

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

December 18, 2018

The Marlboro Township Council held its rescheduled meeting on December 18, 2018 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 this rescheduled 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 December 3, 2018; published in the Asbury Park Press on December 5, 2019; 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: Councilman Cantor, Councilwoman Mazzola, Council Vice President Metzger, Councilman Scalea, and Council President Marder.

Also present were: Mayor Jonathan L. Hornik, Louis N. Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Suzanne Branagan.

Council Vice President Metzger moved that the minutes of November 29, 2018 be adopted. This was seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

The following Resolution #2018-362/Ordinance #2018-22 (Amending and Supplementing Licensing and Permitting Fee and Policies for 2019) was introduced by reference, offered by Council Vice President Metzger and seconded by Councilwoman Mazzola. Council President Marder opened the Public Hearing on Ordinance #2018-22. As there was no one who wished to speak, the public hearing was closed and the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2018-362

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

ORDINANCE # 2018-22

AN ORDINANCE AMENDING AND SUPPLEMENTING LICENSING AND PERMITTING FEES AND POLICIES OF THE CODE OF THE TOWNSHIP OF MARLBORO PERTAINING TO LAND USE; SIDEWALK REPLACEMENT; UNIFORM CONSTRUCTION CODE; WRECKER LICENSES; WATER UTILITY SYSTEM CONNECTIONS; RECREATION & SWIM PROGRAMS; DISCHARGE OF FIREARMS; TAX SALE ADMINISTRATION AND REFUNDS OF FEES

which was introduced on November 29, 2018, public hearing held on December 18, 2018, be adopted on second and final reading

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

Motion to table Res. #2018-363/Ord. #2018-23 (Amending Section 220 - Land Use - Recommendations from Land Use Boards) to the January 3, 2019 meeting was made by Council Vice President Metzger, seconded by Councilman Scalea and passed on a roll call vote of 5- 0 in favor of tabling.

The following Resolution #2018-364/Ordinance #2018-24 (Amending Chapter 4 - Division of Police - Amending Table of Organization) was introduced by reference, offered by Council Vice President Metzger and seconded by Councilman Scalea. Council President Marder opened the Public Hearing on Ordinance #2018-24. As there was no one who wished to speak, the public hearing was closed and the resolution/ordinance was passed on a roll call vote of 4 - 1 in favor, with Councilman Cantor voting no.

RESOLUTION # 2018-364

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

ORDINANCE # 2018-24

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE XIV, § 4-98, OF THE CODE OF THE TOWNSHIP OF MARLBORO ENTITLED "DIVISION OF POLICE" AMENDING TABLE OF ORGANIZATION

which was introduced on November 29, 2018, public hearing held on December 18, 2018, be adopted on second and final reading this 18th day of December, 2018.

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

The following Resolution #2018-365/Ordinance #2018-25 (Amending Chapter 4 - Fixing Salaries of Various Officers and Employees 2019) was introduced by reference, offered by Council Vice President Metzger and seconded by Councilwoman Mazzola. Council President Marder opened the Public Hearing on Ordinance #2018-25. As there was no one who wished to speak, the public hearing was closed and the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor

RESOLUTION # 2018-365

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

ORDINANCE # 2018-25

ORDINANCE AMENDING CHAPTER 4, ARTICLE XX
(ADMINISTRATION OF GOVERNMENT, OFFICERS AND EMPLOYEES)
AND FIXING THE SALARIES OF VARIOUS
OFFICERS AND EMPLOYEES OF THE
TOWNSHIP OF MARLBORO 2019

which was introduced on November 29, 2018, public hearing held on December 18, 2018, be adopted on second and final reading this 18th day of December, 2018.

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

The following Resolution #2018-366/Ordinance #2018-26 (Establishing a Requirement to Obtain a Registration Certificate for the Use of Cranes) was introduced by reference, offered by Council Vice President Metzger and seconded by Councilman Scalea. Council President Marder opened the Public Hearing on Ordinance #2018-26. As there was no one who wished to speak, the public hearing was closed and the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2018-366

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

ORDINANCE # 2018-26

AN ORDINANCE ESTABLISHING A REQUIREMENT
TO OBTAIN A REGISTRATION CERTIFICATE FOR THE
USE OF CRANES IN THE TOWNSHIP OF MARLBORO

which was introduced on November 29, 2018, public hearing held on December 18, 2018, be adopted on second and final reading this 18th day of December, 2018.

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

As the Consent Agenda, the following resolutions were introduced by reference, offered by Council Vice President Metzger, seconded by Councilwoman Mazzola, and passed on a roll call vote of 5 - 0 in favor: Res. #2018-367 (Authorizing Professional Engineering Services - SADC Diversion Application/State Hospital SE Region), Res. #2018-368 (Authorizing "Authorized Representatives" for Applications filed with NJDEP/NJEIT - Pump Station - Sanitary System), Res. #2018-369 (Authorizing "Authorized Representatives" for Applications filed with NJDEP/NJEIT - Standby Well #5A - Tennent Road Water Treatment Plant), Res. #2018-370 (Authorizing "Authorized Representatives" for Applications filed with NJDEP/NJEIT - Aeration System - Tennent Road Water Storage Tank), Res. #2018-371 (Authorizing 2019 Temporary Budget), Res. #2018-372 (Authorizing Submission of a Strategic Plan for Marlboro Municipal Alliance Grant for FY 2020), Res. #2018-373 (Authorizing Amendment to State Contracts for Auto/Truck Parts), Res. #2018-374 (Authorizing Amendment to Monmouth County Contracts for Auto/Truck Parts), Res. #2018-375 (Adjustments and Cancellation to Grant Receivable and Appropriation Reserve Balances), Res. #2018-376 (Authorizing Cancellation of Unexpended Capital Account Balances), Res. #2018-377 (Transfer of Tax Sale Cert Premiums from Trust to Current Account), Res. #2018-378 (Authorizing 2018 Budget Transfer), Res. #2018-379 (Authorizing Cancellation of Recreation Utility Unexpended Operating Fund Balances), Res. #2018-380 (Authorizing Amendment to Claimant Certification Requirements), Res. #2018-381 (Budget Amendment Chapter 159 - 2018 Drive Sober or Get Pulled Over), Res. #2018-382 (Authorizing Renewal of Shared Services BOE Agreement - Geese Patrol), Res. #2018-383 (Confirming Emergency Water Main Repairs), Res. #2018-384 (Redemption Tax Sale Certificates - Various), Res. #2018-385 (Cancel Taxes Exempt Properties - Various), Res. #2018-386 (Cancel Uncollectible Taxes - Various), Res. #2018-387 (Disabled Veteran Exemption - 71 Crescent Court),

Res. #2018-388 (Cancel Taxes Exempt Property (B 180, L 83.03),
Res. #2018-389 (Cancel Taxes Exempt Property (B 180, L 83.15),
and Res. #2018-390 (Authorizing Final Close Out Change Order
(Texas Road Improvements - Phase III)).

RESOLUTION # 2018-367

A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH AN APPLICATION TO THE STATE AGRICULTURAL DEVELOPMENT COMMITTEE (SADC) FOR WATER MAIN IMPROVEMENTS PERTAINING TO THE FORMER MARLBORO STATE HOSPITAL SITE

WHEREAS, the State of New Jersey is in the final stages of remediating the former Marlboro Hospital property with the goal of turning the property over to County residents for open space and recreation; and

WHEREAS, in order to meet this goal, the State has proposed to construct water main extension(s) and connect to the water supply system owned and operated by the Marlboro Township Water Utility in order to service the existing social service facilities, Mattie House and New Hope and Discovery Institute ("facilities") which are located on the former Hospital property; and

WHEREAS, the connection of the aforementioned facilities to public water will impose demands on the water distribution system which necessitate expansion of existing infrastructure; and

WHEREAS, the installation of additional water main has been proposed in order to provide a looped water supply to the facilities and surrounding area while mitigating flow and pressure impact(s) on the existing water distribution system caused by the additional demands; and

WHEREAS, a portion of the "looped" water main extension for the project requires crossing a preserved farmland parcel known as Block 157, Lot 34.04 with a permanent easement in favor of the Marlboro Township Water Utility for future operation and maintenance of the water main ("Project"); and

WHEREAS, application must be made to the State Agricultural Development Committee (SADC) in order to obtain the required easement for the installation of additional water main; and

WHEREAS, the SADC has requested additional information as part of the application process requiring investigation and analysis by the Township's contract Water Utility Engineer; and

WHEREAS, the Township has an interest in the necessary improvements to the water system and in the ultimate preservation of the former Hospital site; and

WHEREAS, CME has provided a supplementary proposal dated November 28, 2018 for the additional professional services required ("professional services"); 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 by way of its Township Engineers at a fee not to exceed \$4,536.00 for such Professional Services, as further described and set forth in CME's Proposals, 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 in the amount of \$4,536.00 are available in Grant Account 06-215-18-02G-500288 for this purpose; 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.

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, for the APPLICATION TO THE STATE AGRICULTURAL DEVELOPMENT COMMITTEE (SADC) FOR WATER MAIN IMPROVEMENTS PERTAINING TO THE FORMER MARLBORO STATE HOSPITAL SITE, at a fee not to exceed \$4,536.00 for such Professional Services, as further described and set forth in CME's Proposals dated November 28, 2018, be and is hereby authorized.

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.

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 \$4,536.00 for such additional Professional Services for the Project as described in the Proposal.

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.

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. Township Business Administrator
- c. Chief Financial Officer

RESOLUTION # 2018-368

AUTHORIZING "AUTHORIZED REPRESENTATIVES" FOR APPLICATIONS FILED WITH NJDEP/NJEIT - PUMP STATION - SANITARY SYSTEM

WHEREAS, the Township of Marlboro intends to file an application with the New Jersey Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust (NJEIT) for the following project:

Pump station and force main to discharge filter backwash into the sanitary system

NOW, THEREFORE BE IT RESOLVED, that

Bob Miller
Superintendent of Public Works

and
Kurt Eifert, P.E.
Engineering Project Manager

be authorized to act as "Authorized Representatives" to represent the Township in all matters relating to the projects undertaken pursuant to the above referenced New Jersey Environmental Infrastructure Loan application to be executed with the New Jersey Dept. of Environmental Protection and the New Jersey Environmental Infrastructure Trust. The Authorized Representatives may be contacted at:

1979 Township Drive
Marlboro, New Jersey 07746-2247
Telephone: 732 536-0200 x1627

RESOLUTION # 2018-369

AUTHORIZING "AUTHORIZED REPRESENTATIVES" FOR APPLICATIONS FILED
WITH NJDEP/NJEIT - STANDBY WELL #5A - TENNENT ROAD WATER
TREATMENT PLANT

WHEREAS, the Township of Marlboro intends to file an application with the New Jersey Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust (NJEIT) for the following project:

Standby Well # 5A at Tennent Road water treatment
plant site

NOW, THEREFORE BE IT RESOLVED, that

Bob Miller
Superintendent of Public Works

and

Kurt Eifert, P.E.
Engineering Project Manager

be authorized to act as "Authorized Representatives" to represent the Township in all matters relating to the projects undertaken pursuant to the above referenced New Jersey

Environmental Infrastructure Loan application to be executed with the New Jersey Dept. of Environmental Protection and the New Jersey Environmental Infrastructure Trust. The Authorized Representatives may be contacted at:

1979 Township Drive
Marlboro, New Jersey 07746-2247
Telephone: 732 536-0200 x1627

RESOLUTION # 2018-370

AUTHORIZING "AUTHORIZED REPRESENTATIVES" FOR APPLICATIONS FILED WITH NJDEP/NJEIT - AERATION SYSTEM AND IMPROVEMENTS - 10 MG TENNENT ROAD WATER STORAGE TANK

WHEREAS, the Township of Marlboro intends to file an application with the New Jersey Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust (NJEIT) for the following project:

Aeration system and improvements to the 10 MG Tennent Road water storage tank

NOW, THEREFORE BE IT RESOLVED, that

Bob Miller
Superintendent of Public Works

and

Kurt Eifert, P.E.
Engineering Project Manager

be authorized to act as "Authorized Representatives" to represent the Township in all matters relating to the projects undertaken pursuant to the above referenced New Jersey Environmental Infrastructure Loan application to be executed with the New Jersey Dept. of Environmental Protection and the New Jersey Environmental Infrastructure Trust. The Authorized Representatives may be contacted at:

1979 Township Drive
Marlboro, New Jersey 07746-2247
Telephone: 732 536-0200 x1627

RESOLUTION # 2018-371

RESOLUTION ADOPTING A TEMPORARY BUDGET
CALENDAR YEAR 2019

WHEREAS, N.J.S.A. 40A:4-19 provides for temporary appropriations to be made by the governing body within the first 30 days of the beginning of the fiscal year, and

WHEREAS, appropriations are to provide for the period for the first three months of the new fiscal year, and

WHEREAS, the total of the appropriations so made shall not exceed 26.25% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year excluding appropriations made for interest and debt redemption charges and capital improvement fund, and

WHEREAS, twenty-six point twenty-five percent (26.25%) of the Township of Marlboro budget for Calendar Year 2018, excluding debt service and capital improvement fund is \$8,725,644.11, and

WHEREAS, twenty-six point twenty-five percent (26.25%) of the Township of Marlboro Water Utility budget for Calendar Year 2018, excluding debt service and capital improvement fund is \$2,203,491.82, and

WHEREAS, twenty-six point twenty-five percent (26.25%) of the Township of Marlboro Recreation and Swim Utility budget for Calendar Year 2018, excluding debt service and capital improvement fund is \$649,241.21.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the following temporary appropriations are made for the first three months of Calendar Year 2019 according to the schedule attached hereto and a made a part hereof.

BE IT FURTHER RESOLVED, that this Resolution take effect immediately, and that a copy of this Resolution be transmitted to the Business Administrator, Chief Financial Officer and Auditor.

RESOLUTION # 2018-372

AUTHORIZING SUBMISSION OF A STRATEGIC PLAN FOR MARLBORO
MUNICIPAL ALLIANCE GRANT FOR FY 2020 (FORM 1B)

Governor's Council on Alcoholism and Drug Abuse
Fiscal Grant Cycle July 2014-June 2019
(FORM 1B)

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Township Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Township Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Monmouth.

NOW, THEREFORE, BE IT RESOLVED by the Township of Marlboro, County of Monmouth, State of New Jersey hereby recognizes the following:

1. The Township Council does hereby authorize submission of a strategic plan for the Marlboro Municipal Alliance grant for fiscal year 2020 in the amount of:

DEDR:	\$53,578.00
CASH MATCH:	\$13,394.50
IN-KIND:	\$40,183.50

2. The Township Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

RESOLUTION # 2018-373

RESOLUTION AMENDING AWARD OF STATE CONTRACTS TO
VARIOUS VENDORS FOR PURCHASE OF AUTO, TRUCK AND HEAVY

EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES FOR THE
DEPARTMENT OF PUBLIC WORKS DIVISION OF VEHICLE
MAINTENANCE

WHEREAS, the Township of Marlboro's Department of Public Works Division of Vehicle Maintenance is in need of AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES in order to maintain the Township vehicle fleet; 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, the Township Council previously granted authorization to utilize vendors approved under the State Cooperative Purchasing Program pursuant to R.2018-090; and

WHEREAS, the Division of Vehicle Maintenance has recommended that the Township purchase AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES under various State contracts as follows:

Vendor	Contract Number(s)	Amount	Change Amount	New Amount
National Parts Supply Company	85993	\$15,000.00	(\$5,000.00)	\$ 10,000.00
Service Tire Truck Center	82527	\$20,000.00	(\$2,000.00)	\$ 18,000.00
Route 1 Chrysler Dodge	79170	\$15,000.00	\$ 5,000.00	\$ 20,000.00
Chemung Supply	88262	\$10,000.00	\$ 5,000.00	\$ 15,000.00
Creston Hydraulics	89297,88272	\$15,000.00		
A & K Equipment	88273	\$ 7,500.00	(\$6,000.00)	\$ 1,500.00
Brown Hunterdon Mack	89271	\$12,000.00	\$ 5,000.00	\$ 17,000.00
D & W Diesel	42124	\$ 2,700.00		
Norman's Auto Services	40174	\$ 3,000.00	(\$2,500.00)	\$ 500.00
Norcia	42083, 85864,89298	\$ 3,500.00	(\$3,000.00)	\$ 500.00
Perth Amboy Springs	89276	\$ 7,500.00		\$ 7,500.00
Craft Oil (Petro Choice)	81514	\$18,000.00		\$ 18,000.00
Varga Transmission Center	40828	\$ 7,000.00	(\$2,500.00)	\$ 4,500.00
Trius, Inc.	88269,85856 , 89249,42108	\$30,000.00		\$ 30,000.00
Malouf Chevrolet	79154	\$ 3,000.00		\$ 3,000.00
Foley Equipment	85846	\$15,000.00	(\$3,500.00)	\$ 11,500.00

Aurora Environmental	42274	\$ 5,500.00		\$ 5,500.00
Air Brake Technology	40830,42086 , 89279	\$ 7,500.00	(\$3,000.00)	\$ 4,500.00
Fastenal	79873	\$ 5,000.00	\$ 1,000.00	\$ 6,000.00
Kaldor Emergency Lighting	81333,81334	\$15,000.00	\$ 35,000.00	\$ 50,000.00
Praxair Distribution	83290	\$ 2,500.00	(\$ 500.00)	\$ 2,000.00
ODB Municipal Products	85861	\$17,500.00	(\$5,000.00)	\$ 12,500.00
W. E. Timmerman Co.	85857	\$ 2,500.00	(\$2,000.00)	\$ 500.00
Joseph Fazzio Steel	84215	\$ 3,000.00	(\$ 500.00)	\$ 2,500.00
B. J. and M. Auto	89295	\$ 2,500.00	(\$ 500.00)	\$ 2,000.00
NAPA Auto Parts (F & C Auto)	42104	\$50,000.00		\$ 50,000.00
Mid Atlantic Truck Center	42075	\$15,000.00		\$ 15,000.00
Edwards Tire	82527,82528	\$55,000.00	(\$15,000.00)	\$ 40,000.00

; 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 Department of Public Works to obtain AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES under various State contracts in order to maintain the Township vehicle fleet; and

WHEREAS, funds will be certified by the Chief Financial Officer at the time of order; and

WHEREAS, the Township Council desires to approve the purchase of said AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES from the aforementioned vendors and under the State Contracts identified above.

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

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

RESOLUTION # 2018-374

RESOLUTION AMENDING AWARD OF CONTRACTS TO VARIOUS VENDORS FOR PURCHASE OF AUTO, TRUCK, AND HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES FOR THE DEPARTMENT OF PUBLIC WORKS DIVISION OF VEHICLE MAINTENANCE THROUGH BIDS OBTAINED BY THE MONMOUTH COUNTY COOPERATIVE PURCHASING PROGRAM

WHEREAS, the Township of Marlboro's Department of Public Works Division of Vehicle Maintenance is in need of AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES in order to maintain the Township vehicle fleet; and

WHEREAS, the Township is authorized to purchase AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES from bids obtained from a cooperative pricing system such as the Monmouth County Cooperative Purchasing Program pursuant to the authority provided by N.J.S.A. 40A:11-11(6); and

WHEREAS, the Township Council granted authorization to utilize vendors approved under the Monmouth County Cooperative Purchasing Program pursuant to R.2018-091; and

WHEREAS, the Division of Vehicle Maintenance has recommended that the Township purchase AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES under various contracts as follows:

Vendor	Contact Number	Amount	Change Amount	New Amount
Groff Tractor	F-77-2018	\$ 1,500.00		
NAPA	F-39-2018	\$ 5,000.00		
Freehold Ford	F-45-2018	\$ 20,000.00		
Mid Atlantic Truck Center	F-46-2018	\$ 15,000.00	(\$1,000.00)	\$14,000.00
Van Winkle Auto Supply	F-39-2018	\$ 6,000.00	\$ 1,000.00	\$ 7,000.00
National Parts Supply	F-50-2018	\$ 10,000.00		
Eastern Surplus & Equipment	F-38-2018	\$ 5,000.00		
Storr Tractor	F-10-2017	\$ 10,500.00		
Jesco	F-48-2018	\$ 2,500.00		
The Battery Square	F-60-2018	\$ 2,500.00		

; 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 Department of Public Works to obtain AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES under the Monmouth County Cooperative Purchasing Program in order to maintain the Township vehicle fleet; and

WHEREAS, funds will be certified by the Chief Financial Officer at the time of order; and

WHEREAS, the Township Council desires to approve the purchase of said AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase AUTO, TRUCK, and HEAVY EQUIPMENT AND LAWN MOWER PARTS AND SUPPLIES from the aforementioned vendors pursuant to the bid obtained by the Monmouth County Cooperative Purchasing Program.

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

- d. Township Business Administrator
- e. Director of Public Works
- f. Chief Financial Officer

RESOLUTION # 2018-375

AUTHORIZING ADJUSTMENTS AND CANCELLATION TO GRANT RECEIVABLE AND APPROPRIATION RESERVE BALANCES

WHEREAS, the Township of Marlboro Financial Statements contain certain grant balances, and

WHEREAS, the cancellation of the grants listed is necessary to accurately represent the grant records maintained by the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED that the following adjustments and cancellations are hereby approved, and the Chief Financial Officer is authorized to make the appropriate entries to reflect this action.

	Cancellation Amount
<u>Receivables</u>	
2009 Body Armor Grant	\$ 16,930.97
2014 Bulletproof Vest Partnership Grant	1,030.72
2015 Bulletproof Vest Partnership Grant	174.85
2017 Green Communities Grant	1,067.05
Total	\$ 19,203.59
<u>Appropriated Reserves</u>	
2013 Drunk Driving Enforcement	\$ 1,018.88
2014 Alliance Grant	1,500.00
2014 Drunk Driving Enforcement	8,699.28
2015 Drunk Driving Enforcement	5,518.74
2016 State Body Armor Replacement Fund	0.01
2017 Green Communities Grant	1,067.05
2017 Bulletproof Vest Partnership Grant	143.30
Total	\$ 17,947.26

RESOLUTION # 2018-376

CANCELLING UNEXPENDED CAPITAL FUND BALANCES

WHEREAS, certain capital ordinances within the Township of Marlboro General Capital Accounts have balances remaining for capital improvement authorizations previously authorized by the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey, and

WHEREAS, certain projects for which remaining funding exists have been deemed as unnecessary or no longer needed, and

WHEREAS, the cancellation of these balances must be completed through resolution of this Governing Body,

NOW, THEREFORE, BE IT RESOLVED that the following capital ordinances be cancelled in the amounts depicted with the funded balances being cancelled into capital surplus and the unfunded balances being recorded to reduce debt authorization.

GENERAL CAPITAL:		
Ordinance Number	Funded	Unfunded
2004-23	\$ 2,261.13	
2013-08	194,971.95	
2015-02	97.02	
2015-15	1,000.00	
2016-02	39.32	
2017-02	2,500.00	
2017-04	7,234.00	
2018-01		\$ 22.30
Total	\$ 208,103.42	\$ 22.30
Bonds or Notes Authorized:		
Ordinance Number	Amount	
2018-01	\$ 22.30	

RESOLUTION # 2018-377

AUTHORIZING THE TRANSFER OF TAX SALE CERTIFICATE
PREMIUMS FROM TRUST ACCOUNT TO CURRENT ACCOUNT

WHEREAS, pursuant to N.J.S.A. 54:5-33, premiums paid by purchasers of Tax Sale Certificates are escheated to the Municipality if a period of five (5) years passes without the Tax Sale Certificate being redeemed, or if the lienholder forecloses on the property; and

WHEREAS, the Tax Collector's office has identified two (2) Tax Sale Certificates for properties which were foreclosed upon by the lienholder, and for which premiums have been paid; and

Certificate	Date Purchased	Amount	Lien Holder	Block	Lot
2013-039	04/17/13	\$ 5,800.00	Income One	175	2
2015-006	10/15/15	\$26,000.00	Christiana Trust as Custodian	116	19

WHEREAS, there exists a balance of \$173,678.45 in tax sale certificate premiums in the trust account, which is unsupported by tax sale records; and

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

the following premiums shall be transferred from the Trust Account and placed into the Current Account:

BE IT FURTHER RESOLVED that the unsupported balance of \$173,678.45 be transferred from the Trust Account and placed into the Current Account.

RESOLUTION # 2018-378

RESOLUTION AUTHORIZING 2018 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 2018 Municipal Budget as follows:

CURRENT:		
Account	From	To
Legal Services Other Expenses	\$ 20,000.00	
Employee Insurance Other Expenses	85,000.00	
911 Expenses Salaries & Wages	30,000.00	
Grounds Maintenance Salaries & Wages	50,000.00	
Administration Other Expenses		\$ 45,000.00
Intergovernmental Relations Other Expenses		1,000.00
Planning Board Other Expenses		6,000.00
Police Salaries & Wages		30,000.00
Recycling Other Expenses		15,000.00
Snow Removal Salaries & Wages		20,000.00
Road Maintenance Salaries & Wages		20,000.00
Vehicle Maintenance Salaries & Wages		3,000.00
Gasoline		45,000.00
	<u>\$ 185,000.00</u>	<u>\$ 185,000.00</u>
WATER UTILITY:		
Account	From	To
WATER UTILITY OE	\$ 40,000.00	
WATER S&W		\$ 40,000.00
	<u>\$ 40,000.00</u>	<u>\$ 40,000.00</u>

RESOLUTION # 2018-379

CANCELLING 2018 APPROPRIATIONS

WHEREAS, appropriations exist in the 2018 Recreation and Swim Utility Operating budget that have been deemed to not be needed for the operations of 2018; and

WHEREAS, it is permissible for appropriations to be cancelled to surplus in the year budgeted.

NOW, THEREFORE, BE IT RESOLVED that a total of \$254,500.00 in 2018 appropriations be hereby canceled and credited to Recreation and Swim Utility Operating Surplus as follows:

	Cancellation Amount
Salary & Wages	\$ 119,800.00
Other Expenses	120,300.00
Social Security Payment	14,400.00
Total	<u>\$ 254,500.00</u>

RESOLUTION # 2018-380

RESOLUTION AMENDING CLAIMANT CERTIFICATION REQUIREMENT
(N.J.S.A. 40A:5-16.5)

WHEREAS, N.J.A.C. 5:30-9A.6 and 5:31-4.1 allows for greater flexibility for local units when implementing the claimant certification requirement set forth in N.J.S.A. 40A:5-16(a); and

WHEREAS, the local units are now given discretion to require a claimant certification as it deems necessary and appropriate; and

WHEREAS, the Chief Financial Officer recommends that a claimant signature only be required for Refunds, Advance Payments, Employee Reimbursements, or for services provided exclusively and entirely by an individual (i.e. sole proprietors); and

WHEREAS, as a continued internal control, N.J.S.A. 40A:5-16(b) still requires local units "a written or electronic certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit" prior to any disbursements of funds; and

WHEREAS, the Chief Financial Officer recommends the adoption of this Claimant Signature policy.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro that, effective immediately, claimant's signatures will only be required for Refunds, Advance Payments, Employee Reimbursements, or for services provided exclusively and entirely by an individual.

RESOLUTION # 2018-381

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 item of revenue in the budget of the year 2018 in the sum of \$6,600.00, which has been awarded to the municipality for the "2018 Drive Sober or Get Pulled Over" grant.

Section 2

BE IT FURTHER RESOLVED that the amount of \$6,600.00 be hereby appropriated under the caption "2018 Drive Sober or Get Pulled Over" Grant.

RESOLUTION # 2018-382

A RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN
THE TOWNSHIP OF MARLBORO AND THE MARLBORO TOWNSHIP
BOARD OF EDUCATION FOR GEESE CONTROL SERVICES

WHEREAS, the Township of Marlboro Department of Recreation ("Township") is entering into a contract for geese control services at various municipal locations; and

WHEREAS, the Marlboro Township Board of Education ("MTBOE") requires geese control services at various school district-owned facilities; 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 and MTBOE 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 agreed to be the Lead Agency and has negotiated a contract for geese control services at various Township and MTBOE facilities ("services"); and

WHEREAS, the Shared Services agreement with the MTBOE will represent the best value for Marlboro residents and taxpayers; and

WHEREAS, the Township and the MTBOE have negotiated the terms of a Shared Services Agreement, included as EXHIBIT A and incorporated into this resolution as if set forth at length herein; and

WHEREAS, the Mayor and Marlboro Township Council desire to enter into the proposed Shared Services Agreement with the Board pursuant to the above-described terms and conditions for a total contract amount not to exceed \$3,600.00.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Mayor and Township Clerk are hereby authorized and directed to execute and witness, respectively, the proposed Shared Services Agreement in a form substantially similar as that attached hereto for the provision of geese control services for various municipal and MTBOE facilities for the term and conditions described hereinabove.

BE IT FURTHER RESOLVED, that, pursuant to N.J.S.A. 40A:65-4(b), a copy of the shared services agreement authorized herein shall be filed with the Division of Local Government Services in the Department of Community Affairs for informational purposes.

BE IT FURTHER RESOLVED, that a copy of the shared services agreement authorized herein shall be open to the public for inspection in the Township Clerk's Office.

BE IT FURTHER RESOLVED that a duly certified copy of this resolution be forwarded to:

- a. Marlboro Township Board of Education
- b. Township Recreation Director
- c. Township Business Administrator
- d. Chief Financial Officer

RESOLUTION # 2018-383

A RESOLUTION CONFIRMING EMERGENCY CONTRACTS WITH LUCAS CONSTRUCTION GROUP, INC. FOR THE PROVISION OF EMERGENCY WATER MAIN REPAIRS AND WATER WORKS SUPPLY CO., INC. FOR THE SUPPLY OF EMERGENCY WATER DISTRIBUTION PRODUCTS PURSUANT TO N.J.S.A. 40A:11-6 FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS WATER UTILITY DIVISION

WHEREAS, during 2018 the Department of Public Works Water Utility Division has reported water emergencies in various areas of the Township designated as EM 1808, 1809, 1815, 1816, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838 & 1839 ; 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 condition 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 Water Utility contacted its existing emergency water main repair contractor, LUCAS CONSTRUCTION GROUP, INC., 173 Amboy Road, Morganville, NJ 07751 to provide the emergency repairs related to the above mentioned emergencies in an amount of \$386,834.29; and

WHEREAS, the Water Utility anticipates additional

restoration repairs to be performed by LUCAS CONSTRUCTION GROUP, INC. for the above mentioned emergencies in and estimated amount of \$251,924.51,; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6, the Township contacted its existing water distribution product supplier, WATER WORKS SUPPLY CO., INC., 660 State Highway 23 P.O. Box 306, Pompton Plains, New Jersey 07444 to provide the necessary emergency water distribution products, for the above mentioned emergencies in an amount not to exceed \$33,092.21; and

WHEREAS, the Chief Financial Officer has certified the availability of funds in an amount not to exceed \$671,851.01 from various water operating and capital accounts.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the emergency contracts be confirmed pursuant to N.J.S.A. 40A:11-6 with LUCAS CONSTRUCTION GROUP, INC. for the provision of emergency water main repairs and WATER WORKS SUPPLY CO., INC. for emergency water distribution products.

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

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

RESOLUTION # 2018-384

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$119,607.05 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 \$ 119,607.05 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>
2017-050	305/64	Fig Capital Investments NJ13 PO Box 54472 New Orleans, LA 70154	2,580.23

		Assessed Owner: Bank of New York Mellon	
2017-056	358/1.14	Fig Capital Investments NJ13 PO Box 54472 New Orleans, LA 70154 Assessed Owner: Bolton, Diana	2,164.38
2016-012	132.02/9/C0209	Daxuan Wang 11 Walnut Street Livingston, NJ 07039 Assessed Owner: Klein, Garry & Barbara	33,209.52
2017-018	171/39	The Approved Realty Group PO Box 869 Lakewood, NJ 08701 Assessed Owner: Asaro, Charles & Pamela	521.12
2016-047	178/290/C0212	Daxuan Wang 11 Walnut Street Livingston, NJ 07039 Assessed Owner: Meskin, Angela	67,457.64
2018-008	235/11	C and E Tax Lien Fund I PO Box 5021 Philadelphia, PA 19111 Assessed Owner: EN1 Real Estate, LLC	11,239.81
2017-060	408/11	Trystone Capital Assets LLC PO Box 1030 Brick, NJ 08723 Assessed Owner: Dibenedetto, Danielle	2,434.35

RESOLUTION # 2018-385

A RESOLUTION AUTHORIZING THE CANCELLATION OF
CERTAIN TAXES ON EXEMPT PROPERTIES

WHEREAS, the attached list in the amount of \$23,329.51 known as Schedule "A", is comprised of taxes that remain outstanding and unpaid; and

WHEREAS, these properties were conveyed to the Township of Marlboro, and the Township Tax Collector has therefore recommended that taxes in the amount of \$23,329.51 be cancelled being that the Township of Marlboro is tax exempt.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey to cancel the taxes as per Schedule "A".

		<u>Schedule "A"</u>	
<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>CANCELLED AMOUNT</u>
148/31		Twp of Marlboro 1979 Township Dr. Marlboro, NJ 07746	\$3,337.92
149/16		Twp of Marlboro 1979 Township Dr. Marlboro, NJ 07746	\$4,594.28
150/9		Twp of Marlboro 1979 Township Dr. Marlboro, NJ 07746	\$10,098.36
151/4		Twp of Marlboro 1979 Township Dr. Marlboro, NJ 07746	\$ 5,298.95
Total			\$23,329.51

RESOLUTION # 2018-386

A RESOLUTION AUTHORIZING THE CANCELLATION OF
CERTAIN TAXES DETERMINED TO BE UNCOLLECTIBLE -

WHEREAS, the attached list in the amount of \$989.19 known as Schedule "A", is comprised of taxes that remain outstanding and unpaid; and

WHEREAS, these outstanding taxes were for tax year 2018; and

WHEREAS, these parcels are known as a "gore", a lot created in error or a lot where ownership cannot be determined therefore,

WHEREAS, it has been determined that the said outstanding taxes, are uncollectible; and

WHEREAS, the Township Tax Collector has recommended that they be canceled.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey that the taxes relating to these properties, which have been determined to be uncollectible are hereby canceled in the amount of \$989.19.

Schedule "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>CANCELLED AMOUNT</u>
153/56.01		Unknown Owner 1979 Township Dr. Marlboro, NJ 07746	\$ 891.41
193.13/128		Unknown Owner 1979 Township Dr. Marlboro, NJ 07746	\$ 97.78
			Total: \$ 989.19

RESOLUTION # 2018-387

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for Monti, Philip, Block: 148, Lot: 10.17, located at 71 Crescent Court,

WHEREAS, taxes were billed for 2018 in the amount of \$14,710.51, and

WHEREAS, this exemption became effective October 19, 2018 and

WHEREAS, pro-rated taxes for fourth quarter, 2018 need to be cancelled in the amount of \$2,999.08.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro to direct the Tax Collector to cancel \$2,999.08 of the fourth quarter taxes.

RESOLUTION # 2018-388

WHEREAS, there are outstanding taxes for 2018 on the following property as designated on the Marlboro Township Tax Map: Block 180 Lot 83.03, located on Pierson Road; and

WHEREAS, the aforementioned property was conveyed to the Township of Marlboro, and the Township Tax Collector has therefore recommended that taxes in the amount of \$3,764.50 be cancelled being the Township of Marlboro is tax exempt.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that the 2018 taxes totaling \$3,764.50 be cancelled as stated above.

RESOLUTION # 2018-389

WHEREAS, there are outstanding taxes for 2018 on the following property as designated on the Marlboro Township Tax Map: Block 180 lot 83.15, located on Deerfield Road; and

WHEREAS, the aforementioned property was conveyed to the Township of Marlboro, and the Township Tax Collector has therefore recommended that taxes in the amount of \$5,166.52 be cancelled being the Township of Marlboro is tax exempt.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that the 2018 taxes totaling \$5,166.52 be cancelled as stated above.

RESOLUTION # 2018-390

A RESOLUTION APPROVING CLOSE OUT CHANGE ORDER TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND S. BROTHERS, INC. AND AUTHORIZING FINAL PAYMENT AND ACCEPTANCE OF TEXAS ROAD IMPROVEMENTS, PHASE III

WHEREAS, by Resolution #2017-89 the Township of Marlboro authorized the award of a contract to S. Brothers, Inc. for the Texas Road Improvements, Phase III project (the "Project"); and

WHEREAS, Closeout Change Order has been requested resulting in a decrease in the original contract amount of \$269,664.36 to \$254,151.01, a net decrease of \$15,513.35; and

WHEREAS, the Township Engineer has recommended approval of the Closeout Change Order, acceptance of the Project

improvements, and issuance of final payment in the amount of \$5,083.02; and

WHEREAS, pursuant to the terms of the contract, S. Brothers, Inc. has provided a two-year maintenance bond in an amount equal to 15% of the final contract amount or \$38,122.65; 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 S. Brothers, Inc. in the amount of \$5,083.02 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 S. Brothers, Inc., be and is hereby approved, decreasing the original contract total of \$269,664.36 to \$254,151.01, a net decrease of \$15,513.35.

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 \$5,083.02 for work completed by S. 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. S. Brothers, Inc.
- b. Township Business Administrator
- c. Township Engineer
- d. Chief Financial Officer
- e. Rainone Coughlin Minchello, LLC

At 7:20 PM, Council Vice President Metzger moved that the meeting enter into executive session for discussion of litigation declaratory judgment. This was seconded by Councilman Cantor and Res. #2018-391 was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2018-391

EXECUTIVE SESSION

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 18th day of December, 2018 to enter into executive session for the

purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation declaratory judgment.

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 30 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 7:48 PM, Councilman Scalea offered a motion to return to regular business, which was seconded by Councilwoman Mazzola and passed on a roll call vote of 5- 0 in favor.

The following Res. #2018-392 (Authorizing Execution of an Agreement with Fair Share Housing Litigation) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2018-392

A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT WITH FAIR SHARE HOUSING COALITION
REGARDING AFFORDABLE HOUSING LITIGATION

WHEREAS, The New Jersey Supreme Court has mandated that each of the state's municipalities "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income." S. Burlington Cnty. NAACP v. Twp. of Mount Laurel (Mount Laurel I), 67 N.J. 151, 179, 187, appeal dismissed, and cert. denied, 423 U.S. 808, 96 S. Ct. 18, 46 L. Ed. 2d 28 (1975); and,

WHEREAS, in 1983, the New Jersey Supreme Court reaffirmed the constitutional obligation that towns provide "a realistic opportunity for the construction of [their] fair share of the present and prospective regional need for low and moderate income housing." S. Burlington Cnty. NAACP v. Twp. of Mount Laurel (Mount Laurel II), 92 N.J. 158, 205 (1983) (citing Mount Laurel I, supra, 67 N.J. at 174), (together with Mount Laurel I, the *Mount Laurel Doctrine*); and,

WHEREAS, The Legislature codified the *Mount Laurel Doctrine* in enacting the Fair Housing Act, N.J.S.A. 52:27D-301, et seq.

("the Fair Housing Act" or "FHA") and established the Council on Affordable Housing ("COAH") as the entity charged with implementing and administering the legislative mandates of the Act; and,

WHEREAS, COAH has not promulgated valid, effective rules since the Second Round Rules expired in 1999; and,

WHEREAS, The New Jersey Supreme Court, in the matter of In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (decided March 10, 2015) ("the Supreme Court Decision"), held that "There is no question that COAH failed to comply with this Court's March 2014 Order that was designed to achieve the promulgation of Third Round Rules and the maintenance of a functioning COAH," such that "the administrative forum is not capable of functioning as intended by the [Fair Housing Act] due to the lack of lawful Third Round Rules assigning constitutional obligations to municipalities," and, consequently "the courts may resume their role as the forum of first instance for evaluating municipal compliance with Mount Laurel obligations"; and,

WHEREAS, Marlboro has long engaged in a comprehensive approach to development with the Township's intent to protect environmentally sensitive areas, preserve farmland and open space, and provide reasonable buffers to promote smart growth in a sustainable manner; and,

WHEREAS, beginning in 1999 Marlboro petitioned COAH for substantive certification of its Housing Element and Fair Share Plan for the second and third round obligation; and,

WHEREAS, fourteen (14) objections were filed in response to the Plan and Marlboro engaged in COAH-ordered mediation sessions with the objectors as required by COAH's regulations. No agreements were reached at the mediation sessions; and,

WHEREAS, following mediation, an objector filed a motion seeking accelerated denial of Marlboro's petition for second and third round substantive certification and dismissal of Marlboro from COAH's jurisdiction. After briefing and oral argument, COAH issued a written decision on September 8, 2010, which denied the Township's petition for substantive certification, and dismissed it from the agency's jurisdiction; and,

WHEREAS, On September 9, 2010, the Township appealed COAH's decision in In re Marlboro Township, Monmouth County, Motion Seeking Accelerated Denial of Marlboro's Third Round Housing Element and Fair Share Plan Docket No. A-0243-10T4 ("the Marlboro

Appeal"); and,

WHEREAS, Marlboro also moved before COAH for a stay of its September 8, 2010 decision, which was granted by COAH on September 23, 2010. COAH granted the stay to preserve the status quo by preventing the filing of any builder's remedy lawsuits pending appeal.

WHEREAS, Nonetheless, in the brief period of time between COAH's dismissal and its determination to stay its own decision, six separate builder's remedy lawsuits were filed against Marlboro. American Props. At Marlboro, LLC v. Township of Marlboro, Docket No. MON-L-4512-10 (filed September 8, 2010); Amboy Industries, LLC v. Township of Marlboro, Docket No. MON-L-4581-10 (filed September 10, 2010); Villas at Marlboro, LLC v. Township of Marlboro, Docket No. 4582-10 (filed September 10, 2010); Sunny Acres, LLC v. Township of Marlboro, Docket No. MON-L-4580-10 (filed September 13, 2010); Ashbel Assocs., LLC v. Township of Marlboro, Docket No. MON-L-4670-10 (filed October 14, 2010); Buckdale, LLC v. Township of Marlboro, Docket No. MON-L-5472-10 (filed October 27, 2010). A seventh lawsuit was previously pending, Ohad Associates, LLC v. Tp. of Marlboro et al., MON-L-1653-10 (filed on April 14, 2010); and,

WHEREAS, although on November 19, 2010, the Appellate Division dissolved COAH's September 23 stay order, on February 15, 2011, the Supreme Court reinstated the stay pending appeal; and,

WHEREAS, In the meantime, on October 8, 2010, the Appellate Division had invalidated substantial parts of COAH's Third Round Rules. In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010) including those aspects of the rules that the Township had criticized, and which led, in substantial part, to COAH's dismissal from its jurisdiction. The Court in the Marlboro Appeal stayed that matter on June 13, 2012, pending a final decision by the Supreme Court in In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing; and,

WHEREAS, on March 10, 2015 the Supreme Court effectively dissolved COAH's authority to grant approval of Fair Share Plans for all of the State's Municipalities and removed from COAH's jurisdiction the authority to adopt rules governing the obligations by municipalities to provide for affordable housing. That decision further directed each municipality, even those with COAH approval, to submit to the jurisdiction of the Superior Court for approval of their Mt. Laurel plans and designated Fair Share Housing Coalition (FSHC) as party in interest in every pending Mr.

Laurel case; and,

WHEREAS, On August 7, 2015 the Appellate Division affirmed COAH's dismissal of Marlboro from its jurisdiction and allowed Builders Remedy law suits, once again, to be filed against Marlboro; and,

WHEREAS, Marlboro has since that date engaged in Court-ordered negotiations with FSHC and the Plaintiffs in eleven (11) Builders Remedy law suits; and,

WHEREAS, Marlboro has concluded the court-ordered negotiations with an agreement that resolves its second and third round obligation, terminates of all pending Builders Remedy law suits and grants the Township immunity from further law suits.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk are authorized to sign the attached agreement between the Township and Fair Share Housing Coalition; and,

BE IT FURTHER RESOLVED, that the Mayor, Township Clerk and Township Attorney are further authorized to execute such other documents or agreements as are necessary to effectuate this settlement and dismissal of all pending litigation, which documents shall be in a form approved by the Township Attorney.

At 7:50 PM, Councilwoman Mazzola moved that the meeting be adjourned. This was seconded by Council Vice President Metzger, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: JANUARY 17, 2019

OFFERED BY: MARDER AYES: 4

SECONDED BY: SCALEA NAYS: 0

ABSENT: METZGER

ALIDA MANCO,
MUNICIPAL CLERK

CAROL MAZZOLA,
COUNCIL VICE PRESIDENT