

MARLBORO TOWNSHIP COUNCIL MEETING
November 12, 2020

The Marlboro Township Council held its regularly scheduled meeting remotely on November 12, 2020 at 7:00 P.M.

Council President Mazzola opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was sent to the Asbury Park Press, the Star Ledger, News Transcript and Board of Education Office on January 7, 2020; published in the Asbury Park Press on January 9, 2020; 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 Metzger, Councilwoman Marder, Councilman Scalea and Council President Mazzola by conference call.

Also present: Mayor Hornik, David Minchello, Esq., Business Administrator Jonathan Capp, and Municipal Clerk Susan A. Branagan by conference call.

Councilman Scalea moved that the minutes of October 15, 2020 be approved. This was seconded by Councilman Cantor, and passed on a roll call vote of 5 - 0 in favor.

The following Res. #2020-279/Ord. #2020-15 (Authorizing a Special Emergency Appropriation Pursuant to N.J.S.A. 40A:4-53(m) for the Expected Deficit in the Recreation Utility Operations Related to Covid-19) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2020-279

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

ORDINANCE # 2020-015

ORDINANCE OF THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-53(m) FOR THE EXPECTED DEFICIT IN OPERATIONS RELATED TO COVID 19

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED, that the same be considered for final passage during a remotely held public meeting on December 17, 2020 at 7:00 p.m. at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE #2020-015

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$1,900,000, OR SUCH OTHER AMOUNT CERTIFIED BY THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES, FOR THE PURPOSES SET FORTH IN N.J.S.A. 40A:4-53(L) AND/OR N.J.S.A. 40A:4-53(M), IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AS FOLLOWS:

Section 1. The Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") hereby appropriates an aggregate amount of \$1,900,000 to provide for (i) the immediate preparation, response, recovery, and restoration of public services during such time as a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), declared in response to COVID-19 remains in effect, in the amount of \$0, pursuant to N.J.S.A. 40A:4-53(1) and (ii) a deficit in operations experienced by the Township during fiscal year 2020, in which a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or both, has been declared by the Governor in response to COVID 19, in the amount of \$1,900,000, pursuant to N.J.S.A. 40A:4-53(m). The appropriation authorized hereby shall be in the individual and aggregate amounts set forth herein or such other amounts as certified by the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey (the "Director").

Section 2. The Township shall apply for any financial assistance that may be available to the Township from the federal government, the State of New Jersey, and other sources to offset any operating deficit directly attributable to COVID-19, and any such financial assistance obtained by the Township shall be utilized to offset any operating deficit.

Section 3. Upon adoption of this ordinance upon first reading by the affirmative vote of a majority of the full membership of the governing body, the Township hereby approves the application prepared by the Chief Financial Officer of the Township in the form attached hereto as Exhibit A (the "Application"), seeking the approval of the Director of a special emergency in the amount of \$1,900,000, or such other amount certified by the Director, for the purposes set forth in N.J.S.A. 40A:4-53(1) and/or N.J.S.A. 40A:4-53(m).

Section 4. Upon adoption of this ordinance upon first reading by the affirmative vote of a majority of the full membership of the governing body, the Township hereby further authorizes and directs the Chief Financial Officer of the Township to submit said Application to the Director by no later than December 1, 2020. If necessary for any reason, the Township hereby further authorizes the Chief Financial Officer of the Township to submit to the Director a written request for an extension of the December 1, 2020 deadline and to file such Application on or prior to such extended deadline granted by the Director, if any.

Section 5. A copy of this ordinance as finally adopted shall be filed with the Director.

Section 6. Except as set forth in Section 3 and Section 4 herein, this ordinance shall take effect upon the latter of (i) the date determined by applicable law or (ii) the earlier of (a) the date the Director approves in writing the application submitted by the Chief Financial Officer of the Township for approval of the special emergency authorized hereby (the "Application") and (b) the date that is 45 days (or the first business day following such 45th day, if applicable) following the date the Chief Financial Officer submits the Application to the Director of the Local Government Services.

The following Res. #2020-280/Ord. #2020-16 (Appropriating NJDOT Design Assistance Grant - Route 79 Sidewalk Extension Project) was introduced by reference, offered by Councilman Scalea, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Cantor abstaining).

RESOLUTION # 2020-280

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

ORDINANCE #2020-016

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING A \$492,910.05 GRANT TO BE RECEIVED BY THE TOWNSHIP FOR PRELIMINARY ENGINEERING ACTIVITIES RELATING TO THE ROUTE 79 SIDEWALK EXTENSION PROJECT IN AND FOR THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED, that the same be considered for final passage during a remotely held public meeting on December 17, 2020 at 7:00 p.m. at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE #2020-016

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING A \$492,910.05 GRANT TO BE RECEIVED BY THE TOWNSHIP FOR PRELIMINARY ENGINEERING ACTIVITIES RELATING TO THE ROUTE 79 SIDEWALK EXTENSION PROJECT IN AND FOR THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than a majority of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The \$492,910.05 grant expected to be received by the Township from the Federal Highway Administration is hereby appropriated for the purpose of providing funds for Preliminary Engineering Activities relating to the Route 79 Sidewalk Extension project, including all work and materials necessary therefor and incidental thereto.

Section 2. The capital budget or temporary capital budget, as applicable, of the Township is hereby amended to conform with the

provisions of this ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or temporary capital budget, as applicable, and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect in accordance with law.

The following Res. #2020-281 (Acceptance of 2019 Audit) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2020-281

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

WHEREAS, the annual report of audit for the year 2019 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body, and

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

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

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five (45) days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

As the Consent Agenda, the following resolutions were introduced by reference, offered by Councilman Scalea, seconded by Council President Mazzola, and passed on a roll call vote of 5 - 0 in favor:

RESOLUTION #2020-282

A RESOLUTION CONFIRMING EMERGENCY CONTRACTS AND PAYMENTS WITH VARIOUS CONTRACTORS FOR THE PROVISION OF EMERGENCY STORM RESPONSE SUPPLIES AND SERVICES PURSUANT TO N.J.S.A. 40A:11-6 FOR THE TOWNSHIP OF MARLBORO

WHEREAS, on August 3, 2020, Governor Phil Murphy executed State of Emergency 174 for New Jersey ahead of Tropical Storm Isaias, a storm which brought high winds and heavy rains to Marlboro Township on August 4, 2020, resulting in significant power outages and storm damage, an event designated by the Township as EM #20-25; and

WHEREAS, N.J.S.A. 40A:11-6 states that "Any contract may be ... awarded for a contracting unit without public advertising for bids and bidding therefor ... when an emergency affecting the public health,

safety or welfare requires the immediate ... performance of services ...
."; and

WHEREAS, N.J.S.A. 40A:11-6(b) states that "Upon the furnishing of such goods or services ... the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment ..."; and

WHEREAS, the power outages and storm damage posed a serious threat to the public health, safety and welfare, constituting an emergency under the terms of N.J.S.A. 40A:11-6; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6, the Township contacted its existing vendors for the various emergency supplies and services required in response to Tropical Storm Isaias, and entered into agreements as follows:

A.C. SCHULTES, INC.	Water Ops/Well Service	380.00
BARGS LAWN & GARDEN SHOP INC	Supplies	3,000.00
EDWARDS TIRE CO., INC.	Supplies	1,142.22
ESSEX SERVICE CORPORATION	Water Ops/SCADA Service	6,870.48
FM GENERATOR INC.	Generator Service	5,000.00
FOLEY INC.	Generator Rental	25,740.25
GENERAL TREE EXPERTS	Tree Removal	24,850.00
J. FORD ELECTRIC	Traffic Light Maintenance	3,500.00
LUCAS CONSTRUCTION GROUP, INC	Heavy Equipment Rental	54,550.00
MAZZA MULCH, INC.	Material Grinding	58,000.00
TRAFFIC SAFETY SERVICE	Supplies	12,000.00
		195,032.95

; and

WHEREAS, the Chief Financial Officer previously certified the availability of funds in an amount not to exceed \$195,032.95 from current fund operating, water operating and capital fund accounts.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the emergency contracts referenced above be confirmed and payments approved pursuant to N.J.S.A. 40A:11-6 for the emergency supplies and services required in response to Tropical Storm Isaias.

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

- a. Business Administrator
- b. Chief Financial Officer
- c. Director of Public Works

RESOLUTION #2020-283

A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT BETWEEN THE
TOWNSHIP OF MARLBORO AND CWA LOCAL 1075
(SUPERVISORY/PROFESSIONAL UNIT)

WHEREAS, the Township and the CWA Local 1075 (Supervisory/Professional Unit) ("CWA") are parties to a collective bargaining agreement that expired on December 31, 2019; and

WHEREAS, the Township and CWA engaged in negotiations for a successor collective bargaining agreement to cover employees in the CWA; and

WHEREAS, the terms of the settlement are set forth in a Memorandum of Agreement ("MOA"), attached hereto and made a part hereof; and

WHEREAS, such MOA will be incorporated in the successor collective bargaining agreement to the previous collective bargaining agreement that expired on December 31, 2019, for an extended term of January 1, 2020 through December 31, 2023.

NOW, THEREFORE, BE IT RESOLVED, by Township Council of the Township of Marlboro that it hereby approves the terms and conditions contained in the Memorandum of Agreement between the Township of Marlboro and CWA, attached hereto and made a part hereof and that such Memorandum shall be deemed the successor collective bargaining agreement to the collective bargaining agreement that expired on December 31, 2019; and

BE IT FURTHER RESOLVED, the Township Council of the Township of Marlboro that it hereby approves and ratifies the execution of the attached Memorandum of Agreement; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Marlboro authorizes the execution of any documents necessary to implement the successor collective bargaining agreement; and

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

- a. CWA Local 1075 (Supervisory/Professional Unit)
- b. Business Administrator
- c. Chief Financial Officer

RESOLUTION # 2020-284

RESOLUTION AUTHORIZING 2020 BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over and above the amount deemed to be necessary to fulfill the purpose of such appropriation.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2020 Municipal Budget as follows:

CURRENT:		
Account	From	To
Finance Salaries & Wages	\$ 40,000.00	
Police Salaries & Wages	134,000.00	
Employer's Portion FICA	67,000.00	
Tax Collector Salaries & Wages		\$ 2,000.00
Planning Board Contractual Other Expenses		27,000.00
Liability Insurance Other Expenses		200,000.00
Recycling Salaries & Wages		1,000.00
Drug Abuse Salaries & Wages		7,000.00
Water Other Expenses		4,000.00
	<u>\$ 241,000.00</u>	<u>\$ 241,000.00</u>

RESOLUTION #2020-285

A RESOLUTION REAUTHORIZING SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE WESTERN MONMOUTH UTILITIES AUTHORITY TO PROVIDE FOR CONFINED SPACE RESCUE TEAM SERVICES FOR THE MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, on October 18, 2018 (R.2018-312) the Township Council of the Township of Marlboro ("Township") authorized a shared services agreement with the Western Monmouth Utilities Authority ("WMUA") to provide for CONFINED SPACE RESCUE TEAM SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS ("services"); and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., (the "Act") permits units of local government to share services for particular purposes and to effectuate agreements for any service or circumstance that will aid and encourage a reduction of local expenses; and

WHEREAS, the Township of Marlboro ("Marlboro") and the Western Monmouth Utilities Authority ("WMUA") are public bodies corporate and politic of the State of New Jersey and are authorized under New Jersey Law to enter into a Shared Services Agreement pursuant to the Act; and

WHEREAS, the WMUA has the personnel as well as the necessary contracts in place to provide the specified services; and

WHEREAS, the Township and the WMUA wish to extend the current agreement to include calendar year 2021; and

WHEREAS, the Township and WMUA have negotiated a Shared Services Agreement, a copy of which is annexed hereto as EXHIBIT A, and the terms of which are incorporated into this resolution as if set forth at length herein.

BE IT FURTHER RESOLVED, funds in the amount \$2,750.00 will be certified by the Chief Financial Officer upon adoption of the 2021 municipal budget; and

NOW, THEREFORE BE IT RESOLVE,D by the Mayor and Council of the Township of Marlboro as follows:

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Municipal Clerk are hereby authorized to execute the Shared Services Agreement annexed hereto as EXHIBIT A.
4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION # 2020-286

RESOLUTION AMENDING R.2020-222 AWARD OF ESCNJ COOPERATIVE CONTRACT #18/19-25 TO FOLEY INC. FOR REFURBISHMENT OF A TOWNSHIP-OWNED CATERPILLAR EXCAVATOR FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, on August 13, 2020, the Township Council approved R.2020-222 for the refurbishment of Township-owned Caterpillar excavator (unit #0403); and

WHEREAS, while under repair it was discovered that the unit required additional work, documented in a supplemental quotation dated October 30, 2020 provided by the vendor; and

WHEREAS, the Township is authorized to purchase parts and repairs from bids obtained from a cooperative pricing system such as the Educational Services Commission of NJ (ESCNJ) pursuant to the authority provided by N.J.S.A. 40A:11-11(6); and

WHEREAS, Foley, Inc. was awarded the ESCNJ Cooperative Contract #18/19-25 for the parts and repairs for the refurbishment of a Township-owned Caterpillar excavator (unit #0403); and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, for the existing authorization to be amended to include the supplemental work recommended by the Director of Public Works through Foley, Inc. in an amount not to exceed \$5,720.92; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Director 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 an additional authorization is hereby granted to refurbish the Township-owned Caterpillar excavator (unit #0403) through Foley, Inc., 855 Centennial Ave, P.O. Box 1555, Piscataway, NJ 08855, under ESCNJ Cooperative Contract #18/19-25 in an amount not to exceed \$5,720.92.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Township Clerk to witness, contracts with Foley, Inc., in accordance with this resolution, and in a form to be approved by the Township Attorney.

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified funds in the amount of \$5,720.92 in Capital Account #04-215-20-05E-120297.

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

- a. Foley, Inc.
- b. Business Administration
- c. Director of Public Works
- d. Chief Financial Officer

RESOLUTION #2020-287

APPROVING THE ASSIGNMENT AND ASSUMPTION OF THE DEVELOPER'S AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND BUCKDALE, LLC TO K. HOVNIANIAN AT MARLBORO PLACE, LLC IN CONNECTION WITH THE SUBDIVISION APPROVAL FOR THE SITE LOCATED AT BLOCK 355 LOTS 6, 7, 8 & 11 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, on May 28, 2019 the Zoning Board of Adjustment ("Zoning Board") of the Township of Marlboro granted Preliminary and Final Major Subdivision Approval to Buckdale, LLC ("Buckdale") for the development of the property known as Block 355, Lots 6, 7, 8 & 11 on the official tax map of the Township of Marlboro, Monmouth County, New Jersey (the "Site"); and

WHEREAS, the Zoning Board resolution conditioned the approval upon Buckdale entering into a Developer's Agreement with the Township of Marlboro; and

WHEREAS, the Township and Buckdale entered into and executed a Developer's Agreement dated March 24, 2020 (the "Developer's Agreement") in which Buckdale agreed to undertake certain obligations in connection with the Zoning Board approval; and

WHEREAS, Buckdale and K. Hovnanian at Marlboro Place, LLC ("K. Hovnanian") entered into a Real Estate Purchase Agreement dated July 27, 2020, (the "Purchase Agreement"), pursuant to which Buckdale agreed to sell and K. Hovnanian agreed to purchase the Site and all easements and rights appurtenant thereto; and

WHEREAS, Buckdale now seeks to assign all of its rights and obligations under the Developer's Agreement to K. Hovnanian, and K. Hovnanian desires to acquire such rights and obligations from Buckdale and to assume the rights and obligation of Buckdale under the Developer's Agreement; and

WHEREAS, in accordance with Paragraph 13 of the Developer's Agreement, Buckdale has the right to sell the Site prior to the

installation of all improvements provided that the subsequent developer assumes the obligations of Buckdale under the Developer's Agreement in writing and on a form acceptable to the Township Attorney, and that notice is given to the Township Engineering Department; and

WHEREAS, the Township Attorney has reviewed the Assignment and Assumption of Developer's Agreement between Buckdale and K. Hovnanian and recommends its approval in a substantially similar form to the Assignment and Assumption of Developer's Agreement attached hereto and made a part hereof as "Exhibit A".

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Council hereby approve the assignment and assumption of the rights and obligations of Buckdale, LLC under the Developer's Agreement to K. Hovnanian at Marlboro Place, LLC as more particularly described in the Assignment and Assumption of Developer's Agreement, in substantially similar form to the agreement attached hereto as "Exhibit A".

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

- A. Buckdale, LLC
- B. K. Hovnanian at Marlboro Place, LLC
- C. Township Business Administrator
- D. Township Engineer
- E. Township Chief Financial Officer
- F. Rainone Coughlin & Minchello, LLC

RESOLUTION #2020-288

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES FOR THE WATER UTILITY IMPROVEMENTS AT THE SITE KNOWN AS 480 ROUTE 9 REALTIES LLC "RAY CATENA", BLOCK 299, LOT 113.01, LOCATED AT 480 ROUTE 9 NORTH, MARLBORO TOWNSHIP, NEW JERSEY 07726

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request from Mr. Frank Seibert Jr, Facilities Manager for 480 Route 9 Realities LLC, for the release of the Township held Performance Guarantees in the form of a Performance Surety Bond and Cash Deposit for the water utility improvements ("Public Improvements") on the Site known as "480 Route 9 Realities LLC Ray Catena" (the "Site"), property known as Block 299, Lot 113.01, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by Route 9 Realities 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 September 15, 2020, 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 Performance Surety Bond, Bond No. 106733547, in the original amount of \$38,168.28 issued by Travelers Casualty & Surety Co. of America, posted by the Developer and being held by the Township, be released in its 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 \$5,301.15; and; and

WHEREAS, the aforesaid report recommends that the current Performance Guarantee in the form of a Cash Deposit, Bank of America check no. 194703, in the original amount of \$4,240.92 (excludes accrued interest) posted by the Developer and being held by the Township, be released in its 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 \$5,301.15; 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 Surety Bond, Bond No. 106733547, in the original amount of \$38,168.28 issued by Travelers Casualty & Surety Co. of America, posted by the Developer and being held by the Township, be released in its 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 \$5,301.15; and

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 Cash Deposit, Bank of America check no. 194703, in the original amount of \$4,240.92 (excludes accrued interest) posted by the Developer and being held by the Township, be released in its 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 \$5,301.15; and

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

- a. 480 Route 9 Realties LLC
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Engineer
- e. Louis Rainone, Esq., Township Attorney

RESOLUTION # 2020-289

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO MESSERCOLA EXCAVATING CO. INC. FOR THE CHURCH ROAD DRAINAGE IMPROVEMENTS AND STREAM CLEANING FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF COMMUNITY DEVELOPMENT

WHEREAS, the Township of Marlboro as part of its 2016 Capital Program (060-19) authorized the CHURCH ROAD DRAINAGE IMPROVEMENTS AND STREAM CLEANING project; and

WHEREAS, the Township of Marlboro has obtained the necessary property easements and permits from the New Jersey Department of Environmental Protection (NJDEP), and authorized the acceptance of bids for the CHURCH ROAD DRAINAGE IMPROVEMENTS AND STREAM CLEANING project; and

WHEREAS, on October 28, 2020, the Township received fifteen (15) bids, as summarized below and referenced in the report from the Township Engineer dated October 28, 2020; and

<u>Contractor</u>	<u>Base Bid</u>	<u>Bid Alt. A</u>	<u>Total Bid Amount</u>
1. Messercola Excavating Co., Inc.	\$84,755.00	\$35,160.00	\$119,915.00
2. Brennan Brothers Construction, LLC	\$85,395.00	\$39,142.00	\$124,537.00
3. Lucas Construction Group	\$92,875.00	\$36,920.00	\$129,795.00
4. Precise Construction, Inc.	\$97,800.00	\$39,530.00	\$137,330.00
5. A. B. Kurre Contracting, Inc.	\$103,050.00	\$43,532.00	\$146,582.00
6. Kalogridis Contracting LLC	\$114,005.00	\$43,440.00	\$157,445.00
7. TC Landscaping Construction Group	\$117,495.03	\$50,150.26	\$167,645.29
8. Nava Construction, LLC	\$124,360.00	\$54,920.00	\$179,280.00
9. Fernandes Construction Inc.	\$127,130.50	\$28,614.13	\$155,744.63
10. Grade Construction	\$143,564.40	\$21,981.94	\$165,546.34
11. Capela Construction Inc.	\$155,950.00	\$66,675.00	\$222,625.00

12. Yannuzzi Group	\$169,950.00	\$48,975.00	\$218,925.00
13. SumCo Eco-Contracting	\$185,290.00	\$105,250.00	\$290,540.00
14. DeFino Contracting Co.	\$281,800.00	\$69,500.00	\$351,300.00
15. DSC Construction, Inc.	\$287,330.00	\$88,905.00	\$376,235.00

; and

WHEREAS, it has been determined that the submission of the lowest bidder for the bid of Items 1 through 19 and bid alternate inclusive, Messercola Excavating Co., Inc., is responsive as detailed in an October 28, 2020 letter submitted by the Township Engineer; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer to award the bid 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 Messercola Excavating Co., Inc., whose address is 549 East Third Street, Plainfield, NJ 07060 in an amount not to exceed \$119,915.00 for the CHURCH ROAD DRAINAGE IMPROVEMENTS AND STREAM CLEANING project.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Township Clerk to witness, contracts with Messercola Excavating Co., Inc., in an amount not to exceed \$119,915.00.

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified that sufficient funds in the amount of \$119,915.00 are available for the aforesaid contract in General Capital Account 04-215-16-02C-060288.

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

- a. Messercola Excavating Co., Inc.
- b. Business Administrator
- c. Director of Public Works
- d. Director of Community Development
- e. Township Engineer
- f. Chief Financial Officer

RESOLUTION # 2020-290

A RESOLUTION APPROVING CLOSE OUT CHANGE ORDER TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND LUCAS BROTHERS, INC. AND AUTHORIZING FINAL PAYMENT AND ACCEPTANCE OF THE 2018 ROAD IMPROVEMENT PROGRAM, CONTRACT II

WHEREAS, by Resolution #2019-122 the Township of Marlboro authorized the award of a contract to Lucas Brothers, Inc. for the 2018 Road Improvement Program, Contract II project (the "Project"); and

WHEREAS, Closeout Change Order has been requested resulting in a decrease in the original contract amount of \$830,000.00 to \$809,647.26, a net decrease of \$20,352.74; and

WHEREAS, in a letter dated October 8, 2020, the Township Engineer has indicated that the project was completed in accordance with the plans and specifications, and has recommended approval of the Closeout Change Order, acceptance of the Project improvements, and issuance of final payment in the amount of \$17,564.94; and

WHEREAS, pursuant to the terms of the contract, Lucas Brothers, Inc. has provided a two-year maintenance bond in an amount equal to 15% of the final contract amount or \$121,447.09; and

WHEREAS, the Township Council of the Township of Marlboro is amenable to approving Closeout Change Order, accepting the Project improvements and issuing a final payment to Lucas Brothers, Inc. in the amount of \$17,564.94 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 Closeout Change Order to the existing contract with Lucas Brothers, Inc., be and is hereby approved, decreasing the original contract total of \$830,000.00 to \$809,647.26, a net decrease of \$20,352.74.

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 \$17,564.94 for work completed by Lucas Brothers, Inc. is hereby approved.

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

- a. Lucas Brothers, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Engineer
- e. Township Chief Financial Officer
- f. Rainone Coughlin Minchello, LLC

RESOLUTION #2020-291

A RESOLUTION AUTHORIZING AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND CLEARY, GIACOBBE, ALFIERI, JACOBS, LLC FOR SPECIAL TAX COUNSEL SERVICES

WHEREAS, the Township entered into an agreement with CLEARY, GIACOBBE, ALFIERI, JACOBS, LLC to provide special tax counsel services, awarded pursuant to a fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5 (R.2020-22); and

WHEREAS, in a communication dated November 3, 2020, the Tax Assessor has recommended that an estimate of \$9,000.00 be added to the contract in order to provide for the proper defense of these appeals through the end of 2020, requiring an amendment to the existing agreement; 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 in the amount of \$9,000.00 are available for this purpose from Account #01-201-20-050-226230; 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

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

1. The Township Council of the Township of Marlboro hereby authorizes and approves of an amendment to the Professional Services Contract between the TOWNSHIP OF MARLBORO and CLEARY, GIACOBBE, ALFIERI, JACOBS, LLC, pursuant to a fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. The Professional Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation at the rates set forth in the proposal dated December 2, 2019, in an additional amount not to exceed \$9,000.00; and

3. The Mayor and Municipal Clerk are hereby authorized and directed to execute, seal and deliver said Contract for Professional Services on behalf of and in the name of the Township of Marlboro; and

4. That notice of the award of this contract amendment shall be published in accordance with law; and

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

- a. CLEARY, GIACOBBE, ALFIERI, JACOBS, LLC
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Tax Assessor

RESOLUTION 2020-292

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY AMENDING AND RENEWING A SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE BOROUGH OF MATAWAN TO PROVIDE ANIMAL CONTROL SERVICES

WHEREAS, on January 29, 2015 the Township of Marlboro (the "Township") authorized a shared services agreement (R.2015-063) with the Borough of Matawan ("Borough") for animal control services including emergency response for domestic animal incidents, emergency response for sick or dangerous wildlife and enforcement of the Borough's ordinances pertaining to domestic animals; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., (the "Act") permits units of local government to share services for particular purposes and to effectuate agreements for any service or circumstance that will aid and encourage a reduction of local expenses; and

WHEREAS, the Township of Marlboro ("Marlboro") and the Borough of Matawan ("Matawan") are public bodies corporate and politic of the State of New Jersey and are authorized under New Jersey Law to enter into a Shared Services Agreement pursuant to the Act; and

WHEREAS, the Township has the personnel as well as the necessary contracts in place to provide the specified services; and

WHEREAS, the Township and the Borough of Matawan wish to extend the agreement to include calendar year 2021; and

WHEREAS, the Township and Borough have negotiated a Shared Services Agreement, a copy of which is annexed hereto as EXHIBIT A, and the terms of which are incorporated into this resolution as if set forth at length herein.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Township of Marlboro as follows:

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Township Clerk are hereby authorized to execute the Shared Services Agreement annexed hereto as EXHIBIT A.
4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION 2020-293

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY RENEWING SHARED SERVICES AGREEMENT BETWEEN THE MARLBORO TOWNSHIP DEPARTMENT OF PUBLIC SAFETY AND MARLBORO FIRE DISTRICTS TO PROVIDE COMPUTER AIDED DISPATCH (CAD) BASED EMERGENCY RECALL SERVICES FOR VOLUNTEERS

WHEREAS, the Township of Marlboro (the "Township") Department of Public Safety, Division of Police currently provides emergency dispatching services for the Township of Marlboro which includes volunteer emergency medical services and the independent fire districts; and

WHEREAS, on December 12, 2019 (R.2019-378) the Township Council renewed a shared services agreement with Marlboro Fire Districts 1, 2 and 3 ("Marlboro Fire Districts") to provide computer aided dispatch (CAD) based emergency recall services for volunteer firefighters; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., (the "Act") permits units of local government to share services for particular purposes and to

effectuate agreements for any service or circumstance that will aid and encourage a reduction of local expenses; and

WHEREAS, the Township of Marlboro (the "Township") and Fire Districts 1, 2 and 3 ("Marlboro Fire Districts") are public bodies corporate and politic of the State of New Jersey and are authorized under New Jersey Law to enter into a Shared Services Agreement pursuant to the Act; and

WHEREAS, the Township has the facilities to provide computer aided dispatch (CAD)-based emergency recall services for volunteer firefighters; and

WHEREAS, the Township and Marlboro Fire Districts have negotiated a Shared Services Agreement, a copy of which is annexed hereto as EXHIBIT A, and the terms of which are incorporated into this resolution as if set forth at length herein; and

WHEREAS, the Marlboro Chief of Police has recommended the proposed agreement as representing the best value and public safety solution for Marlboro taxpayers; and

WHEREAS, the Mayor and Municipal Council have indicated their desire to accept the recommendation of the Chief of Police.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Marlboro as follows:

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Township Clerk are hereby authorized to execute the Shared Services Agreement annexed hereto as EXHIBIT A.

RESOLUTION #2020-294

A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN MORGANVILLE VOLUNTEER FIRE COMPANY NO. 1 AND THE MARLBORO RECREATION DEPARTMENT FOR USE OF SPACE AT 78 TENNENT ROAD, MORGANVILLE, NEW JERSEY

WHEREAS, the Township of Marlboro Department of Recreation ("Township") requires additional space to operate its adult recreation programs; and

WHEREAS, MORGANVILLE VOLUNTEER FIRE COMPANY NO. 1, a not for profit corporation registered in the State of New Jersey with a principal place of business at 78 Tennent Road, Morganville, New Jersey 07751 ("Morganville") has agreed to lease space at its property located at 78 Tennent Road, Morganville to the Marlboro Department of Recreation to operate adult recreation programs; and

WHEREAS, Morganville has offered the Township a one year lease of space at its property located at 78 Tennent Road, Morganville commencing on January 1, 2021 and terminating on December 31, 2021 for an annual fee of \$13,500.00, and a maximum allowance for utilities not to exceed \$600.00, for adult recreation programs to be held three (3) days per week, Monday through Thursday between the hours of 8:00 am and 12:30 pm.

WHEREAS, the Department of Recreation is recommending that the Township enter into a one year lease incorporating the terms offered by Morganville.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute, and the Township Clerk to witness a lease agreement with MORGANVILLE VOLUNTEER FIRE COMPANY NO. 1, 78 Tennent Road, Morganville, New Jersey 07751 in accordance with this resolution, in a form to be approved by the Township Attorney.

BE IT FURTHER RESOLVED, funds in the amount of \$14,100.00 will be certified by the Chief Financial Officer in Current Account #01-201-28-145-216475 at the time of the 2021 budget is adopted.

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

- a. MORGANVILLE VOLUNTEER FIRE COMPANY NO. 1
- b. Township Business Administrator
- c. Township Recreation Director
- d. Chief Financial Officer

RESOLUTION # 2020-295

CHANGE IN CUSTODIAN OF PETTY CASH FUND

WHEREAS, Daniel Reeve was custodian of the Recreation Petty Cash Fund; and

WHEREAS, in accordance with N.J.S.A. 40A:5-21, the Township of Marlboro is changing custodians to Suzanne Leifer; and

WHEREAS, Suzanne Leifer is bonded in the amount of \$50,000.00 by virtue of the Township's Public Employee Dishonesty blanket crime policy.

NOW, THEREFORE, BE IT RESOLVED, that the Township of Marlboro, County of Monmouth hereby authorizes such action and two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

RESOLUTION #2020-296

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$48,501.19 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 Township Council of the Township of Marlboro that the amount of \$48,501.19 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>
2017-039	214.05/11	Fig Capital Inv. NJ13 PO Box 54472 New Orleans, LA 70154 Assessed Owner: Zamarin, Michael	20,037.31
2019-037	355/17	Fig N19 LLC PO Box 54226 New Orleans, LA 70154	28,463.88

Assessed Owner:
Century Vision Assoc., LLC

RESOLUTION #2020-297

WHEREAS, the attached list in the amount of \$3,353.07 known as Schedule "A", is comprised of amounts representing overpayments for 2020 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK/LOT</u>	<u>ASSESSED OWNER</u>	<u>2020 REFUND</u>
184.01/24	Michael & Chrysanna Edell 7 Garnet Street Morganville, NJ 07751	1,924.38
273/21	Michael & Nicole Cleary 5 Fletcher Drive Morganville, NJ 07751	1,428.69

At 7:20 p.m., Councilwoman Marder moved that the meeting be adjourned. This was seconded by Council President Mazzola, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: December 17, 2020

OFFERED BY: AYES:

SECONDED BY: NAYS:

SUSAN A. BRANAGAN,
MUNICIPAL CLERK
121720

CAROL MAZZOLA,
COUNCIL PRESIDENT