

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 1, 2009

The Marlboro Township Council held its regularly scheduled meeting on October 1, 2009 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Rosenthal opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 2, 2009; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building posted on the Marlboro Township Website, and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President LaRocca, Councilwoman Tragni, Councilwoman Marder and Council President Rosenthal. Councilman Cantor was absent.

Also present were: Mayor Jonathan L. Hornik, Ronald Gordon, Esq. Business Administrator Alayne Shepler, Municipal Clerk Alida Manco and Deputy Clerk Deborah Usalowicz.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-31 (Amend Ord. #2005-37 - Swim Utility Bond Ordinance). After the Public Hearing was held and closed, the following Res. # 2009-348/Ord. # 2009-31 (Amend Ord. #2005-37 - Swim Utility Bond Ordinance) was introduced by reference, offered by Councilwoman Marder, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-348

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

ORDINANCE # 2009-31

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AMENDING ORDINANCE NO. 2005-37 OF THE TOWNSHIP FINALLY ADOPTED ON SEPTEMBER 22, 2005, PROVIDING FOR IMPROVEMENTS AND OTHER RELATED EXPENSES TO THE TOWNSHIP'S SWIM UTILITY AND APPROPRIATING \$446,250 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$446,250 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

which was introduced on September 10, 2009, public hearing held October 1, 2009, be adopted on second and final reading this 1<sup>st</sup> day of October, 2009.

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

ORDINANCE # 2009-31

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AMENDING ORDINANCE NO. 2005-37 OF THE TOWNSHIP FINALLY ADOPTED ON SEPTEMBER 22, 2005, PROVIDING FOR IMPROVEMENTS AND OTHER RELATED EXPENSES TO THE TOWNSHIP'S SWIM UTILITY AND APPROPRIATING \$446,250 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$446,250 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

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

Bond Ordinance No. 2005-37 of the Township of Marlboro, in the County of Monmouth, New Jersey, finally adopted on September 22, 2005 (the "Prior Ordinance"), is hereby amended in full to read as follows:

Section 1. The several improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township"), as general improvements. For the

several improvements or purposes described in Section 3 hereof, there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement or purpose, such sums amounting in the aggregate to \$446,250. No down payment is required in connection with the improvements or purposes for which obligations are authorized as provided in Section 3 hereof as said purposes are deemed to be self-liquidating and the obligations authorized herein are deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$446,250 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The several improvements hereby authorized and the several purposes for which the bonds or notes are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

- (1) Purpose: Acquisition of outdoor umbrellas, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$157,500  
Maximum Amount of Bonds or Notes: \$157,500  
Period or Average Period of Usefulness: 15 years

- (2) Purpose: Improvements to the Swim Utility Pavilion, as more fully described on a list on file with the Township Clerk, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$105,000  
Maximum Amount of Bonds or Notes: \$105,000  
Period or Average Period of Usefulness: 15 years

- (3) Purpose: Various playground improvements, as more fully described on a list on file with the Township Clerk, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$52,500  
Maximum Amount of Bonds or Notes: \$52,500  
Period or Average Period of Usefulness: 15 years

- (4) Purpose: Improvements to Swim Utility bulkhead, pool and filtration system, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$105,000  
Maximum Amount of Bonds or Notes: \$105,000  
Period or Average Period of Usefulness: 15 years

- (5) Purpose: Construction of volley ball court at Swim Utility, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$26,250  
Maximum Amount of Bonds or Notes: \$26,250  
Period or Average Period of Usefulness: 15 years

(b) The estimated maximum amount of bonds or notes to be issued for the several improvements or purposes is as stated in Section 2 hereof.

(c) The estimated cost of the several improvements or purposes is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8.1. The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of

the notes pursuant to this bond ordinance is made. Such report must include the amount; the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond 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 amended 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 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the Township may lawfully undertake as a self liquidating improvement of a municipal public utility, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the several improvements or purposes, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$446,250, but that the net debt of the Township determined as provided in the Local Bond Law is not increased by this bond ordinance and the obligations authorized herein will be within all debt limitations prescribed by that Law

(d) An aggregate amount not exceeding \$21,250 for items of expense listed in and permitted under NJ.S.A. 40A:2-20 is included

in the estimated cost indicated herein for the several improvements or purposes.

(e) This bond ordinance authorizes obligations of the Township solely for a purpose described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

(f) The Township reasonably expects to commence the acquisition and/or construction of the several improvements or purposes described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the Township further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is hereby pledged to the punctual payment of the principal-of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. The Township hereby covenants to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 10. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 11. This Ordinance amends Bond Ordinance 2005-37 of the Township finally adopted September 22, 2005. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-33 (Ordinance Amending Chapter 40 - Alarm Systems). After the Public Hearing was held and closed, the following Res. # 2009-349/Ord. # 2009-33 (Ordinance Amending Chapter 40 - Alarm Systems)) was introduced by reference as amended, offered by Councilwoman Tragni, seconded by Councilwoman Marder and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-349

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

ORDINANCE # 2009-33 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 40, "ALARM SYSTEMS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY BY DELETING SAME IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 40, "ALARM SYSTEM REGULATIONS"

which was introduced on September 10, 2009, public hearing held October 1, 2009, be adopted on second and final reading this 1<sup>st</sup> day of October, 2009.

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

The following Res. # 2009-350 (Calling for speedy remedy of Court decision Homes of Hope v. Township of Eastampton) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-350

A RESOLUTION URGING GOVERNOR CORZINE AND THE  
NEW JERSEY LEGISLATURE TO EXPEDITIOUSLY REMEDY THE  
DELETERIOUS EFFECTS OF THE APPELLATE COURT'S DECISION  
IN THE MATTER OF HOMES OF HOPE V. TOWNSHIP OF EASTAMPTON

WHEREAS, on Monday, August 24, 2009, the Appellate Division of the Superior Court of New Jersey issued an opinion in the case of Homes of Hope v. Township of Eastampton, ruling that a developer can assert that affordable housing is "inherently beneficial" and thereby obtain a use variance from a municipality even after the municipality has obtained substantive certification from COAH and actually satisfied its affordable housing obligation; and

WHEREAS, as a result of the above noted court case, Eastampton is now required to accepted additional housing growth despite the fact that Eastampton had met its constitutionally mandated affordable housing obligations; and

WHEREAS, the Mayor and Council believe that this ruling by the Appellate Division creates a grave defect in the protections allegedly afforded to municipalities when they spend municipal funds to obtain substantive certification from COAH; and

WHEREAS, the Mayor and Council believe that this ruling generates grave reservations regarding the purposes and continuing viability of COAH; and

WHEREAS, the Mayor and Council believe that this ruling will result in municipalities continuing to be forced to spend significant municipal funds defending legal actions that are essentially "builder's remedy" suits, even though municipalities have already spent significant municipal resources to obtain substantive certification from COAH to avoid "builder's remedy" suits; and

WHEREAS, the Mayor and Council believe that this ruling forces unnecessary development upon municipalities and further erodes the strong public policy of municipalities for "home rule"; and

WHEREAS, the Mayor and Council believe that this ruling clearly creates greater confusion and uncertainty to an already overly complicated affordable housing compliance mechanism, and further serves as a deterrent to municipalities to expend the effort, time and expense to develop and implement affordable housing plans

pursuant to the system created by COAH pursuant to the Fair Housing Act (the "FHA"); and

WHEREAS, a concurring opinion filed in the above noted ruling recognizes that no provision of either the FHA or the Municipal Land Use Law (the "MLUL") addresses a circumstance where a municipality has actually achieved its fair share of affordable housing and what impact that circumstance has on applications for "d" or use variances pursuant to the MLUL; and

WHEREAS, the Mayor and Council believes that the Legislature, not the court, needs to act to correct the grave error created by this ruling, and that the Legislature needs to enact a law that provides that no municipality may be compelled through the use variance process of the Municipal Land Use Law, or otherwise, to provide more than its fair share of affordable housing once the municipality has met its fair share obligation; and

WHEREAS, on February 12, 2009, the Township Council adopted Resolution #2009-87 wherein the Mayor and Council expressed their outrage at the actions of COAH which arbitrarily and capriciously enforced rules requiring that all municipalities in the state file affordable housing plans to obtain substantive certification by no later than December 31, 2008, despite the fact that COAH's rules had been subjected to legal challenge, and despite the fact that economic conditions in the State of New Jersey were spiraling downward; and

WHEREAS, in Resolution #2009-87 the Mayor and Council urged the Legislature and Governor to

1. Issue and order an immediate stay as to the enforcement and/or creation of any obligations deriving or arising under the FHA and its amendments.
2. Issue and order an immediate stay as to the enforcement, interpretation and/or implementation of any of the Rules promulgated by COAH.
3. Issue and order an immediate stay as to the adjudication, determination, or analysis of any pending petition for substantive certification, Fair Share Plan, or other application pending before COAH.
4. Immediately create a task force which shall study and recommend the manner in which COAH can be abolished and the

responsibility and oversight of affordable housing obligations be assigned to a new governing entity.

5. Interface with delegates from each and every municipality in order to begin the process of rewriting the FHA.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Mayor and Township Council of the Township of Marlboro strongly urge the New Jersey State Legislature and Governor Jon S. Corzine to pass and adopt into law, as expeditiously as possible, new legislation to correct the Eastampton decision by providing that no municipality may be compelled through the variance process of the Municipal Land Use Law or otherwise to provide more than its fair share of affordable housing; and

BE IT FURTHER RESOLVED that the Mayor and Council reiterate the requests set forth in Resolution #2009-87 (copy attached) and request immediate action from the Legislature and Governor regarding same; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution and Resolution #2009-87 be provided to each of the following:

- A. The Hon. Governor Jon Corzine
- B. The Hon. Senator Jennifer Beck
- C. The Hon. Assemblywoman Caroline Casagrande
- D. The Hon. Assemblyman Declan O'Scanlon
- E. The New Jersey State League of Municipalities
- F. The Clerks of all Monmouth County Municipalities
- G. Mayor Jonathan L. Hornik
- H. Township Business Administrator
- I. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-351 (Award of Bid - 2009 Road Improvement Program) was introduced by reference, offered by Council Vice President LaRocca and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-351

A RESOLUTION AWARDING A CONTRACT TO AMC INDUSTRIES, LLC FOR THE 2009 MARLBORO ROAD IMPROVEMENT PROGRAM

WHEREAS, the Township of Marlboro authorized the acceptance of bids for road improvements to Topanemus Road, Wyncrest Road and

Gordons Corner Road, such project to be known as the "2009 Marlboro Road Improvement Program"; and

WHEREAS, the bid specifications called for the bids therefor to be opened on September 24, 2009 at 2:00 p.m. prevailing local time; and

WHEREAS, On September 17, 2009, an Addendum entitled "Addendum No. 1" was issued concerning revisions to the plans, contract documents and specifications for the 2009 Marlboro Road Improvement Program; and

WHEREAS, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the date of the bid opening was changed to September 29, 2009 at 10:00 a.m. prevailing local time, as set forth in Addendum No. 1., to satisfy the statutory notice requirements for addendums; and

WHEREAS, on September 29, 2009 the Township of Marlboro received nine (9) bids therefor; and

WHEREAS, the nine (9) bids received were as follows:

Bidder	Bid Amount
1. AMC Industries, LLC	\$ 884,433.90
2. Lucas Brothers, Inc.	\$ 933,000.00
3. Star of the Sea Concrete Corp.	\$ 961,160.11
4. Earle Asphalt	\$ 970,613.13
5. CJ Hesse, Inc.	\$ 997,677.50
6. Fiore Paving Company	\$1,008,305.00
7. DeFino Contracting Co.	\$1,042,434.03
8. Lucas Construction Group, Inc.	\$1,082,921.25
9. MECO, Inc.	\$1,109,180.00; and

WHEREAS, there are minor errors in the bid from AMC Industries, LLC, the apparent low bidder, wherein the apparent low bidder expressed different written unit prices from that of the numeric unit prices for bid items 16 and 21, and, consequently, the total price of the bid items 1 through 25 identified as \$878,138.90 within the bid was adjusted to \$884,433.90 due to the minor errors noted above; and

WHEREAS, such minor errors are de minimus and are neither a mandatory cause for rejection of the bid under N.J.S.A. 40A:11-24, nor a conflict with the bid specifications, which provide that, if

the amount shown in words and its equivalent in figures do not agree, the written word shall be binding; and

WHEREAS, the Township Administration and the Township's Engineer have reviewed the said bids received and recommended that same be awarded to AMC Industries, LLC as the lowest responsible bidder; and

WHEREAS, the Mayor and Township Council have indicated their desire to award a contract to AMC Industries, LLC of Holmdel, New Jersey to undertake the construction of the 2009 Marlboro Road Improvement Program for an amount not to exceed \$884,433.90.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract be awarded to AMC Industries, LLC of Holmdel, New Jersey to undertake the construction of the 2009 Marlboro Road Improvement Program for an amount not to exceed \$884,433.90; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with AMC Industries, LLC, of Holmdel, New Jersey to undertake the construction of the 2009 Marlboro Road Improvement Program for an amount not to exceed \$884,433.90; and

BE IT FURTHER RESOLVED, that funds are available in Account Number X-04-55-965-901 for an amount not to exceed \$884,433.90; and have been certified to by the Township of Marlboro's Chief Financial Officer; and

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

- a. AMC Industries, LLC
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Township Chief Financial Officer
- e. CME Associates, Township Engineers
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-352 (Authorizing Revocable Property Agreement - B. 331, L. 17 - 25 South Foxcroft Drive) was introduced by reference, offered by Councilwoman Tragni and seconded by Council President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-352

A RESOLUTION AUTHORIZING A REVOCABLE PROPERTY USE LICENSE  
OVER A PORTION OF PROPERTY KNOWN AS BLOCK 331, LOT 17  
ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO,  
MONMOUTH COUNTY, STATE OF NEW JERSEY

WHEREAS, the Township of Marlboro ("Township") may have right, title and interest in a 30 foot wide utility easement on a portion of property shown on the filed subdivision map known as Case 174-34 filed with the County of Monmouth, such property being known as Block 331, Lot 17 on the official tax map of the Township of Marlboro; and

WHEREAS, the owners of the Property upon which a portion of the above referenced 30 foot wide utility easement is contained, desire to maintain a koi pond within the utility easement; and

WHEREAS, the Township is willing to grant a Revocable Property Use License to the owners of Block 331, Lot 17, for the installation, use and maintenance of a koi pond within the 30 foot wide utility easement area as described hereinabove.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the Mayor and Clerk are authorized to execute the attached Revocable Property Use License Agreement regarding the installation, maintenance and use of a koi pond on a portion of the 30 foot wide utility easement located on a portion of block 331, Lot 17; and

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

- a. Ilya and Natalia Burlak
- b. Ann Motola, Esq.
- c. Mayor Jonathan Hornik
- d. Township Administrator
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-355 (Change Order #1 - Aquatic Service, Inc.) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President LaRocca. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-355

A RESOLUTION AUTHORIZING CHANGE ORDER #1 TO THE  
CONTRACT AWARDED TO AQUATIC SERVICE INC. FOR THE  
PROVISION OF ADDITIONAL POOL FILTRATION EQUIPMENT  
FOR THE MARLBORO TOWNSHIP SWIM CLUB

WHEREAS, by Resolution #2009-215, the Township of Marlboro awarded a goods and services contract to Aquatic Service Inc., 170 Burlington Avenue, Spotswood, NJ 08884 for the provision of pool filtration equipment for the Marlboro Township Swim Club for a total contract amount of \$80,359.00 (the "Contract"); and

WHEREAS, the Swim Club Manager upon inspection of the filtration system, has determined that an additional existing 18 year old sand filter should be replaced; and

WHEREAS, the Township is purchasing a replacement filter comprising a 42" Astral Vertical Polyester Sand Filter from a company known as Recreaonics, for a cost of \$4,379.76; and

WHEREAS, Aquatic Service, Inc. quoted a price of \$5,786.00 to supply all labor, equipment and materials to: install the new 42" Astral Vertical Polyester Sand Filter and custom five valve manifold with 3" pvc butterfly valves, install a gauge panel, install new media, make the outfit operational, and also haul away the old steel 42" filter tank, valves, face piping and media (collectively, the "Additional Services"); and

WHEREAS, the Swim Club Manager has recommended that the Township Council authorize Change Order #1 to the Contract for the Additional Services for the amount of \$5,786.00, thereby increasing the total contract amount to \$86,145.00, which is approximately a 7.2% increase in the total contract amount; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.1, *et seq.*, change orders that do not, in the aggregate, exceed 20% of the original contract amount, may be authorized by the governing body without additional public bidding.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that, after the adoption of the Swim Utility Bond Ordinance (Ordinance #2009-31) and expiration of the challenge period therefor, the Mayor is hereby authorized to execute and the Clerk to witness, Change Order #1 to the Contract between the Township of Marlboro and Aquatic Service Inc., to undertake the Additional Services (as defined and described hereinabove), for an additional cost of \$5,786.00, increasing the

total contract amount by approximately 7.2% for a total aggregate contract amount not to exceed \$86,145.00; and

BE IT FURTHER RESOLVED, that, after the adoption of the Swim Utility Bond Ordinance (Ordinance #2009-31) and expiration of the challenge period therefor, the Chief Financial Officer is hereby authorized and directed to execute a Certification of Funds for Change Order #1, and to place the monies required for Change Order #1 an account number designated for such purpose; and

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

- a. Aquatic Service, Inc., Spotswood, NJ
- b. Swim Club Manager
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, Fitzpatrick, Cole & Wisler, LLP

The following Res. # 2009-356 (Authorizing Contract - Recreonics - Swim) was introduced by reference, offered by Council Vice President LaRocca and seconded by Councilwoman Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION #2009-356

A RESOLUTION AUTHORIZING THE PURCHASE OF A NEW 42" ASTRAL  
VERTICAL POLYESTER SAND FILTER FOR THE FOR THE MARLBORO  
TOWNSHIP SWIM CLUB

WHEREAS, the Swim Club Manager, upon inspection of the pool filtration system at the Marlboro Township Swim Club, has determined that an existing sand filter should be replaced, which is in addition to the equipment to be replaced pursuant to a contract with Aquatic Service, Inc., awarded pursuant to a public bid process; and

WHEREAS, the Swim Club Manager has recommended that the Township Council authorize the purchase of a new sand filter (the "Filtration Equipment") from Recreonics, Inc., for an amount not to exceed \$4,379.76, which is less than the amount quoted by Aquatic Service, Inc. and other equipment providers, for the same Filtration Equipment; and

WHEREAS, the cost of the Filtration Equipment is below the bid threshold amount of \$21,000.00 and the Filtration Equipment will be

installed by Aquatic Service, Inc. pursuant to a duly authorized change order; and

WHEREAS, the Mayor and Township Council have indicated their desire to purchase the Filtration Equipment from Recreonics, Inc. for a total estimated cost not to exceed \$4,379.76; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that, after the adoption of the Swim Utility Bond Ordinance (Ordinance #2009-31) and expiration of the challenge period therefor, the Mayor is hereby authorized to execute and the Clerk to witness, a contract with Recreonics, Inc. for the purchase of the Filtration Equipment (as defined and described hereinabove) for a total estimated amount not to exceed \$4,379.76; and

BE IT FURTHER RESOLVED, that, after the adoption of the Swim Utility Bond Ordinance (Ordinance #2009-31) and expiration of the challenge period therefor, the Chief Financial Officer is hereby authorized and directed to execute a Certification of Funds for the Filtration Equipment, and to place the monies therefor in an account number designated for such purpose; and

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

- a. Recreonics, Inc., 4200 Schmitt Avenue, Louisville, Kentucky
- b. Swim Club Manager
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, Fitzpatrick, Cole & Wisler, LLP

The following Res. # 2009-357 (Award of Contract - Risk Management North American Insurance Management Corp.) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President LaRocca. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION #\_2009-357

RESOLUTION AUTHORIZING AWARD OF CONTRACT TO NORTH AMERICAN INSURANCE MANAGEMENT CORPORATION FOR RISK MANAGEMENT CONSULTING SERVICES WITHOUT COMPETITIVE PUBLIC BIDDING PURSUANT TO N.J.S.A. 40A:11-5(1)(M)

WHEREAS, there is a need for the services of a consultant to provide professional risk management services as required in the by-laws of the Monmouth County Municipal Joint Insurance Fund, and pursuant to the provisions of N.J.S.A. 40A:10-36; and

WHEREAS, contracts for the purchase of insurance coverage and consultant services may be awarded without public bidding pursuant to N.J.S.A. 40A:11-5(1)(m), in accordance with the requirements for extraordinary unspecifiable services; and

WHEREAS, the Township desires to enter into a contract with North American Insurance Management Corporation ("NAIMC") for the provision of risk management consulting services, beginning January 1, 2010 and ending December 31, 2010, in a form to be reviewed and approved by the Township Attorney; and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined and certified in writing that the value of the contract may exceed \$17,500.00;and

WHEREAS, the NAIMC has completed and submitted a Business Entity Disclosure Certification certifying that the NAIMC has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided with NAIMC's Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271; and

WHEREAS, funds are available for this purpose and a Certificate of Availability has been filed by the Chief Financial Officer of the Township of Marlboro with the Town Clerk in accordance with the Local Budget Law, N.J.S.A. 40A:4-57 and N.J.A.C: 5:34-5.2.

WHEREAS, the Local Public Contracts Law, N.J.S.A., 40A:11-1, et seq., as amended, requires that notice of the award of this contract be published once in the Township's official newspaper.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, being the governing body thereof, as follows:

1. The Township Council of the Township of Marlboro, in accordance with the Local Public Contracts Law, hereby authorizes and approves the award of a Contract to North American Insurance

Management Corporation ("NAIMC") to provide risk management services to the Township of Marlboro, pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5, such services being an exception under N.J.S.A. 40A:11-5(1)(m); and

2. NAIMC shall be paid by the Monmouth County Municipal Joint Insurance Fund, an amount equal to six percent (6%) of the Township's annual assessment as promulgated by the Monmouth Municipal Joint Insurance Fund, such fee to be paid within thirty (30) days of payment of the Township's assessment; and

3. For any insurance coverage authorized by the Township to be placed outside of the Monmouth County Joint Insurance Fund, NAIMC shall be paid the normal brokerage commissions paid to insurance companies. Premiums paid by the Township for such coverages shall not be added to the Monmouth County Joint Insurance Fund's assessment.

4. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver said Contract with NAIME on behalf of and in the name of the Township of Marlboro, such contract to commence as of January 1, 2010 and expire as of December 31, 2010; and

5. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

6. Notice of the award of this contract be published once in the Township's official newspaper; and

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

- a. North American Insurance Management Corporation
- b. Monmouth County Municipal Joint Insurance Fund
- c. Mayor Jonathan Hornik
- d. Marlboro Township Administrator
- e. Marlboro Township Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-358 (Award of Contract - Architectural Services Minor Renovations to Police Station - David Singer) was introduced by reference, offered by Councilwoman Tragni and seconded by Council President Rosenthal. There was a brief

discussion between Council President Rosenthal, Council Vice President LaRocca and Business Administrator Alayne Shepler, after which the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-358

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND DAVID B. SINGER, A.I.A. - ARCHITECT FOR INTERIOR ALTERATIONS TO TOWNSHIP POLICE HEADQUARTERS, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, the Township of Marlboro is in need of professional architectural services in connection with alterations to the interior of the Township Police Headquarters (the "Professional Services"); and

WHEREAS, such Professional Services shall be rendered by David B. Singer, A.I.A. - Architect (also referred to hereinafter sometimes as the "Business Entity") under a contract to be awarded pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5; and

WHEREAS, such Professional Services constitute professional services that are exempt from public bidding pursuant to the Local Public Contracts Law, specifically N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, David B. Singer, A.I.A. - Architect has agreed to provide the aforementioned Professional Services for an amount of \$11,400.00, pursuant to his proposal dated August 11, 2009, wherein the Township chose the following services: (a) 100% Schematic Design - Architectural Services: \$3,500.00; (b) 100% Construction Documents - Architectural Services - \$6,000.00; (c) Bidding (not to exceed 15 hours) - \$1,500.00; (d) a printing allowance of \$400.00; and (e) an hourly rate of \$100.00 per hour for any additional services; and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined that the value of the contract will not exceed \$17,500.00; and

WHEREAS, funds are available in Account Number X-04-55-943-911; and

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would

bar the award of a contract pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided with the Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire David B. Singer, A.I.A. - Architect to provide the required Professional Services for the alterations to the interior of the Township Police Headquarters; 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 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 the award of a Professional Services Contract to David B. Singer, A.I.A. - Architect, to provide Professional Services (as defined and described hereinabove) for alterations to the interior of the Township Police Headquarters, pursuant to a non-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 total compensation in an amount not of \$11,400.00, pursuant to David B. Singer, A.I.A. - Architect's Proposal dated August 11, 2009, wherein the Township has chosen the following services: (a) 100% Schematic Design - Architectural Services: \$3,500.00; (b) 100% Construction Documents - Architectural Services - \$6,000.00; (c) Bidding (not to exceed 15 hours) - \$1,500.00; (d) a printing allowance of \$400.00; and (e) an hourly rate of \$100.00 per hour for any additional services; and

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

4. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

5. A copy of this Resolution shall be published as required by law within ten (10) days of its passage; and

6. A certified copy of this Resolution shall be provided to each of the following:

- a. David B. Singer, A.I.A. - Architect
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief of Police
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-359 (Ratifying CWA Agreement - Blue Collar) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Marder. Discussion followed, during which Mayor Hornik answered Council's questions. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

#### RESOLUTION # 2009-359

A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND CWA LOCAL 1034 (BLUE COLLAR UNIT)

WHEREAS, the Township and CWA Local 1034 (Blue Collar Unit) ("CWA") are parties to a collective bargaining agreement that expired on December 31, 2007; and

WHEREAS, the Township and CWA engaged in negotiations for a successor collective bargaining agreement to cover employees in CWA's blue collar unit; and

WHEREAS, PERC appointed a fact finder to conduct a hearing on unresolved negotiation issues between the parties and to recommend the terms of a successor collective negotiating agreement; and

WHEREAS, the Township and CWA both resolved the outstanding issues before the PERC fact finder; and

WHEREAS, the terms of the settlement are set forth in a Memorandum of Agreement dated August 19, 2009 ("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, 2007, for an extended term of January 1, 2008 through December 31, 2011.

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 Local 1034 (Blue Collar Unit) dated August 19, 2009, 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, 2007; 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 by the Township Business Administrator; 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 1034 (Blue Collar Unit)
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-360 (Award of Contract - Police Records Proprietary computer hardware & software system metropolitan Business Systems, Inc.) was introduced by reference, offered by

Council Vice President LaRocca and seconded by Councilwoman Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-360

A RESOLUTION AWARDING A CONTRACT TO METROPOLITAN BUSINESS SYSTEMS, INC. FOR COMPUTER HARDWARE AND SOFTWARE GOODS AND SERVICES IN CONNECTION WITH THE POLICE DIVISION'S RECORDS MANAGEMENT SYSTEM.

WHEREAS, the Township of Marlboro is in need of computer hardware and software goods and services in connection with the expansion and relocation of its existing police records file management system which is operated through the use of an existing proprietary computer hardware and software system; and

WHEREAS, the Police Division has received proposals dated July 7, 2009 (the "Proposal") from Metropolitan Business Systems, Inc., (the "Contractor") wherein the Contractor proposes to supply 1) an additional proprietary software driven file management system work station and related materials; 2) disassemble the existing proprietary software driven file management system, relocate same at the direction of the Police Division, and reassemble same in connection with the Police Division's need to consolidate its records storage and file management system, as well as to increase the efficiency of the Police Division's record management function for a total price of \$33,696.55; and

WHEREAS, the Township is permitted to purchase goods and services for the support or maintenance of proprietary computer hardware and software without first going out to public bid, pursuant to N.J.S.A. 40A:11-5(1)(dd); and

WHEREAS, the award of this contract to the Contractor is pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5; and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined that the value of the contract will exceed \$17,500.00; and

WHEREAS, funds are available from the following accounts: X-04-55-962-914 and X-04-55-959-943; and

WHEREAS, the Contractor has completed and submitted a Business Entity Disclosure Certification certifying that the neither the Contractor nor any principals of the Contractor have made any

reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided the required Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township to purchase the proprietary computer hardware and software goods and services outlined in the Proposal.

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 the award of a Contract to Metropolitan Business Systems, Inc., to provide proprietary computer hardware and software goods and services as set forth in the Proposal described above pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. This Goods and Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(dd) and shall provide for compensation not to exceed \$33,696.55; and

3. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the contract for goods and services on behalf of and in the name of the Township of Marlboro; and

4. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

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

- a. Metropolitan Business Systems, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Police Chief

e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-361 (Authorizing an Agreement with NJ Transit Corp. for the purchase, installation and maintenance of Bus Shelters) was introduced by reference, offered by Council President Rosenthal and seconded by Council Vice President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-361

A RESOLUTION REQUESTING THE INSTALLATION OF BUS  
SHELTERS FOR THE BUS STOPS ESTABLISHED AT ROUTE  
NJ 79 AT BLOSSOM AVENUE AND STATION ROAD,  
TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, New Jersey Transit Corporation has the funds for the purchase of bus shelters throughout the State of New Jersey; and

WHEREAS, the governing body of a municipality in New Jersey or the Board of Chosen Freeholders of a county may apply to the New Jersey Transit Corporation for the purchase, installation and maintenance of bus shelters at legally designated bus stops; and

WHEREAS, the Township of Marlboro, in the interest of promoting public transportation, conservation of energy, traffic safety and for the convenience of the public, endorses the concept of providing bus shelters within its jurisdiction; and

WHEREAS, there are two (2) legally established bus stops at Route NJ 79 (northbound) at Blossom Avenue and at Route NJ 79 (southbound) Station Road; and

WHEREAS, the Township Council of the Township of Marlboro desires to place one bus shelter at each bus stop.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that application is hereby made to the New Jersey Transit Corporation for the installation and maintenance of two (2) bus shelters, one bus shelter to be placed at the bus stop located on Route NJ 79 (northbound) at Blossom Avenue and one bus shelter to be located at the bus stop located on Route NJ 79 (southbound) Station Road,

Marlboro Township, Monmouth County, New Jersey; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to execute and witness, respectively, an Agreement between the Township of Marlboro and the New Jersey Transit Corporation for the purchase, installation and maintenance of such bus shelters, in a form substantially similar to that attached hereto; and

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

1. New Jersey Div. of Transportation  
Attn: Michael Moran, Regional Maintenance Engineer
2. New Jersey Transit - Attn: Daniel O'Gorman
3. Mayor Jonathan L. Hornik
4. Business Administrator
5. The Chief of the Police
6. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-362 (Authorizing Equipment Upgrade - Motor Vehicle Inspection) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Marder. Discussion followed, during which Business Administrator Alayne Shepler answered Council's questions. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-362

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT  
WITH SGS TESTCOM INC. FOR THE PURCHASE OF EQUIPMENT  
AND MONTHLY MAINTENANCE SERVICES FOR MOTOR VEHICLE  
INSPECTIONS EQUIPMENT AND WITH VERIZON FOR ACCESS TO  
THE VERIZON/ET NETWORK FOR INSPECTION TESTS

WHEREAS, the State of New Jersey has required that all Motor Vehicle inspection station business owners licensed by the State of New Jersey Motor Vehicle Commission upgrade their equipment with an upgrade offered exclusively by SGS Testcom, Inc.; and

WHEREAS, the Township of Marlboro possesses such license and is therefore required to participate in the aforementioned equipment upgrade; and

WHEREAS, the purchase of the equipment upgrade with the accompanying monthly maintenance requires the Township to enter into a contract with SGS Testcom, Inc., of Ballston Spa, New York, for an amount of \$4,698.65 for the equipment upgrade and a monthly maintenance fee of \$70.18; and

WHEREAS, the Township shall also be required to enter into an Agreement with Verizon to obtain access to the Verizon/ET Network which is necessary for inspection testing, for a per transaction cost of \$0.79: and

WHEREAS, funds are available for the purchase of maintenance of the aforescribed equipment upgrade and transaction costs and have been certified to by the Township's Chief Financial Officer; and

WHEREAS, the cost for the equipment upgrade to be paid to SGS Testcom, Inc. in the amount of \$4,698.65 shall be charged to the Township Capital Account, Ordinance #2007-12 (X-04-55-962-928); and

WHEREAS, the monthly maintenance fee to SGS Testcom, Inc. of \$70.18 shall be charged to the Fleet OE operating budget in each year covered by the Agreement with SGS Testcom, Inc.; and

WHEREAS, the transmission fee to Verizon of \$0.79 shall be charged to Account 9-01-162-232; and

WHEREAS, the Township Council of the Township of Marlboro desires to enter into contracts with SGS Testcom, Inc. for the purchase of equipment and monthly maintenance services for motor vehicle inspections equipment and with Verizon for access to the Verizon/ET Network for inspection tests as mandated by the State of New Jersey.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Township Fleet Supervisor, Barry Howardson, is hereby authorized to execute any and all documents necessary to enter the Township into agreement with:

(1) SGS Testcom, Inc. of Ballston Spa, New York for the purchase of equipment and monthly maintenance services for motor vehicle inspections equipment as mandated by the State of New Jersey for the amount of \$4,698.65 for the equipment upgrade, and for a monthly maintenance fee of \$70.18; and

(2) Verizon, for access to the Verizon/ET Network for inspection tests for a per transaction fee of \$0.79 as mandated by the State of New Jersey; and

BE IT FURTHER RESOLVED, that:

(1) the cost for the equipment upgrade to be paid to SGS Testcom, Inc. in the amount of \$4,698.65 shall be charged to the Township Capital Account, Ordinance #2007-12 (X-04-55-962-928); and

(2) the monthly maintenance fee to SGS Testcom, Inc. of \$70.18 shall be charged to the Fleet OE operating budget in each year covered by the Agreement with SGS Testcom, Inc.; and

(3) the transmission fee to Verizon of \$0.79 shall be charged to Account 9-01-162-232; and

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

- a. SGS Testcom, Inc
- b. Verizon
- c. Mayor Jonathan Hornik
- d. Township Administrator
- e. Barry Howardson, Township Fleet Supervisor
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-363 (Authorizing Shared Services Agreement Monmouth County Records Information Management through PARIS Grant) was introduced by reference, offered by Councilwoman Tragni and seconded by Council President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-363

A RESOLUTION AUTHORIZING AN OPEN PUBLIC RECORDS  
SEARCH SYSTEM - RECORDS INFORMATION (OPRS-RIM)  
MANAGEMENT SHARED SERVICES AGREEMENT  
WITH THE COUNTY OF MONMOUTH

WHEREAS, under the New Jersey Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., local units, such as the County of Monmouth and the Township of Marlboro, may enter into shared services agreements with each other, provided that each local

unit adopts a resolution authorizing the shared services agreement;  
and

WHEREAS, the County of Monmouth has entered into an agreement with Sunrise Systems, Inc. ("Sunrise"), whereby the County is licensed to access and use Sunrise's web-based system known as the Open Public Records Search System - Records Information Management ("OPRS-RIM"); and

WHEREAS, under the terms of its agreement with Sunrise, the County of Monmouth may operate an OPRS-RIM system for itself and sublicense the use of OPRS-RIM to municipalities within Monmouth County; and

WHEREAS, the County of Monmouth, has offered to enter into a Shared Services agreement with the Township of Marlboro, whereby the Township will be authorized as a sublicensee to access and use the Monmouth County OPRS-RIM (the "Shared Services Agreement with Monmouth County"); and

WHEREAS, the OPRS-RIM provides for the Inventory Management, Retention Management, and Disposition Management of official records and includes an imaging module that permits the scanning of paper records into TIFF images, which may be stored long-term, searched and retrieved electronically; and

WHEREAS, the Township Council of Marlboro Township believes that it is in the best interests of the Township for it to enter into the Shared Services Agreement with Monmouth County for the purposes described hereinabove.

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 Municipal Clerk be and are hereby authorized to enter into an OPRS-RIM Shared Services Agreement with Monmouth County, in a form substantially similar to that attached hereto; and

BE IT FURTHER RESOLVED, that there is no need for a certification of available funds for the period of September 1, 2009 through August 31, 2010, because the Township's obligation will be paid through a PARIS grant obtained by the County of Monmouth; and

BE IT FURTHER RESOLVED, that if and when funds are required from the Township to pay for its continued participation in the OPRS-RIM Shared Services Agreement with Monmouth County, the Township's Chief Financial Officer shall file a certification of

available funds, identifying the budget line item(s) and amount(s) certified; and

BE IT FURTHER RESOLVED, that, pursuant to N.J.S.A. 40A:65-4(b), a copy of the OPRS-RIM Shared Services Agreement with Monmouth County shall be filed with the Division of Local Government Affairs in the Department of Community Services for informational purposes; and

BE IT FURTHER RESOLVED, that a copy of the OPRS-RIM Shared Services Agreement with Monmouth County shall be on file in the Town Clerk's Office; and

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

- a. Matthew S. Clark, ORM Director, County of Monmouth,
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-364 (Authorizing the Execution of a Project Agreement Community Development Block Grant - \$80,152 Senior Center Renovation) was introduced by reference, offered by Councilwoman Marder and seconded by Councilwoman Tragni. Discussion followed, during which Mayor Hornik and Business Administrator Alayne Shepler answered Council's questions. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

#### RESOLUTION # 2009-364

#### A RESOLUTION AUTHORIZING THE EXECUTION OF A PROJECT AGREEMENT WITH MONMOUTH COUNTY FOR THE PERFORMANCE AND DELIVERY OF FY 2009 COMMUNITY DEVELOPMENT PROJECTS

WHEREAS, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the County of Monmouth expects to receive an allocation for FY 2009 from the United States Department of Housing and Urban Development; and

WHEREAS, the County of Monmouth has submitted its Annual Plan for FY2007 to the United States Department of Housing and Urban

Development, which included a project for the Township of Marlboro for the Township's Morganville Senior Center Renovations ("Senior Center Renovation Project"), with a grant allocation therefor in the amount of \$80,152.00 ("Grant Funds"); and

WHEREAS, the Township of Marlboro meets the requirements for the receipt of the Grant Funds and to begin incurring costs for the Senior Center Renovation Project; and

WHEREAS, in order to receive the Grant Funds, the Township of Marlboro must enter into a Project Agreement with the Monmouth County Community Development Program; and

WHEREAS, the Township of Marlboro has filed a "Timetable for Project Completion and Expenditure of Grant Funds" for the Senior Center Renovation Project with the Monmouth County Community Development Program, which timetable has been deemed acceptable and which is included in the Project Agreement as "Appendix I"; and

WHEREAS, the Township Council of the Township of Marlboro deems that it is in the best interests of the public to enter into the Project Agreement for the receipt of the Grant Funds in order to begin the Senior Center Renovation Project.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that it hereby approves and authorizes the Township of Marlboro's entry into the Project Agreement with the Monmouth County Community Development Program for the Grant Funds in the amount of \$80,152.00 (as further described and defined hereinabove) for the Senior Center Renovation Project (as further described and defined hereinabove); and

BE IT FURTHER RESOLVED, that the Mayor and Township Clerk be and are hereby authorized to, respectively, execute and witness the Project Agreement in a form substantially similar to that attached hereto; and

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

- a. Monmouth County Community Development Program
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-365 (Authorizing Mayor to sign Certification for CDBG) was introduced by reference, offered by Council Vice President LaRocca and seconded by Councilwoman Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-365

A RESOLUTION AUTHORIZING THE EXECUTION OF A CERTIFICATION PROHIBITING THE USE OF EXCESSIVE FORCE AND A CERTIFICATION PROHIBITING THE USE OF FEDERAL FUNDS FOR LOBBYING

WHEREAS, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the the United Sates Department of Housing and Urban Development has allocated funding to the County of Monmouth for FY 2009; and

WHEREAS, the County of Monmouth is making some of these funds available to certain participating municipalities and non-profit agencies, including the Township of Marlboro; and

WHEREAS, the Township of Marlboro made application to the County of Monmouth for a project known as the Morganville Senior Center Renovations ("Senior Center Renovation Project"), and has been advised that its application has been approved for the amount of \$80,152.00 ("Grant Funds"); and

WHEREAS, the Township of Marlboro is required to enter into a Project Agreement with Monmouth County for the receipt of the Grant Funds for the Senior Center Project; and

WHEREAS, the County of Monmouth has advised the Township of Marlboro that the United States Department of Housing and Urban Development requires that the Township of Marlboro sign certifications prohibiting the use of excessive police force with respect to non-violent civil rights demonstrations, and prohibiting the use of federal funds for lobbying in order to receive the Grant Funds; and

WHEREAS, the Township Council of the Township of Marlboro deems that it is in the best interests of the public to affirm its policies and authorize the execution of the certifications prohibiting the use of excessive police force with respect to non-violent civil rights demonstrations and prohibiting the use of federal funds for lobbying so that the

Township may receive the Grant Funds and construct the Senior Center Renovation Project.

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 Clerk are hereby authorized to execute and witness, respectively, the attached Certifications as a condition for the receipt of the Grant Funds (as described and defined hereinabove) for the renovations to the Morganville Senior Center; and

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

- a. Monmouth County Community Development Program
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-366 (Chapter 159 - JAG Grant) was introduced by reference, offered by Councilwoman Marder and seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-366

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 2009 in the sum of \$12,814.00, which item is now available as a revenue from the "Justice Assistance Grant", and

Section 2

BE IT FURTHER RESOLVED that the sum of \$12,814.00 is hereby appropriated under the caption "Justice Assistance Grant".

Council Vice President LaRocca recused himself from the dais and left the room.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilwoman Marder, seconded by Councilwoman Tragni and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, LaRocca): Res. #2009-367 (Refunds for Overpayments - Various), Res. #2009-368 (Redemption Tax Sale Certificates - Various) and Res. #2009-369 (Raffle License Knights of Columbus #6392).

RESOLUTION # 2009-367

WHEREAS, the attached list in the amount of \$37,463.23 known as Schedule "A", is comprised of amounts representing overpayments for 2009 taxes,

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

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
178	290 C0144	Yan-Ming Zhu & Xiangyin	\$1,734.56
144	Nathan Dr.	Zeng 144 Nathan Drive Morganville, NJ 07751	
178	293	Triangle Business Park, LLC	33,222.75
293	Amboy Rd.	176 Route 9 North Englishtown, NJ 07726	
339	125	First American R.E. Tax	2,505.92
3	Trotter Pl.	Service Att: Tax Refunds 1 First American Way/DFW 1-3 Westlake, TX 76262 Assessed Owners: Fernanda Grasso & Pasquale De Falco	

TOTAL: \$37,463.23

RESOLUTION # 2009-368

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$155,315.88 as per Schedule "A",

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$155,315.88 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>
08-11	161 2	Fidelity Tax, LLC	\$18,247.40
25 Pleasant Valley Rd.		P.O Box 5707 Ft. Lauderdale, FL 33310	
09-48	123 2	James C. Older	42.00
3 Tennent Rd.		87 East Mountain Rd. Hillsborough, NJ 08844	
09-27	315 25	PPTS Lockbox	2,136.76
177 Gordons Corner Rd.		P.O. Box 5822 New York, NY 10087-5822	
09-99	304 9	US Bank Corp Trust	566.76
72 Church Rd.		Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> St-Ste. 1950 Philadelphia, PA 19102	
09-105	360 25.11	US Bank Corp Trust	442.85
5 Livingston Ct.		Services Tax Lien Service Group	

2 Liberty Place  
50 South 16<sup>th</sup> St-Ste. 1950  
Philadelphia, PA 19102

09-76	206.01	19	US Bank Corp Trust	179.79
3 Salem Ct.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St-Ste. 1950	
			Philadelphia, PA 19102	
09-112	410	14	US Bank Corp Trust	305.49
30 Steeplechase Dr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-77	213	14	US Bank Corp Trust	351.34
5 Quincy St.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> - Ste. 1950	
			Philadelphia, PA 19102	
09-87	279	8	US Bank Corp Trust	556.56
7 Whitman Rd.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-83	252	14	US Bank Corp Trust	573.35
3 Monroe Dr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-85	268	73	Nithi Services, LLC	590.32
59 Route 520			20 Almadera Drive	
			Wayne, NJ 07470	
09-15	172	48	NJ Lien Group, LLC	19,315.70
Tennent Rd.			732 Newman Springs Rd.	

				Suite 100 Lincroft, NJ 07738	
09-110	396	1	C0053	US Bank Corp Trust Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	262.57
53 Orange Dr.					
09-31	355	1		PPTS Lockbox P.O. Box 5822 New York, NY 10087-5822	24,312.06
Route 79					
09-53	173	7	C0234	Nithi Services, LLC 20 Almadera Drive Wayne, NJ 07470	486.22
234 Teasdale Pl.					
09-28	326	11		PPTS Lockbox P.O. Box 5822 New York, NY 10087-5822	10,125.74
Ottowa Rd. South					
09-16	176	7	C0903	US Bank Corp Trust Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	3,859.01
903 Crimson Ct.					
09-60	176	7	C0969	US Bank Corp Trust Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	567.66
969 Lily Ct.					
09-68	178	290	C0132	US Bank Corp Trust Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	182.07
132 Nathan Dr.					
09-109	395	12		US Bank Corp Trust Services	431.81
5 Marigold Ln.					

				Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-55	176	7	C0428	Frank J. Festa, Jr.	602.86 428
Indigo Ct.				P.O. Box 97 Scotch Plains, NJ 07076-0097	
09-79	214.05	11		James C. Older	558.65
22 Graversham Dr.				87 East Mountain Rd. Hillsborough, NJ 08844	
09-107	374	2		Josef Hoffmann	408.86 65
Homestead Circle				326 Shady Lane Trenton, NJ 08619	
09-66	178	2	C0457	KMM Real Estate	196.53
457 Hawthorne Pl.				Investments, LLC 79 William Street Tinton Falls, NJ 07724	
09-19	193.05	5		PPTS Lockbox	19,985.62
5 Hemingway Ct.				P.O. Box 5822 New York, NY 10087-5822	
09-111	408	11		James C. Older	263.75
25 Colts Run				87 East Mountain Rd. Hillsborough, NJ 08844	
09-49	147	32.22		Joseph Hoffmann	368.93
12 Ellis Ct.				326 Shady Lane Trenton, NJ 08619	
09-88	286	18		US Bank Corp Trust	559.07
7 Longfellow Terr.				Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-108	392.01	10		Daniel Erez	412.94
19 Whistler Way				6776 Deerwood Ct.	

San Diego, CA 92120

09-51	160	45	Royal Tax Lien	542.72
207 Conway Ct.			Services, LLC	
			179 Washington Ln.	
			Jenkintown, PA 19046	
09-54	173	7 C0386	US Bank Corp Trust	426.74
386 Hampton Pl.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-101	312	43	US Bank Corp Trust	393.24
18 Susan Dr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-104	339	27	US Bank Corp Trust	554.91
9 Stone Ln.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> -Ste. 1950	
			Philadelphia, PA 19102	
09-47	122	2	Nithi Services, LLC	527.39
2 Orchard Pkwy.			20 Alameda Drive	
			Wayne, NJ 07470	
09-69	180	51	James C. Older	393.56
32 Eric Ct.			87 East Mountain Rd.	
			Hillsborough, NJ	
			08844	
09-119	314	3	Josef Hoffmann	263.79
31 Ottawa Rd. South			326 Shady Lane	
			Trenton, NJ 08619	
09-73	193	19	US Bank Corp Trust	312.82
44 Amagansett Dr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	

			50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-95	295	13	US Bank Corp Trust	343.23
23 Marc Dr.			Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-70	184	46	US Bank Corp Trust	3,718.98
5 Churchill Ct.			Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-45	116	18	US Bank Corp Trust	821.21
11 Lloyd Rd.			Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> -Ste. 1950 Philadelphia, PA 19102	
09-43	414	10	Royal Tax Lien	20,712.80
21 Old Mill Rd.			Services, LLC 179 Washington Ln. Jenkintown, PA 19046	
09-118	288	29 C0504	Frank J. Festa, Jr.	407.82
504 Bayberry Ct.			P.O. Box 97 Scotch Plains, NJ 07076-0097	
09-114	412.05	12	Josef Hoffman	216.80
20 Kinglet Ave.			326 Shady Lane Trenton, NJ 08619	
09-62	178	2 C0009	James C. Older	544.90
9 Bennington Pl.			87 East Mountain Rd. Hillsborough, NJ 08844	
08-60	346	1	The Approved Realty	3,630.32
28 Collingwood Rd.			60 Chambersbridge Rd. Suite 4 Lakewood, NJ 08701	

09-18	193.02	54.19	PPTS Lockbox	\$12,559.50
31 Pueblo Ct.			P.O. Box 5822	
			New York, NY	
			10087-5822	
09-46	119.02	48	US Bank Corp. Trust	682.69
64 Bernadette Rd.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St-Ste.1950	
			Philadelphia, PA 19102	
09-59	176	7 C0815	US Bank Corp. Trust	347.31
815 Mariposa Ct.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St-Ste. 1950	
			Philadelphia, PA 19102	
09-84	262	14	August Tenth Capital	309.90
3 Bruce Rd.			Investments, LLC	
			75 Princeton Oval	
			Freehold, NJ 07728	
09-116	176	7 C0869	Josef Hoffmann	262.63
869 Mariposa Ct.			326 Shady Lane	
			Trenton, NJ 08619	
09-103	328	5	US Bank Corp Trust	449.95
12 Foxcroft Dr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St-Ste. 1950	
			Philadelphia, PA 19102	
			TOTAL:	<u>\$155,315.88</u>

RESOLUTION # 2009-369

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 26-09 (Off Premise 50/50) be and it is hereby granted to Knights of Columbus Father McGivney Council #6392, P. O. Box 322, Lincroft, NJ 07738.

BE IT FURTHER RESOLVED that said Raffle will be held

on December 20, 2009 at 7 PM at St. Gabriel's Church, 100 Main Street, Marlboro, N.J. 07746.

Council Vice President LaRocca returned.

The following Res. # 2009-370 (Authorizing Refund of Redevelopment Escrow Deposit Eclipse Indoor Sports, LLC and Execution of a Mutual Release Agreement) was introduced by reference, offered by Councilwoman Marder and seconded by Council President Rosenthal. There was a brief discussion between Mayor Hornik and Council President Rosenthal after which the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-370

A RESOLUTION AUTHORIZING THE REFUND OF A REDEVELOPMENT  
ESCROW DEPOSIT TO ECLIPSE INDOOR SPORTS, LLC AND  
THE EXECUTION OF A MUTUAL RELEASE AGREEMENT

WHEREAS, the Township of Marlboro ("Township") issued a Request for Qualifications and Proposals (the "RFQ/P"), on January 9, 2009, seeking qualifications and proposals from qualified redevelopers to lease and redevelop a portion of the 64.4 acre property identified on the tax map of the Township as Block 180, Lot 14, on the official tax map of the Township of Marlboro (the "Property") for the purpose of utilizing said property for additional recreational opportunities, including the construction and operation of a multi-use indoor recreational facility (the "Redevelopment Project"); and

WHEREAS, by Resolution dated March 5, 2009, the Township Council conditionally designated Eclipse Indoor Sports, LLC ("Eclipse") as the Redeveloper ("Redeveloper"), subject to the successful negotiation and execution of a Redeveloper Agreement; and

WHEREAS, pursuant to the requirements set forth in the RFQ/P, the Parties executed an Escrow Agreement, dated June 10, 2009, in which the Township required Eclipse to pay for the Township's reasonable costs and fees associated with the Redevelopment Project; and

WHEREAS, Eclipse deposited a payment in the amount of Fifty Thousand Dollars (\$50,000.00) in an Escrow Fund and agreed to pay for certain costs relating to the Redevelopment Project, including outside professional consultants such as attorneys, planners and engineers and any other costs (the "Professional Costs") incurred

after the date that Eclipse was designated as the Conditional Redeveloper on March 5, 2009; and

WHEREAS, the Redevelopment Project has terminated and the Redeveloper has applied for a refund of the Escrow Deposit from the Township; and

WHEREAS, the Township Administration has reviewed the Redeveloper's application for such refund and has determined that the Redeveloper is entitled to such refund of the Escrow Deposit, less the amount of Eighteen Thousand Three Hundred Fourteen Dollars (\$18,314.00), which is the amount of monies incurred by the Township for Professional Costs in connection with the Redevelopment Project, making the amount to be refunded to the Redeveloper Thirty-One Thousand Six Hundred Eighty-Six Dollars (\$31,686.00); and

WHEREAS, the Township Council of the Township of Marlboro is desirous of authorizing the refund of the aforescribed Escrow Deposit Funds, less the amount of monies incurred by the Township for Professional Costs in connection with the Redevelopment Project, as described hereinabove.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Redeveloper Eclipse Indoor Sports, LLC be and is hereby authorized to receive a refund in the amount of Thirty-One Thousand Six Hundred Eighty-Six Dollars (\$31,686.00), which represents the amount of the Escrow Deposit of Fifty Thousand Dollars (\$50,000.00), less the amount of Professional Costs (as described and defined hereinabove) incurred by the Township in connection with the Redevelopment Project (as defined and described hereinabove) in the amount of Eighteen Thousand Three Hundred Fourteen Dollars (\$18,314.00); and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized and directed to, respectively, execute and witness, a Mutual Release Agreement with Eclipse Indoor Sports, LLC in a form to be approved by the Township Attorney; and

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

- a. Eclipse Indoor Sports, LLC
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-371 (Amend Contract Birdsall Eng. - Assistance Litigation Centex Homes/Highland Pointe) was introduced by reference, offered by Council Vice President LaRocca and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-371

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF ENGINEERING SERVICES IN CONNECTION WITH THE LITIGATION FILED BY CENTEX WITH RESPECT TO SECTIONS I AND IA OF THE HIGHLAND POINT DEVELOPMENT

WHEREAS, by Resolution 2008-370, the Township of Marlboro and Birdsall Engineering, Inc. amended the 2008 Professional Services Contract between the Township and Birdsall Engineering, Inc. for the inspection of improvements at the Centex Homes/Highland Point Development for an amount not to exceed Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00); and

WHEREAS, the Township of Marlboro requires additional professional engineering services in connection with the litigation filed by Centex with respect to Sections I and IA of the Highland Point Development (the "Professional Services"), such engineering professionals to be appointed as a non-fair and open contract pursuant to the provisions of N.J.S.A 19:44A-20.5 by the Township of Marlboro; and

WHEREAS, the Township of Marlboro and Birdsall Engineering, Inc. have previously entered into a Professional Services Contract for 2009, awarded under a non-fair and open process, and seeks to amend such Contract to expand the scope of services to include the above-described Professional Services for a fee not to exceed Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) for such additional Professional Services; and

WHEREAS, the value of the contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, funds are available in Account Number 9-01-060-286 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

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

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

WHEREAS, Birdsall has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Engineering, Inc. has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute an Amendment to the Professional Services Contract, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the additional Professional Services (as described and defined hereinabove) pursuant to a non-fair and open process; and

BE IT FURTHER RESOLVED, that this Amendment to the 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 Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) for such additional Professional Services; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said Amendment to the Professional Services Contract from Account Number 9-01-060-286; and

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

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

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

- a. Birdsall Engineering, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-372 (Authorizing Payment to "Shop Marlboro" was introduced by reference, offered by Councilwoman Marder and seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor). Contest Winner Ben Lubin's Prize \$250 -) Deputy Mayor Lawrence Rosen spoke about the contest and congratulated Mr. Lubin. Mayor Hornik commended the Economic Development Committee.

RESOLUTION # 2009-372

A RESOLUTION AUTHORIZING THE ISSUANCE OF  
A REWARD TO BEN LUBIN FOR WINNING FIRST PRIZE IN  
THE "SHOP MARLBORO" LOGO CONTEST

WHEREAS, the Township of Marlboro ("Township") held a contest to find the best logo to use for the promotion of shopping locally within the Township; and

WHEREAS, the contest provided that the first prize winner would receive a money present in the amount of \$250.00; and

WHEREAS, the first prize winner of the "Shop Marlboro" logo contest was Ben Lubin; and

WHEREAS, the Township Council of the Township of Marlboro desires to present Ben Lubin with a money present in the amount of \$250.00 for winning first prize in the "Shop Marlboro" logo contest.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that it hereby authorizes the issuance of a money present by check in the amount of \$250.00 made payable to Ben Lubin for winning the first prize in the "Shop Marlboro" logo contest; and

BE IT FURTHER RESOLVED, that funds are available in Account Number 9-01-083-286 for an amount not to exceed \$250.00; and have been certified to by the Township of Marlboro's Chief Financial Officer; and

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

- a. Ben Lubin
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Director of Economic Development
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

At 10:35 PM, Council Vice President LaRocca moved that the meeting be adjourned. This was seconded by Councilwoman Tragni, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

MINUTES APPROVED: NOVEMBER 12, 2009

OFFERED BY:	LA ROCCA	AYES:	4
SECONDED BY:	TRAGNI	NAYS:	0
		ABSTAIN:	CANTOR

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ALIDA MANCO,  
MUNICIPAL CLERK

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STEVE ROSENTHAL,  
COUNCIL PRESIDENT