Township's Visioning statement, the Township Green Team and planned Town Center in the Village Commercial Zone; and

BE IT FURTHER RESOLVED, that the Mayor and Township Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signatures constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. Sustainable Jersey
2. Mayor Jonathan L. Hornik
3. Township Business Administrator.
4. DeCotiis, FitzPatrick & Cole, LLP
5. Patriot Consulting

The following Resolution #2011-272 (Chapter 159 - Budget Amendment - Green Team Grant) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-272

RESOLUTION REQUESTING APPROVAL OF ITEMS OF  
REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an revenue in the budget of the year 2011 in the sum of \$3,600.00, which has been received by the municipality for energy conservation efforts entitled the "Green Team Grant".

Section 2

BE IT FURTHER RESOLVED that the amount of \$3,600.00 be hereby appropriated under the caption "Green Team Grant".

The following Resolution #2011-273 (Award of State Contract Renewal of Spatial Data Logic Enterprise Licensing Agreement) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-273

RESOLUTION AUTHORIZING AWARD OF STATE CONTRACT #A77560  
TO SHI FOR SPATIAL DATA LOGIC ENTERPRISE LICENSE AND  
PORTAL FOR THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro currently utilizes Spatial Data Logic software for permitting and complaint tracking in several municipal departments; and

WHEREAS, the Township wishes to continue to migrate the software to all departments by renewing the Enterprise License of Spatial Data Logic; and

WHEREAS, the Marlboro Township Information Technology Division has recommended that the Township renew the Spatial Data Logic Enterprise License from SHI, 33 Knightsbridge Road, Piscataway, NJ 08854 under State Contract #A77560 in an amount not to exceed \$39,984.00; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to obtain the Spatial Data Logic Enterprise License; and

WHEREAS, funds are available in Account 1-01- -033-281 for a combined amount not to exceed \$39,984.00 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the renewal of said software license;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to renew the Spatial Data Logic Enterprise License from SHI, 33

Knightsbridge Road, Piscataway, NJ 08854 under State Contract #A77560 in an amount not to exceed \$39,984.00; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. SHI
- b. Township Administrator
- c. Township Division of Information Technology
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-274 (Authorizing Application for Over the Limit Under Arrest 2011 Statewide Crackdown Grant) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-274

SUPPORTING THE OVER THE LIMIT UNDER ARREST  
2011 STATEWIDE CRACKDOWN

WHEREAS, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

WHEREAS, 25% of motor vehicle fatalities in New Jersey are alcohol-related; and

WHEREAS, an enforcement crackdown is planned to combat impaired driving; and

WHEREAS, the summer season and the Labor Day holiday in particular are traditionally times of social gatherings which include alcohol; and

WHEREAS, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the Over the Limit Under Arrest 2011 Statewide Crackdown; and

WHEREAS, the project will involve increased impaired driving enforcement from August 19 through September 5, 2011; and

WHEREAS, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

THEREFORE, BE IT FURTHER RESOLVED that the Township of Marlboro declares it's support for the Over the Limit Under Arrest 2011 Statewide

Crackdown from August 19 through September 5, 2011 and pledges to increase awareness of the dangers of drinking and driving.

The following Resolution #2011-275 (Authorizing Final Payment and Acceptance of Pleasant Valley Road Streambank Stabilization Phase I Improvements - 2010 Capital) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-275

A RESOLUTION APPROVING CHANGE ORDER #1 TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND BIRD CONSTRUCTION AND AUTHORIZING FINAL PAYMENT AND ACCEPTANCE OF IMPROVEMENTS TO PLEASANT VALLEY ROAD

WHEREAS, by Resolution #2011-132 the Township of Marlboro authorized the award of a contract to Bird Construction for Improvements to Pleasant Valley Road (the "Project"); and

WHEREAS, Change Order No. 1 has been requested resulting in a decrease in the previously awarded contract amount of \$123,647.50 to \$111,944.50, a net decrease of \$11,703.00; and

WHEREAS, the Township has resolved to issue final payment to the vendor in the total amount of \$23,941.72 in accordance with the attached executed agreement for; and

WHEREAS, in Letters dated July 8, 2011, the Township Engineer has recommended approval of Change Order #1, acceptance of the Project improvements, and issuance of final payment in the amount of \$23,941.72; and

WHEREAS, pursuant to the terms of the contract, Bird Construction has provided a one-year maintenance bond in an amount equal to 15% of the final contract amount or \$18,411.68; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the Township Engineer's July 8 letter and is amenable to approving Change Order #1, accepting the Project improvements and issuing a final payment to Bird Construction in the amount of \$23,941.72 in order that the Project be completed, such Project being in the interests of the public health, safety and welfare.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that Change Order #1 to the existing contract with Bird Construction, be and is hereby approved, decreasing the previously modified contract total of \$123,647.50 to \$111,944.50, a net decrease of \$11,703.00.

BE IT FURTHER RESOLVED, by the Township Council of the Township of Marlboro, that the Project improvements be and are hereby accepted, and that final payment in the amount of \$23,941.72 for work completed by Bird Construction is hereby approved.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Bird Construction
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Engineer
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

As the consent agenda, the following resolutions were introduced by reference, offered by Council Vice President Cantor, seconded by Council President Marder and as there was no objection, the Clerk was asked to cast one ballot: Res. #2011-276 (Authorizing Water Install. Agreement - Wellens); Res. #2011-277 (Redemption Tax Sale Certs - Various); Res. #2011-278 (Refunds to Water Utility Division - Various), Res. #2011-279 (Raffle License Mustang Parents Football - On premise 50/50- Recreation Center/Sports Complex); Res. #20-2011-280 (Raffle License Mustang Parents Football - On premise 50/50 - Marlboro High School); Res. #2011-281 (Raffle License Mustang Parents Football - On premise 50/50 - Bella Vista Country Club); Res. #2011-282 (Raffle License Mustang Parents Football - On premise Merchandise - Bella Vista Country Club).

RESOLUTION # 2011-276

RESOLUTION AUTHORIZING THE TAX COLLECTOR OF THE TOWNSHIP OF  
MARLBORO TO ENTER INTO AN INSTALLMENT PAYMENT AGREEMENT  
FOR THE COLLECTION/PAYMENT OF DELINQUENT WATER SERVICE CHARGES

WHEREAS, the provisions of *N.J.S.A. 40A:31-12* empower the governing body of a local municipal unit to authorize the payment and liquidation of delinquent water service charges on an installment basis in accordance with the provisions of *N.J.S.A. 54:5-19*; and

WHEREAS, the provisions of *N.J.S.A. 54:5-19* authorize installment payment agreements to be entered into between a municipal tax collector and the owner or owners of real property for the payment of property tax arrears and other charges that would constitute a lien against real property, including delinquent water service charges, provided that any such agreement is authorized by a general or special resolution, duly adopted by the municipal governing body, and provided, further, that the terms of any such agreement comply with the requirements and limitations set forth in *N.J.S.A. 54:5-19*; and

WHEREAS, Craig Wellens and Lisa Wellens, the owners of 8 Vista Drive, which is designated as Block 305, Lot 82 on the Official Tax Map of the Township of Marlboro (hereinafter referred to as "Customer"), is a customer of the Marlboro Township Water Utility Division, receiving water service under Account Number C05375 and Account ID Number 18985; and

WHEREAS, Customer has a delinquent Account balance of \$744.04 (exclusive of accrued interest), which is attributable to water service for the quarterly period ended May 31, 2011, and which is due for payment by June 30, 2011; and

WHEREAS, Customer has asserted a financial hardship with respect to the payment of the aforementioned past due water charges and has made a request for an installment payment plan in order to retire and fully pay said obligation; and

WHEREAS, Kelly A. Hahn, the Marlboro Township Tax Collector has requested approval from the Township Council of the Township of Marlboro to enter into an installment payment agreement with Customer and has presented a proposed form of agreement to the Township Council for review and consideration; and

WHEREAS, the aforesaid installment payment agreement, a copy of which is attached hereto as Exhibit A, complies with the provisions of *N.J.S.A. 54:5-19*, in that the agreement makes adequate provision for:

- The complete payment of all arrearages within the maximum period of time specified in the statute;
- The accrual, assessment, and payment of all statutory interest, as well as all administrative and delinquent charges, to which the Township of Marlboro is entitled;
- The prompt payment of all installments of arrears, as well as the prompt payment of future water service charges as same become due and owing;

- The termination of the installment payment arrangement in the event of any default by the Customer in complying with the terms of the agreement, including failure to remit all payments promptly, in which event the lien for outstanding water service charges shall be enforced as provided by law; and
- The right and entitlement of the Township of Marlboro to pursue all statutory and lawful remedies against the Customer in the event of a default, including, without limitation, the discontinuance of water service to the Customer's real property; and

WHEREAS, the Township of Marlboro wishes to acknowledge and accept the Customer's declaration of financial hardship, with the goal of collecting 100% of the amount due and owing to the Township in a reasonable, practical, and efficient manner;

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Marlboro that authorization is hereby given to Kelly A. Hahn, the Tax Collector of Marlboro Township, to enter into an installment payment agreement with Customer for the payment of past due water service charges totaling \$744.04 (exclusive of accrued interest), with the form of the agreement being substantially similar to that attached hereto and made a part hereof as Exhibit A; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Jonathan L. Hornik, Mayor
- b. Randi Marder, Council President
- c. Jonathan A. Capp, Business Administrator
- d. Alida Manco, Township Clerk
- e. Kelly A. Hahn, Tax Collector
- f. Wellens Craig and Lisa (Customer)
- g. DeCotiis, Fitzpatrick & Cole, LLP

RESOLUTION # 2011-277

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$161,788.19 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$161,788.19 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
09-20 192 Rt. 79 North	207/4	Royal Tax Lien Services, LLC 115 West Avenue, Suite 300 Jenkintown, PA 19046 Assessed Owner: Renaissance Health c/o J. Paytas	\$104,681.67
11-61 483 Rt. 79	122/27.01	Income One 1350 Beverly Road Suite 115-316 McLean,VA 22101 Assessed Owner: Dallenbach Sand Co. Inc.	40,124.18
11-22 493 Rt. 79	122/27.02	US Bank for Tower DBW 50 S. 16 <sup>th</sup> Street Suite 1950-TOW Philadelphia, PA 19102 Assessed Owner: Dallenbach Sand Co. Inc.	16,982.34
TOTAL:			<u>\$161,788.19</u>

RESOLUTION # 2011-278

WHEREAS, current sewer charges totaling \$ 2,090.80 been paid by the lienholder of the Tax Sale certificates as per Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$ 2,090.80 be refunded to the Western Monmouth Utilities Authority.

Schedule A

TSC #	Block Property	Lot Loc.	Qual./	Sewer Acct.	Lienholder	Amount
11-11	123 3 Tennent Road	2		8954	Rosehill Fund 1, LLC	\$ 282.27
11-18	223 12 School Road West	2		9529	Rosehill Fund 1, LLC	\$ 284.48
11-19	223 10 School Road West	3		9386	Rosehill Fund 1, LLC	\$ 284.48
10-82	286 7 Longfellow Terrace	18		13676	Frank J. Festa, Jr.	\$ 280.42
09-81	219 26 Hudson Street	3		23916	Stuart Lasher	\$ 283.07
11-56	125 16 Wilson Ave	4		10548	Phoenix Funding	\$ 327.98
10-50	301 30 Duncan Drive	36		5425	Soheha	\$ 348.10
Total:						\$2,090.80

RESOLUTION # 2011-279

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 18-2011 (On Premise 50/50) be and it is hereby granted to Mustang Parents Football Club Corp., 95 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on October 1, 2011 at 6:00PM - 9:00PM at Marlboro Township Sports Complex, Wyncrest Road, Marlboro, NJ 07746.

RESOLUTION # 2011-280

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 19-2011 (On Premise 50/50) be and it is hereby granted to Mustang Parents Football Club Corp., 95 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on the following dates and times:

September 17, 2011	12:00 - 4:00 PM
October 15, 2011	12:00 - 4:00 PM
October 29, 2011	12:00 - 4:00 PM
November 12, 2011	12:00 - 4:00 PM

at Marlboro High School, 95 North Main Street, Marlboro, N.J. 07746.

RESOLUTION # 2011-281

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 20-2011 (On Premise 50/50) be and it is hereby granted to Mustang Parents Football Club Corp., 95 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on August 22, 2011 at 7:00AM - 4:00PM at Bella Vista Country Club, 100 School Road East, Marlboro, NJ 07746.

RESOLUTION # 2011-282

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 21-2011 (On Premise Merchandise) be and it is hereby granted to Mustang Parents Football Club Corp., 95 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on August 22, 2011 at 7:00AM - 4:00PM at Bella Vista Country Club, 100 School Road East, Marlboro, NJ 07746.

The following Resolution #2011-283 (Authorizing Developer Agreement - SFC Enterprises & 479 Route 520 Assoc. - B. 213, Lots 8 & 9) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-283

A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO, SFC ENTERPRISES, INC. AND 479 ROUTE 520 ASSOCIATES, LLC IN CONNECTION WITH SITE PLAN APPROVAL FOR THE SITE LOCATED ON BLOCK 213, LOTS 8 AND 9, NOW CONSOLIDATED AS BLOCK 213, LOT 8.01, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, (MONMOUTH COUNTY ROUTE 520)

WHEREAS, On December 11, 2007 the Zoning Board of Adjustment of the Township of Marlboro ("Zoning Board") adopted a resolution granting Preliminary and Final Major Site Plan Approval with Variance Relief to SFC Enterprises, Inc. ("Developer") for the development of property known as Block 213, Lots 8 and 9, now consolidated as Block 213, Lot 8.01, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey, which is located on Monmouth County Route 520 (the "Site"); and

WHEREAS, the subject property comprising the Site was owned by 479 Route 520 Associates, LLC, from which was duly obtained an Owner's Affidavit of Authorization and Consent that was filed with Developer's application to the Zoning Board; and

WHEREAS, the Zoning Board resolution conditioned the approval upon the Developer and 479 Route 520 Associates, LLC entering into a Developer Agreement with the Township of Marlboro and posting all the necessary performance guarantees; and

WHEREAS, the Developer Agreement has been negotiated by the parties, and the negotiation and preparation of same shall be paid for from Developer's escrow account held by the Township of Marlboro; and

WHEREAS, the necessary performance guarantees, cash deposits and insurance certificates shall be subject to the review and approval of the Township Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with SFC Enterprises, Inc. (the "Developer") and 479 Route 520 Associates, LLC for the Preliminary and Final Major Site Plan Approval with Variance Relief issued for the site located on Block 213, Lots 8 and 9, now consolidated as Block 213, Lot 8.01, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey, which is located on Monmouth County Route 520, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. SFC Enterprises, Inc.
- b. 479 Route 520 Associates, LLC
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Township Chief Financial Officer
- g. DeCotiis, FitzPatrick & Cole, LLP

Recess was called at 9:05 PM. The meeting resumed at 9:20 PM. Councilwoman Mazzola moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council President Marder, and the following Resolution #2011-284 (Closed Session) was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-284

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 14th day of July, 2011 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 15 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 9:35 PM, Council Vice President Cantor moved that the meeting be opened. This was seconded by Councilwoman Mazzola and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution #2011-285 (Authorizing Settlement Agreement - Estate of Anthony Spalliero, Joseph Spalliero and Richard Vuola) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Metzger, and passed on a roll call vote of 4 - 1 in favor, with Councilman LaRocca voting no.

RESOLUTION # 2011-285

A RESOLUTION AUTHORIZING THE EXECUTION OF SETTLEMENT AGREEMENTS AND RELEASES BETWEEN THE ESTATE OF ANTHONY SPALLIERO, JOSEPH SPALLIERO AND RICHARD VUOLA AND THE TOWNSHIP OF MARLBORO

WHEREAS, on or about April 8, 2009 the Township of Marlboro (the "Township") filed a Civil Action in the Superior Court of New Jersey entitled, Township of Marlboro v Matthew Scannapieco, et. Als., under Docket Number L-1738-09, which included as named Defendants Anthony Spalliero (subsequently substituted by the Estate of Anthony Spalliero), Joseph Spalliero and Richard Vuola among other parties, (the "Litigation"); and

WHEREAS, the Township and the Estate of Anthony Spalliero, Joseph Spalliero and Richard Vuola desire to amicably settle their disputes in connection with the Litigation and desire to enter into Settlement and Release Agreements; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the proposed Settlement Agreements and General Releases between the Township and the Estate of Anthony Spalliero, Joseph Spalliero and Richard Vuola and desires to settle the disputes in amicable matter in order to avoid the additional expenditure of time and monies in further protracted litigation, deeming such settlements to be in the best interests of the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that it hereby authorizes the Settlement Agreements and General Releases between the Township of Marlboro and the Estate of Anthony Spalliero, Joseph Spalliero and Richard Vuola and the execution of the Settlement Agreements and General Releases by the Mayor in the presence of the Township Clerk; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Critchley, Kinum and Vazquez, LLC., Attorneys for Joseph Spalliero;
- b. Joseph A. Ferrante, Esq., Attorney for the Estate of Anthony Spalliero;
- c. Mario Appuzzo, Esq attorney for Richard Vuola;
- d. Mayor Jonathan L. Hornik;
- e. Township Business Administrator; and
- f. DeCotiis, FitzPatrick & Cole, LLP

At 9:36PM, Councilman LaRocca moved that the meeting be adjourned. This was seconded by Councilwoman Mazzola and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: August 11, 2011

OFFERED BY: Metzger AYES: 4

SECONDED BY: LaRocca NAYS: 0

ABSENT: Cantor

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ALIDA MANCO,  
MUNICIPAL CLERK

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RANDI MARDER,  
COUNCIL PRESIDENT