

MARLBORO TOWNSHIP COUNCIL MEETING

May 19, 2022

The Marlboro Township Council held a Council Meeting on May 19, 2022 at 7:00 P.M. at the Marlboro Municipal Complex located at 1979 Township Drive, Marlboro, New Jersey.

Council President Qazi opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was published in the Asbury Park Press on December 21, 2021; was sent to the Asbury Park Press, the Star Ledger, News Transcript and the Board of Education Office on May 17, 2022; 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 Municipal Clerk called the Roll.

PRESENT: Council Vice President DiNuzzo, Councilwoman Marder, Councilman Milman, Councilman Scalea and Council President Qazi.

Also present: Mayor Jonathan L. Hornik, Township Attorney Louis N. Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Susan A. Branagan and Deputy Municipal Clerk Jennifer M. Johnson.

Citizen's Voice: Frank Festa of 1727 Ramapo Way, Scotch Plains, New Jersey inquired about the status of documents he submitted to the Township and Council for review

Clay Cassell of Let It Grow, Inc. on Texas Road in Morganville said that his company has donated their time and services to other communities as well as the Robin Hood Relief Foundation, the Jay Fund Foundation and the Hunger Fund. They are looking forward to meeting members of the Marlboro community and providing services to help the Township.

Cheril Krenkel of 41 Samantha Drive expressed her concerns with the ongoing construction at 606 Robert Court.

Geoffrey Krenkel 41 Samantha Drive discussed his concerns with the ongoing construction at 606 Robert Court.

Bill Waple of 16 Calder Court stated that the American flag signifies the sacrifice of those who have given their lives for this country.

Walter Solomon of 43 Samantha Drive discussed his ongoing concerns with the construction at 606 Robert Court and the inspection process by the Township.

Alan Ginsburg of Greenbriar at 71 Murry Terrace commented about the Council possibly outsourcing Marlboro's 911 dispatchers to the county.

John Gibardi of 1 Hudson Bay Terrace congratulated Marlboro for their upcoming 175th anniversary.

Council Speaks Out: Councilman Scalea stated that he looks forward to more discussions regarding the 911 dispatchers. Councilwoman Marder thanked the public works department for their help with the community garden and Arbor Day. The recreation department might expand the community garden by adding additional beds to accommodate residents on the wait list. Councilman Milman said that the administration is asking for a \$44 tax increase. He believes there is a way to have a flat budget this year. More workshops would help have a full understanding as to why the budget has increased and that the workshops will help provide more transparency and allow for more full council discussion. He said the 911-dispatch system needs to be changed because the equipment is failing and a decision needs to be made soon. Council Vice President DiNuzzo stated that the new council was elected to open the government up. The Falkner Act calls for a strong mayor. She believes the December 16, 2021 meeting was a power play and they are still feeling the repercussions. She wants to have an independent council away from the mayor. She believes that people are receiving misinformation and she wants to have workshop meetings to clear up any confusion and questions. She is calling for workshop meetings so the full council can discuss and exchange ideas. She wants an open transparent government; a government for the people by the people.

Administrative Report: The Mayor began with the acknowledgement of National Telecommunications week, which was April 10th through April 17th. Last year they answered more than 33,000 calls. He presented a proclamation to the Marlboro Township First Responders. This past week was National Police Week to honor the service and sacrifice of law enforcement officers killed in the line of duty. The Mayor signed a proclamation on behalf of a grateful community declaring May 11 - 17 as National Police Week and publicly saluted law enforcement. On May 4th, Marlboro acknowledged International Firefighters Day, honoring the Marlboro volunteers who dedicate their lives to the protection of life and property. May 15th - 21st is EMS week and the Mayor stated that residents rely on the volunteer Marlboro and Morganville First Aid Squads to be there during our time of need and we recognize the value and accomplishments of the emergency medical service providers. Marlboro will celebrate national Kids to Park Day beginning with Rock painting and dedication of the new exercise equipment in the Municipal complex and then distributing the painted rocks throughout our township parks to leave messages of kindness. The Memorial Day Wreath laying

Ceremony will be held on Memorial Day at 10 a.m. He thanked Judy Kushner and Paul Lorenz for arranging this important recognition. He also reminded residents that this is the time to inspect your American flags for damage. Unused or torn flags can be deposited in the Flag Box built by Marlboro resident, Bill Waple located in the Town Hall lobby or at the Marlboro Firehouse for proper disposal by the Boy Scouts. On behalf of everyone on the dais, the Mayor extended their deepest sympathies to Marlboro's Municipal Clerk, Suzanne Branagan, on the loss of her mother. The Mayor also congratulated Recreation program coordinator Amy and her husband John on the birth of their son, John Ralph (Jack) Sica. The Mayor provided his support for the agenda items, specifically the shared service agreement with both the Marlboro pre-K to 8 and the Marlboro High School to provide for School Resource Officers and School Security Officers in our public schools. In cooperation with Chief Pezzullo, the Mayor announce a new Take the Pledge initiative to help encourage more residents to lock their cars. There will be an on-line pledge and lawn signs delivered to resident's homes by Marlboro Police Officers sharing this message. In closing, the Mayor stated that as we head right from winter into summer, enjoy the weekend and stay cool.

Councilman Scalea moved that the Council meeting minutes of April 28, 2022 be approved. This was seconded by Councilwoman Marder, and passed on a roll call vote of 3 - 0 in favor. Council Vice President DiNuzzo and Councilman Milman abstained.

Councilman Scalea introduced a motion to open the public hearing for Ordinance #2022-003 (Exceed the Municipal Budget Appropriation Limits and to Establish a Cap Bank 2022) seconded by Councilwoman Marder. As there was no one who wished to speak about this ordinance, a motion to close the public hearing was offered by Councilman Scalea and seconded by Councilwoman Marder. A motion to adopt Ordinance #2022-003 was offered by Councilman Scalea and seconded by Councilwoman Marder. The ordinance was passed on a roll call vote of 5 - 0 in favor.

ORDINANCE #2022-003

CALENDAR YEAR 2022

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of Marlboro in the County of Monmouth finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$317,399.00 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Marlboro in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Township of Marlboro shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$1,110,896.50, and that the CY 2022 municipal budget for the Township of Marlboro be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Councilwoman Marder introduced a motion to open the public hearing for Ordinance #2022-005 (Amending and Supplementing Section 220-35 "General Provisions", of Article II of Chapter 220 "Land Use Development", of the Code of the Township of Marlboro) seconded by Councilman Scalea.

Daniel Matarese of 485 Texas Road asked that the full title of this ordinance be read aloud so he would have a full understanding of what the ordinance is proposing. The Council President read the full title of the ordinance.

John Gibardi of 1 Hudson Bay Terrace does not believe beekeeping should be restricted to just for-profit business entities. He believes the ordinance could prevent needed pollination from bees and this may be harmful to the environment. Councilwoman Marder stated that this ordinance is to prevent over population of beekeepers in densely populated neighborhoods. Council Vice President DiNuzzo stated that the ordinance is restricted to properties with 5 acres or more, not just business entities.

A motion to close the public hearing was offered by Council Vice President DiNuzzo and seconded by Councilman Scalea. A motion to adopt Ordinance #2022-005 was offered by Councilwoman Marder and seconded by Council Vice President DiNuzzo. The ordinance was passed on a roll call vote of 4 - 0 in favor. Councilman Scalea abstained.

ORDINANCE #2022-005

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 220-35
"GENERAL PROVISIONS", OF ARTICLE II OF CHAPTER 220 "LAND
USE DEVELOPMENT", OF THE CODE OF THE TOWNSHIP OF MARLBORO,
COUNTY OF MONMOUTH, NEW JERSEY

The following Ordinance #2022-006 (Amending the Code of the Township of Marlboro by Repealing and Replacing Existing Chapter 220-46 with New Chapter 220-46 Entitled Flood Damage Prevention) was introduced by reference, offered by Council Vice President DiNuzzo, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

ORDINANCE #2022-006

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MARLBORO BY
REPEALING AND REPLACING EXISTING CHAPTER 220-46 WITH NEW CHAPTER
220-46 ENTITLED FLOOD DAMAGE PREVENTION

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq. and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Township of Marlboro and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Township of Marlboro was accepted for participation in the National Flood Insurance Program on June 15, 1978 and the Township Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation; and

WHEREAS, the Township of Marlboro is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the Township of Marlboro is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

WHEREAS, the Township of Marlboro is required, pursuant to N.J.S.A.58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. These regulations specifically repeal and replace the following ordinance(s) and regulation(s): Chapter 220-46 Entitled Flood Damage Protection

§ 220-46 Flood Damage Prevention

A. SCOPE AND ADMINISTRATION

- (1) Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations* of the Township of Marlboro (hereinafter "these regulations").
- (2) Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 220-46B of these regulations.
- (3) Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:
 - (a) Protect human life and health.
 - (b) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
 - (c) Manage the alteration of natural floodplains, stream channels and shorelines;
 - (d) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
 - (e) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
 - (f) Contribute to improved construction techniques in the floodplain.
 - (g) Minimize damage to public and private facilities and utilities.
 - (h) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
 - (i) Minimize the need for rescue and relief efforts associated with flooding.
 - (j) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
 - (k) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
 - (l) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

- (4) Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Township of Marlboro administer and enforce the State building codes, the Township Council of the Township of Marlboro does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.
- (5) Ordinary Building Maintenance and Minor Work. Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 220-46C(14) of this ordinance.
- (6) Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.
- (7) Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.
- (8) Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1250, imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine greater than \$1250 may be imposed if the court has not determined otherwise, or if upon inspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

(a) Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

(9) Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

B. APPLICABILITY

(1) General. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures

and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

- (2) Establishment of Flood Hazard Areas. The Township of Marlboro was accepted for participation in the National Flood Insurance Program on June 15, 1978.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the office of the Construction Official, located at 1979 Township Drive, Marlboro, NJ 07746.

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- (a) Effective Flood Insurance Study. Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study Monmouth County, New Jersey (All Jurisdictions) dated September 25, 2009, revised June 20, 2018, and June 15, 2022, and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 220-46B(2)(a) whose effective date is September 25, 2009 are hereby adopted by reference.

Table 220-46B(2) (a)

Map Panel #	Effective Date	Revision Letter	Map Panel #	Effective Date	Revision Letter
34025C0020	9/25/2009	F	34025C0151	9/25/2009	F
34025C0038	9/25/2009	F	34025C0152	9/25/2009	F
34025C0039	9/25/2009	F	34025C0153	9/25/2009	F
34025C0130	9/25/2009	F	34025C0154	9/25/2009	F
34025C0135	9/25/2009	F	34025C0161	9/25/2009	F
34025C0141	9/25/2009	F	34025C0163	9/25/2009	F
34025C0142	9/25/2009	F			

(b) Federal Best Available Information. The Township of Marlboro shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA's Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 220-46B(2) (b)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
N/A	N/A		

- (c) Other Best Available Data. The Township of Marlboro shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Township of Marlboro. Other "best available information" may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 220-46B(2)a and Table 220-46B(2)b, above. This information shall be used for floodplain regulation purposes only.
- (d) State Regulated Flood Hazard Areas. For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the "Flood Hazard Area Control Act Design Flood Elevation", as defined in Section 220-46I, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 220-46B(2) (d) List of State Studied Waters

Name of Studied Water	File Name	Map Number
East Branch Willow Brook	00000021	Sheet 20
Willow Brook	00000022	Sheet 21
Barclay Brook	FHR171802	BC-2
Barclay Brook	FHR171803	BC-3
South Branch Tepehemus Brook	FHR171821	SBT-1
Milford Brook	FHR171805	MD-2
Milford Brook	FHR171806	MD-3
Pine Brook	FHR171820	P-3
Tepehemus Brook	FHR171823	T-2
Milford Brook	FHR171807	MD-4
Yellow Brook	00000003	Sheet 1
Willow Brook, Hop Brook	00000019	Sheet 18
S Branch Tepehemus Brook	V0000028	Sheet 4
Yellow Brook, Trib Yellow Brook	V0000031	Sheet 7
Gravelly Run	V0000086	Sheet 8
Willow Brook	00000080p	05p

Willow Brook	00000081p	06p
Willow Brook East Branch	00000082p	05p
Tepehemus Brook South Branch	V0000041p	Sheet 17

(3) Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 220-46B(2), above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- (a) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 220-46B(2), above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- (b) For any undelineated watercourse (where mapping or studies described in 220-46B(2)(a) and 220-46B(2)(b) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:

[1] A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or

[2] A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 220-46E(2)(c).

- (c) AO Zones - For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.

(d) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.

(e) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

C. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

(1) Floodplain Administrator Designation. The Construction Official is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

(2) General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 220-46G of these regulations.

(3) Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

(4) Duties. The duties of the Floodplain Administrator shall include but are not limited to:

(a) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 220-46B of these regulations.

(b) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.

- (c) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (d) Determine whether additional flood hazard data shall be obtained or developed.
- (e) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (f) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 220-46C(14) of these regulations.
- (g) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (h) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 220-46G of these regulations.
- (i) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (j) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (k) Inspect development in accordance with Section 220-46F of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (l) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 220-46G of these regulations.
- (m) Cite violations in accordance with Section 220-46H of these regulations.
- (n) Notify the Federal Emergency Management Agency when the corporate boundaries of the Township of Marlboro have been modified.

(o) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 220-46B(2).

(5) Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

(6) Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

(7) Determination of Local Design Flood Elevations. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

(a) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or

(b) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 220-46B(2) and 220-46B(3) respectively. This information shall be provided to the Construction Official and documented according to Section 220-46C(15).

- (8) Requirement to submit new technical data. Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- (9) Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.
- (10) Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.
- (a) Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.
- (11) Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in

the permit records and submitted to FEMA.

- (a) Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.
- (12) Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.
- (13) Development in riparian zones All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.
- (14) Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other

improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (a) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
 - (b) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 220-46B(2), performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
 - (c) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
 - (d) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
 - (e) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.
- (15) Department records. In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed

work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

- (16) Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

D. PERMITS

- (1) Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- (2) Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:
- (a) Identify and describe the development to be covered by the permit.
 - (b) Describe the land on which the proposed development is to be conducted by legal description, street address or

similar description that will readily identify and definitively locate the site.

- (c) Indicate the use and occupancy for which the proposed development is intended.
 - (d) Be accompanied by a site plan and construction documents as specified in Section 220-46E of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
 - (e) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
 - (f) Be signed by the applicant or the applicant's authorized agent.
- (3) Validity of permit. The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.
- (4) Expiration. A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.
- (5) Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

E. SITE PLANS AND CONSTRUCTION DOCUMENTS

- (1) Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:
- (a) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground

elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.

- (b) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 220-46E(2).
- (c) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 220-46E(2)(c) of these regulations.
- (d) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (e) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (f) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (g) Extent of any proposed alteration of sand dunes.
- (h) Existing and proposed alignment of any proposed alteration of a watercourse.
- (i) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

- (2) Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are

delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (a) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (b) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- (c) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

- (3) Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- (a) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 220-46E(4) of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (b) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard

area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

- (c) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 220-46E(4) of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
 - (d) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
 - (e) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).
- (4) Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

F. INSPECTIONS

- (1) General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

- (2) Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.
- (3) Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.
 - (a) Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 220-460(2) shall be submitted to the Construction Official on an Elevation Certificate.
 - (b) Lowest horizontal structural member. In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 220-460(2) shall be submitted to the Construction Official on an Elevation Certificate.
 - (c) Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 220-460(2).
 - (d) Final inspection. Prior to the final inspection, certification of the elevation required in Section 220-460(2) shall be submitted to the Construction Official on an Elevation Certificate.
- (4) Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

G. VARIANCES

- (1) General. The Planning Board shall hear and decide requests for variances. The Planning Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 220-46G(5), the conditions

of issuance set forth in Section 220-46G(6), and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Planning Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

- (2) Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.
- (4) Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 220-46E(3)(a) of these regulations.
- (5) Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:
 - (a) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
 - (d) The importance of the services provided by the proposed development to the community.
 - (e) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.

- (f) The compatibility of the proposed development with existing and anticipated development.
 - (g) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
 - (h) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (i) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
 - (j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.
- (6) Conditions for issuance. Variances shall only be issued upon:
- (a) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
 - (b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (d) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (e) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

H. VIOLATIONS

- (1) Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest

floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

- (2) Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.
- (3) Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.
- (4) Review Period to Correct Violations. A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

I. DEFINITIONS

- (1) General. The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

- (2) Definitions

30 DAY PERIOD - The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

100 YEAR FLOOD ELEVATION - Elevation of flooding having a 1% annual

chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

500 YEAR FLOOD ELEVATION - Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES - Areas of 'Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1- A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

AH ZONES- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

AO ZONES - Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

ACCESSORY STRUCTURE - Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety.

New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AREA OF SHALLOW FLOODING - A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - see SPECIAL FLOOD HAZARD AREA

ALTERATION OF A WATERCOURSE - A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ASCE 7 - The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 - The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) - The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the "100-year flood elevation".

BASEMENT - Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA - The aerial mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS - Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING - Per the FHACA, "Building" means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in

the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING - Per the FHACA, "Critical Building" means that:

- (a) It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- (b) It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT - Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING - A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING - A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid

perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE - An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT - The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS - Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

FLOOD OR FLOODING

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
- [1] The overflow of inland or tidal waters.
 - [2] The unusual and rapid accumulation or runoff of surface waters from any source.
 - [3] Mudslides (I.e. mudflows) which are proximately caused by flooding as defined in (a) [2] of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)[1] of this definition.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION - Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood

elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 - 3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA - Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE - Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could

contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING- Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP - As related to Section 220-46G of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Township Planning or Zoning Board requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - [1] By an approved State program as determined by the Secretary of the Interior; or
 - [2] Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING - Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- (a) Prior to January 31, 1980; or
- (b) On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered "lawfully existing" for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE - The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on an Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision - Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION - FILL -- A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL - Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER - A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) - The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is

also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

LOWEST ADJACENT GRADE - The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR - In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME - A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE - The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL - Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK - This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE - A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

RESIDENTIAL - Pursuant to the ASCE 24:

- (a) Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- (b) Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- (c) Institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care

facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL - "Solid Waste Disposal" shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA - The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION - The Start of Construction is as follows:

- (a) For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA), this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (b) For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of

Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE - A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES - Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE - A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION - A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE. A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING - Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

J. SUBDIVISIONS AND OTHER DEVELOPMENTS

- (1) General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage.
 - (b) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.
- (2) Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
 - (a) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
 - (b) Residential building lots shall be provided with adequate buildable area outside the floodway.
 - (c) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

K. SITE IMPROVEMENT

- (1) Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 220-46E(3)(a) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 220-46E(3)(a) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 220-460(2) of this ordinance and the floodway requirements of N.J.A.C. 7:13.

Prohibited in floodways. The following are prohibited activities:

- (a) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.

(b) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

- (2) Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.
- (3) Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.
- (4) Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.
- (5) Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.
- (6) Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Hazardous Materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

L. MANUFACTURED HOMES

- (1) General. All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

- (2) Elevation. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 220-460(2).
- (3) Foundations. All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.
- (4) Anchoring. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (5) Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 220-460(2).
- (6) Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 220-460(2) of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 220-460(2), the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

M. RECREATIONAL VEHICLES

- (1) Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.
- (2) Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

- (3) Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 220-460(2) for habitable buildings.

N. TANKS

- (1) Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

O. OTHER DEVELOPMENT AND BUILDING WORK

- (1) General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (a) Be located and constructed to minimize flood damage;
- (b) Meet the limitations of Section 220-46E(3)(a) of this ordinance when located in a regulated floodway;
- (c) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 220-46B(3);
- (d) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (e) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 220-46B(3) or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
 - [1] Specifically allowed below the Local Design Flood Elevation; and
 - [2] Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (f) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (g) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

- (2) Requirements for Habitable Buildings and Structures.

(a) Construction and Elevation in A Zones not including Coastal A Zones.

- [1] No portion of a building is located within a V Zone.
- [2] No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
- [3] All new construction and substantial improvement of any habitable building (as defined in Section 220-46I located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 220-46B(3), be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate.
- [4] All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 220-46B(3), be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
 - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
- [5] All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - i. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed

area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;

- ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 220-460(2)(a)(4)(ii) are met;
- iii. Be constructed to meet the requirements of ASCE 24 Chapter 2;
- iv. Have openings documented on an Elevation Certificate; and
- v. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

(3) Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

(4) Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 220-46E(3)(a) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures

having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Section 220-46G of this ordinance.

- (5) Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 220-46E(3)(a) of these regulations and N.J.A.C. 7:13.
- (6) Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 220-46E(3)(a) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.
- (7) Roads and watercourse crossings.
 - (a) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
 - (b) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 220-46E(3)(a) of these regulations.

P. TEMPORARY STRUCTURES AND TEMPORARY STORAGE

- (1) Temporary structures. Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.
- (2) Temporary storage. Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.
- (3) Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 220-46E(3)(a) of these regulations.

Q. UTILITY AND MISCELLANEOUS GROUP U

- (1) Utility and Miscellaneous Group U. In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.
- (2) Flood loads. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 220-46B(3).
- (3) Elevation. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 220-46B(3) and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.
- (4) Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 220-460(2) and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.
- (5) Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 220-46B(3).
- (6) Protection of mechanical, plumbing, and electrical systems. Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined

in Section 220-46B(3).

Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 3. SEVERABILITY.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

SECTION 4. EFFECTIVE DATE.

The following resolution #2022-119 (Authorizing the Use of a Three Year Average in the Calculation of Revenues and Amending the Introduced Budget (Recreation and Swim Utility) in Accordance with the Provisions of N.J.S.A. 40a:4-9) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-119

RESOLUTION OF THE TOWNSHIP OF MARLBORO
COUNTY OF MONMOUTH, STATE OF NEW JERSEY AUTHORIZING THE USE OF
A THREE YEAR AVERAGE IN THE CALCULATION OF REVENUES AND
AMENDING THE INTRODUCED BUDGET (RECREATION AND SWIM UTILITY) IN
ACCORDANCE WITH THE PROVISIONS OF N.J.S.A. 40A:4-9

WHEREAS, the local municipal budget for 2022 was introduced on March 24, 2022; and

WHEREAS, the budget has been advertised and a public hearing scheduled for May 19, 2022 pursuant to 40A:4-6 and 40A:4-7; and

WHEREAS, in a communication dated Thursday, May 12, 2022, the Division of Local Government Services ("DLGS") notified the Township of a technical change to the anticipated revenues of the Recreation and Swim Utility; and

WHEREAS, the change required a certification of average program revenues, which was submitted by the Chief Financial Officer to the Director of the DLGS and approved on Monday, May 16, 2022; and

WHEREAS, the Director of the DLGS requires the governing body to approve the use of a three year average in the calculation of revenues in the Recreation and Swim Utility budget; and

WHEREAS, amendments to budgets required by the Director of the DLGS may be made prior to the time of holding the public hearing on the budget, without public advertisement pursuant to N.J.S.A. 40A:4-9(a); and

WHEREAS, the Township Council desires to use a three year average in the calculation of revenues in the Recreation and Swim Utility budget; and

WHEREAS, the Township Council desires to amend said approved budget to include the technical change to the introduced Recreation and Swim Utility budget required by the Director of the DLGS.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth that the use of a three year average in the calculation of revenues in the Recreation and Swim Utility budget is hereby approved.

BE IT FURTHER RESOLVED, that the following amendments to the introduced budget of 2022 (Recreation and Swim Utility) be made:

RECREATION AND SWIM UTILITY			
		From	To
REVENUES			
Surplus Anticipated		585,804.39	0.00
Program Revenue		1,406,753.88	1,406,753.88
Program Fees Anticipated with Prior Written Consent of Director of Local Government Services		0.00	585,804.39
LFRF-Deferred Charge (Sheet 33 - Recreation Summer Programs)		438,950.17	438,950.17
LFRF-Deficit in Operations (Sheet 33 - Recreation Summer Programs)		700,000.00	700,000.00
		3,131,508.44	3,131,508.44

BE IT FURTHER RESOLVED, that three certified copies of this resolution be filed forthwith in the office of the Director of Local Government Services for certification of the 2022 Local Municipal Budget as amended and adopted.

Council Vice President DiNuzzo introduced a motion to open the public hearing for the 2022 Municipal Budget; this was seconded by Councilman Scalea.

John Gibardi of 1 Hudson Bay Terrace would like the Mayor to provide him with a copy of the budget so he can review it. Mr. Gibardi does not believe the opportunity to review the budget was provided to him and would like the adoption of the budget to be pushed back to a later date. The Mayor stated that the budget is and has been on the Township website and in the clerk's office since February for inspection. Mr. Gibardi believes that Marlboro needs a long-term game plan to get this budget flat.

Daniel Matarese of 485 Texas Road stated the leaf bags and 13 bulky waste expenses should be removed from the budget. He does not believe it is the Township's responsibility to remove waste or leaves. The Business Administrator stated that 13 bulky waste is to have the bulk waste containers at DPW hauled away not picked up from individual homes. The Mayor stated the leaf bags are to encourage residents to bag their leaves so they do not clog storm drains and cause flooding. Mr. Matarese would also like DPW to stop purchasing equipment.

As there was no one else who wished to speak about the 2022 Municipal Budget, a motion to close the public hearing was offered by Councilman Scalea and seconded by Councilwoman Marder, there was no objection to close the public hearing.

Councilman Milman introduced a motion to table the following resolution #2022-120 (Adoption of the 2022 Municipal Budget as Amended) to the June 16, 2022 Council meeting; this was seconded by Council Vice President DiNuzzo. Roll call vote of 2 - 3, the motion did not pass. Councilwoman Marder, Councilman Scalea and Council President Qazi voted against tabling the budget resolution.

The following resolution #2022-120 (Adoption of the 2022 Municipal Budget as Amended) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Marder and passed on a roll call vote of 3 - 0 in favor. Council Vice President DiNuzzo and Councilman Milman voted no.

RESOLUTION #2022-120

RESOLUTION AUTHORIZING THE ADOPTION OF THE
2022 MUNICIPAL BUDGET

WHEREAS, the 2022 Township of Marlboro Municipal Budget was introduced on March 24, 2022 and amended on May 19, 2022; and

WHEREAS, the required public hearing was scheduled and held on May 19, 2022.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro hereby adopts the 2022 Township of Marlboro Municipal Budget as amended.

Councilman Scalea introduced a motion to table the following resolution #2022-121 (Appointment of Council Liaisons) to the June 16, 2022 Council meeting; this was seconded by Councilwoman Marder passed on a roll call vote of 3 - 0 in favor. Council Vice President DiNuzzo and Councilman Milman voted no.

TABLED
RESOLUTION #2022-121

BE IT RESOLVED, by the Township Council of the Township of Marlboro that the following are hereby appointed as Council Liaisons, to serve at the discretion of the Township Council:

Open Space Committee	Randi Marder
Recreation & Swim Advisory Committee	Michael Milman
W.M.U.A.	Joseph Pernice
Senior Advisory Committee	Antoinette DiNuzzo & Alan Ginsberg
Freehold Regional Board of Education	Antoinette DiNuzzo & Michael Messinger
Environmental Commission	Juned Qazi
Youth Exchange Advisory Committee	Michael Scalea & Leslie Rush
Economic Development Committee	Antoinette DiNuzzo
Veterans & Volunteers Committee	Joseph Pernice
Teen Advisory Committee	Derik Deluca & Christina DePasquale
Historical Commission	Leslie Rush, Heather Maloney-Plantamura, & Nancy Williams
Marlboro Drug Alliance	Antoinette DiNuzzo & Randi Marder
Affordable Housing	Juned Qazi & Michael Scalea
Shade Tree Committee	Randi Marder & Heather Maloney-Plantamura
Local Emergency Planning Committee	Michael Milman
Ethics Board	Antoinette DiNuzzo & Michael Milman
Police Department	Michael Milman & John C. Gibardi
Department of Public Works	Juned Qazi & Dan Matarese
Marlboro Board of Education	John Gibardi
Green Team	Gerry Munroe

The following resolution #2022-122 (Authorizing Award of Bid (2022-05) Asphalt Disposal) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-122

A RESOLUTION AWARDING A CONTRACT TO FREEHOLD CARTAGE, INC. FOR DISPOSAL OF ASPHALT MILLINGS, CONCRETE, BRICK AND BLOCK FOR THE DEPARTMENT OF PUBLIC WORKS (DPW)

WHEREAS, the Marlboro Township Department of Public Works performs routine asphalt repair work and repairs to inlets and catch basins; and

WHEREAS, the repair work results in asphalt millings, concrete, brick and block that must be disposed of properly at licensed facilities; and

WHEREAS, the Township of Marlboro authorized the acceptance of bids for the DISPOSAL OF TOWNSHIP TRANSPORTED ASPHALT MILLINGS, CONCRETE, BRICK AND BLOCK, and on May 11, 2022, received three (3) bids, as follows:

	Stavola Asphalt Company, Inc. 175 Drift Road Tinton Falls, NJ 07724	Mazza Recycling Services, LTD 3230 A Shafto Road Tinton Falls, NJ 07753	Freehold Cartage, Inc. P.O. Box 5010 Freehold, NJ 07728
1 Asphalt Millings or Pieces	\$32.00	\$24.00	\$25.00
2 Price for 2,000 Tons of Asphalt Millings or Pieces	\$64,000.00	\$48,000.00	\$50,000.00
3 Flat Pick Rate for Asphalt	N/A	\$250.00	\$250.00
3 Clean Concrete	\$20.00	\$10.00	\$7.50
4 Price for 30 Tons Clean Concrete	\$600.00	\$300.00	\$225.00
5 Flat Pick Up Rate for Clean Concrete	N/A	\$250.00	\$250.00
6 Concrete with Encased Metal	\$30.00	\$15.00	\$11.00
7 Price for 15 Tons Concrete with Encased Metal	\$450.00	\$225.00	\$165.00
8 Flat Pick Up Rate for Concrete with Encased Metal	N/A	\$250.00	\$250.00

; and

WHEREAS, the bid technical specifications, section 8, plant location, referenced a travel cost factor of 18 cents per ton to account for each mile that the Township must travel in order to drop off the material at the vendor's plant location ("mileage factor"); and

WHEREAS, pursuant to the specifications, the lowest qualified bid for each item is determined based on the bid price plus the mileage factor; and

WHEREAS, the lowest qualified bid calculation pursuant to the bid technical specifications section 8, plant location for the bids

received are as follows:

	Stavola Asphalt Company	Mazza Recycling Services	Freehold Cartage, Inc.
	175 Drift Road	3230 Shafto Road	825 Highway 33
	Tinton Falls, NJ 07724	Tinton Falls, NJ 07753	Freehold, NJ 07728
	Round-Trip Mileage to Bidder's Facility	26.4	28.8
	Calculated Municipal Travel Cost factor as per Specification Section 8 - 18 cents per mile	\$4.75	\$5.18
1	Asphalt Millings or Pieces	\$32.00	\$24.00
	Final Adjusted Price per Ton for Asphalt Millings or Pieces	\$36.75	\$29.18
3	Clean Concrete	\$20.00	\$10.00
	Final Adjusted Price per Ton for Clean Concrete	\$24.75	\$15.18
6	Concrete with Encased Metal	\$30.00	\$15.00
	Final Adjusted Price per Ton for Concrete with Encased Metal	\$34.75	\$20.18

; and

WHEREAS, the bid submission of the apparent low bidder, inclusive of the mileage factor, for the asphalt millings or pieces, clean concrete and concrete encased in metal, Freehold Cartage, Inc. has been determined to be responsive as detailed in a May 11, 2022 memo transmitted by the Director of Public Works; and

WHEREAS, the Director of Public Works has recommended the award of contract to Freehold Cartage, Inc. for the disposal of asphalt millings or pieces at the bid price of \$25.00 per ton, clean concrete at the bid price of \$7.50 per ton and concrete encased in metal at the bid price of \$11.00 per ton; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that an open ended contract be awarded to Freehold Cartage, Inc. whose address is 825 Highway 33, Freehold, NJ 07728 for the disposal of asphalt millings or pieces at the bid price of \$25.00 per ton, for the disposal of clean concrete at the bid price of \$7.50 per ton and the disposal of concrete encased in metal at the bid price of \$11.00 per ton, for the period of June 1, 2022 through May 31, 2023, with an option to renew the contract based upon the same terms and conditions as specified in the bid proposal for an additional one (1) two-year period or two (2) one-year periods at the exclusive option of the Township.

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

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified funds from Capital Account #04-215-19-01D-060288 in the amount of \$2,630.00 with additional funds to be certified at the time material disposal is needed.

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

- a. Freehold Cartage, Inc.
- b. Township Business Administrator
- c. Chief Financial Officer
- d. Director of Public Works

The following resolution #2022-123 (Authorizing Shared Services Agreement with the Township of Manalapan for Bucket Truck and Operator Services) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-123

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE TOWNSHIP OF MANALAPAN TO PROVIDE BUCKET TRUCK SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro ("Marlboro") and the Township of Manalapan are interested in entering into an Agreement whereby the Township of Manalapan ("Manalapan") provides BUCKET TRUCK SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS on an as-needed basis; 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, this cooperative Agreement between municipalities would be beneficial to the taxpayers in both municipalities; and

WHEREAS, the Township of Manalapan and the Township of Marlboro 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, Manalapan has agreed to provide BUCKET TRUCK SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS on an as-needed basis; and

WHEREAS, Manalapan and Marlboro desire to enter into a Shared Services Agreement to set forth the operational and financial terms concerning the work to be performed; and

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Mayor and Municipal Clerk are hereby authorized to execute a Shared Services Agreement for BUCKET TRUCK SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS on an as-needed basis.
3. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.

The following resolution #2022-124 (Authorizing Award of Contract for the Provision of Various Street & Road Materials Through Bids Obtained by the Western Monmouth Purchasing Group Cooperative Pricing System) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-124

RESOLUTION AUTHORIZING CONTRACTS FOR THE PROVISION OF VARIOUS STREET
& ROAD MATERIALS THROUGH BIDS OBTAINED BY THE WESTERN MONMOUTH
PURCHASING GROUP COOPERATIVE PRICING SYSTEM

WHEREAS, the Township is authorized to purchase goods and services from bids obtained from a cooperative pricing system such as the Western Monmouth Purchasing Group Cooperative Pricing System pursuant to the authority provided by N.J.S.A. 40A:11-10(a) et seq.; and

WHEREAS, Marlboro Township, Lead Agency of the Western Monmouth Purchasing Group (WMPG), conducted a public bidding process for the provision of various street & road materials for the members of the cooperative pricing system for a term of one (1) year beginning June 1, 2022 and ending May 31, 2023 with an option to renew for one two-year or two one year periods on the same terms and conditions; and

WHEREAS, on May 4, 2022, the Township received the following bids,

		Walter R. Earle Corp			Stavola Construction Materials, Inc.			American Bituminous Company Inc.			Trap Rock Industries LLC		
		1800 Route 34, Bld 2, Suite 205			175 Drift Road			100 Main Street			PO Box 419		
		Wall, NJ 07719			Tinton Falls, NJ 07724			West Collingswood Hgts, NJ 08059			Kingston, NJ 08528		
		Will <u>not</u> extend to other members			Will extend to other members			Will extend to other members			Will extend to other members		
#	DESCRIPTION- MATERIALS TO BE DELIVERED	(B) UNIT PRICE	(C) DEL. PRICE PER UNIT	(D) TOTAL UNIT BID PRICE (B+C)	(B) UNIT PRICE	(C) DEL. PRICE PER UNIT	(D) TOTAL UNIT BID PRICE (B+C)	(B) UNIT PRICE	(C) DEL. PRICE PER UNIT	(D) TOTAL UNIT BID PRICE (B+C)	(B) UNIT PRICE	(C) DEL. PRICE PER UNIT	(D) TOTAL UNIT BID PRICE (B+C)
1	HOT MIX ASPHALT SURFACE COURSE	\$80.00	-	\$80.00	\$78.00	-	\$78.00	No Bid	-	-	\$82.00		
2	HOT MIX ASPHALT BASE COURSE	\$78.00	-	\$78.00	\$74.00	-	\$74.00	No Bid	-	-	\$80.00		
3	BITUMINOUS COLD PATCH	No Bid	-	-	\$160.00	\$15.00	\$175.00	\$140.00	\$15.00	\$155.00	\$180.00	\$8.00	\$188.00
6	HOT MIX ASPHALT INTERMEDIATE COURSE	\$78.00	-	\$78.00	\$78.00	-	\$78.00	No Bid	-	-	\$82.00	-	
8	HIGH PERFORMANCE COLD PATCH	No Bid	-	-	\$160.00	\$15.00	\$175.00	\$140.00	-	\$140.00	No Bid	-	-
8b	HIGH PERFORMANCE COLD PATCH 50 lb bags	No Bid	-	-	No Bid	-	-	\$21.00	-	\$21.00	No Bid	-	-
11	SOIL AGGREGATE TYPE 5, CLASS A	No Bid	-	-	\$23.00	\$8.25	\$31.25	No Bid	-	-	No Bid	-	-
13	3/4" BROKEN STONE	No Bid	-	-	\$23.00	\$7.75	\$30.75	No Bid	-	-	\$25.75	\$8.00	\$33.75
14	1" AND 1 1/2" BROKEN STONE, CLEAN	No Bid	-	-	\$25.00	\$7.75	\$32.75	No Bid	-	-	\$28.50	\$8.00	\$36.50
15	1" AND 1/2" BROKEN STONE, BLENDED	No Bid	-	-	\$25.00	-	\$25.00	No Bid	-	-	\$21.00	-	\$21.00
16	SOIL AGG. NJDOT I-4 RD GRAVEL	No Bid	-	-	\$24.00	\$7.75	\$31.75	No Bid	-	-	No Bid	-	-
18A	RIP RAP STONE, D50=8"	No Bid	-	-	\$45.00	\$8.25	\$53.25	No Bid	-	-	\$35.00	\$10.00	\$45.00
18B	RIP RAP STONE, D50=15"	No Bid	-	-	\$55.00	\$8.25	\$63.25	No Bid	-	-	\$35.00	-	
41A	RECYCLED CONCRETE AGGREGATE	\$18.00	-	\$18.00	\$17.00	\$7.75	\$24.75	No Bid	-	-	No Bid	-	-
41B	RECYCLED CONCRETE AGGREGATE, 3" DIA MAX	\$18.00	-	\$18.00	No Bid	-	-	No Bid	-	-	No Bid	-	-
42	3/4" CLEAN STONE	No Bid	-	-	\$23.00	\$7.75	\$30.75	No Bid	-	-	\$27.75	-	
43	STONE DUST	No Bid	-	-	\$23.00	\$7.75	\$30.75	No Bid	-	-	\$21.00	-	
44	DENSE GRADED AGGREGATE BASE COURSE	No Bid	-	-	\$23.00	\$7.75	\$30.75	No Bid	-	-	\$19.75	-	

*Does not include mileage adjustment referenced in the bid technical specifications

;and

WHEREAS, the proposal received from Trap Rock Industries, LLC failed to include the requested list of subcontractors, a "fatal flaw" rendering the proposal unresponsive as per N.J.S.A. 40A:11-23.2; and

WHEREAS, with the understanding that no minimum or maximum quantities are guaranteed in the bid specifications and materials will be purchased on an as-needed basis, the Public Works Department has recommended the following contracts be awarded for a one year period terminating on May 31, 2023 with an option to renew for one two-year or two one year periods on the same terms and conditions:

Bidder	Material	Unit Price	Delivery Price	Total Unit Price	Est. Qty	Total
Stavola Construction Materials 175 Drift Road Tinton Falls, NJ 07724	Item 1 - Hot Mix Surface	\$78.00	N/A	\$78.00	5000	\$390,000.00
	Item 2 - Hot Mix Base	\$74.00	N/A	\$74.00	2500	\$185,000.00
	Item 8 - Cold Patch	\$160.00	\$15.00	\$175.00	250	\$43,750.00
	Item 13 - 3/4 Stone	\$23.00	\$7.75	\$30.75	500	\$15,375.00
	Item 14 - 1 & 1 1/2 Clean Stone	\$25.00	\$7.75	\$32.75	250	\$8,187.50

	Item 18A - Rip Rap Stone D50=8	\$45.00	\$8.25	\$53.25	200	\$10,650.00
	Item 18B - Rip Rap Stone D50=15	\$55.00	\$8.25	\$63.25	200	\$12,650.00
	Item 41A - Recycled Concrete	\$17.00	\$7.75	\$24.75	500	\$12,375.00
	Item 43 - Stone Dust	\$23.00	\$7.75	\$30.75	500	\$15,375.00
TOTAL						\$693,362.50
American Bituminous Co. 100 Main Street W. Collingswood Hgts., NJ 08059	Item 3 - Bituminous Cold Patch	\$140.00	\$15.00	\$155.00	150	\$23,250.00
TOTAL						\$23,250.00

WHEREAS, funds in the amount of \$113,987.50 have been certified by the Chief Financial Officer in account 04-215-19-01D-060288, with additional amounts to be certified at the time materials are ordered; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that contracts be awarded to Stavola Construction Materials, Inc., 175 Drift Road, Tinton Falls, New Jersey 07724, in an amount not to exceed \$693,362.50, and American Bituminous Company, Inc., 100 Main Street, West Collingswood Heights, New Jersey 08059, in an amount not to exceed \$23,250.00.

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

- e. Stavola Construction Materials, Inc.
- f. American Bituminous Company, Inc.
- g. Township Business Administrator
- h. Township Chief Financial Officer
- i. Township Director of Public Works

The following resolution #2022-125 (Authorizing Purchase of Replacement Vehicles through the ESCNJ Purchasing Cooperative for the Construction Code Division) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-125

RESOLUTION AUTHORIZING AWARD OF ESCNJ COOPERATIVE CONTRACT
(#20/21-09) TO UNITED FORD LLC FOR THE PURCHASE OF

VEHICLES FOR THE TOWNSHIP OF MARLBORO CONSTRUCTION CODE
DIVISION

WHEREAS, the Township's multi-year capital program anticipates replacement vehicles and equipment required for the Construction Code Division projected out over six years; and

WHEREAS, the purchase of two replacement vehicles (0951 and 0952) for the Division is scheduled for 2022 (Project ID 850-1); and

WHEREAS, in a time of limited availability of vehicles and equipment due to the ongoing computer chip shortage and supply chain issues, the Township has become aware of an opportunity to secure the required replacement vehicles; and

WHEREAS, in order to maintain the vehicle replacement schedule set forth in its multi-year capital program, and in light of the ongoing computer chip shortage and supply chain issues affecting the availability of vehicles, it is recommended that the Township purchase the available replacement vehicles for the Construction Code Division; and

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

WHEREAS, United Ford LLC, was awarded the ESCNJ Cooperative Contract #20/21-09 for the 2022 Ford Escape base vehicle and the additional manufacturer equipment in an amount not to exceed \$24,294.41 per vehicle; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to purchase the replacement vehicles and the additional manufacturer equipment to be utilized by the Construction Code Division; and

WHEREAS, the Construction Code Division is financially self-supporting through the maintenance of permit user fees at a level necessary to offset the cost of operations; and

WHEREAS, funds are available and have been certified by the Chief Financial Officer in an amount not to exceed \$48,588.82 from Uniform Construction Code Trust Fund account #16-201-56-850-297850 for the purchase of two (2) 2022 Ford Escape base vehicles and the additional manufacturer equipment; and

WHEREAS, the Township Council desires to approve the purchase of the replacement vehicles.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase the replacement vehicles for the Marlboro Construction Code Division from United Ford LLC under the ESCNJ Cooperative Pricing System (#20/21-09) in a total amount not to exceed \$48,588.82.

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

- j. Business Administrator
- k. Township Chief of Police
- l. Chief Financial Officer
- m. Insurance

The following resolution #2022-126 (Authorizing the Adoption and Execution of the Settlement Agreement by and Between the Township of Marlboro and Lexon Insurance Company) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-126

RESOLUTION AUTHORIZING THE ADOPTION AND EXECUTION OF THE
SETTLEMENT AGREEMENT BY AND BETWEEN THE TOWNSHIP OF MARLBORO AND
LEXON INSURANCE COMPANY

WHEREAS, Kara at Buckley Estates, LLC are or were the owners and developers of the property known as Block 417, Lots 2, 8.01 & 19 as shown on the official tax maps of the Township of Marlboro (the "Property"); and

WHEREAS, Kara at Buckley Estates, LLC a.k.a Bayview Builders submitted an application to the Planning Board for the Township of Marlboro in order to obtain a final major subdivision approval for the Property which was ultimately approved on October 1, 2003; and

WHEREAS, on October 21, 2004 the Township of Marlboro and Kara at Buckley Estates, LLC entered into a developer's agreement; and

WHEREAS, on July 30, 2004 in accordance with N.J.S.A 40:55D-53, the developer entered into a subdivision Performance Bond with Lexon Insurance Company in connection with construction of all off-site, off-tract, and on-site construction of improvements for the Property; and

WHEREAS, the Performance bond posted was in the amount of \$1,628,594.80; and

WHEREAS, on February 24, 2006, James A. Priolo, P.E., then Township Engineer, issued a report recommending a partial reduction in the Performance Subdivision Bond amount reflecting the construction of improvements in connection with the Subdivision; and

WHEREAS, on March 16, 2006, the Township's governing body voted to approve the reduction of the Performance Subdivision Bond pursuant to Resolution #2006-125, in connection with the Subdivision from an original amount of \$1,628,594.80 to \$847,516.66; and

WHEREAS, on October 5, 2006, the defendant, Kara Homes, Inc., the parent company of Kara at Buckley Estates, LLC filed for Chapter 11 bankruptcy protection; and

WHEREAS, on November 13, 2006, the governing body in Resolution #2006-404 voted to authorize the demand for payment under the Performance Bonds and Cash Bonds posted with the Township for Kara at Buckley Estates, LLC; and

WHEREAS, on June 26, 2008, Ernest J. Peters, P.E., then Township Engineer, issued a report recommending a partial reduction of the Performance Subdivision Bond amount reflecting the construction of improvements in connection with the Subdivision; and

WHEREAS, on July 17, 2008, the Township's governing body voted to approve the reduction of the Performance Subdivision Bond pursuant to Resolution #2008-247 from the amount of \$847,516.66 to \$488,578.44; and

WHEREAS, to date, Kara at Buckley Estates, LLC has not completed all remaining necessary site improvements on the Property and has outstanding invoices for various services; and

WHEREAS, on November 20, 2019, the Township commenced litigation against Kara at Buckley Estates, Lexon Insurance Company, and Sompo International Insurance Company in connection with the outstanding invoices and unfinished site improvements covered by the Performance Subdivision Bond on the Property in Township of Marlboro v. Kara at Buckley Estates, LLC, et. al., Docket No. MON-L-004131-19; and

WHEREAS, Sompo International Insurance Company was dismissed without prejudice from the matter on February 28, 2020; and

WHEREAS, in consideration for the settlement and release of the Township's claims against Lexon Insurance Company as set forth in the litigation, the Insurance Companies agree to pay \$225,000.00 to the Township (the "Settlement Funds"); and

WHEREAS, in consideration for the settlement and release of the Township's claims against the Parties, the Township will release the

Performance Subdivision Bonds upon receipt and clearance of payment of the Settlement Funds; and

WHEREAS, the Parties wish to enter into an Agreement in a form substantially similar to that attached hereto, setting forth the terms, conditions, responsibilities, and obligations of the Parties; and

WHEREAS, it is in the best interests of the Township to enter into this Agreement.

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

1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.
2. The Mayor and Municipal Clerk be and are hereby authorized to execute the Settlement Agreement with Lexon Insurance Company, for the purpose of memorializing the obligations and commitments of the Township and the Insurance Companies and the Township Attorney is authorized to take the necessary actions to formalize and finalize the terms of the Agreement.
3. This Resolution shall take effect immediately.

SO RESOLVED, as aforesaid.

The following resolution #2022-127 (Authorizing Award of Contract for Various Recreational Youth Programs) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-127

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE
PROVISION OF YOUTH SPORTS PROGRAM SERVICES FOR THE
MARLBORO TOWNSHIP RECREATION DEPARTMENT

WHEREAS, the Marlboro Township Recreation Department offers the following programs to residents of Marlboro for the Spring, Summer and Fall seasons ("Youth Sports Programming"):

Youth Tennis
Youth Lacrosse
Youth Soccer
Youth Hockey
Youth Basketball
Youth Multi-Sport
Youth Fitness

; and

WHEREAS, the Department requires full-service Youth Sports Programming for all 2022-2023 seasons, inclusive of all equipment and necessary materials and supplies, uniforms and awards/trophies, scheduling and hiring of referees, scorekeepers and facility supervisors, background checks for all staff and insurance; and

WHEREAS, the cost of providing Youth Sports Programming is fully offset by participant registration fees; and

WHEREAS, the Township has conducted four (4) separate solicitations for these services, as summarized below and detailed in the attached EXHIBIT:

1	2/11/22	Request for Proposals	N.J.S.A. 40A:11-4.1(b(2))
2	3/10/22	Competitive Quotations	R.2022-090
3	4/7/22	RFP	N.J.S.A. 40A:11-4.1(b(2))
4	5/10/22	Competitive Quotations	N.J.S.A. 40A:11-5 (3)

; and

WHEREAS, based upon the first solicitation and the enrollment for the spring 2022 soccer, tennis and lacrosse programs, the Township Council approved R.2022-090 on March 10, 2022 authorizing execution of a contract with Centercourt Club and Sports of Marlboro, 185 Amboy Road, Morganville, NJ 07751 for Youth Tennis and Soccer for the Spring 2022 season, and the award of contracts based upon the solicitation of quotes for the remaining Spring 2022 season programs; and

WHEREAS, in response to the second Request for Proposals, the Township received one response for Soccer programming from Frank Rizzi LLC, Campioni Soccer, DBA CTR Soccer, 44 Glenn Oaks Court, Old Bridge, NJ 08857; and

WHEREAS, for the Summer and Fall 2022 and Spring 2023 programs, the Township has advertised for youth sports programming, and, pursuant to 40A:11-5 (3), having received no responses relative to various programs and program periods, negotiated contracts based upon the solicitation of competitive quotations which may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract; and

WHEREAS, the Department is recommending the confirmation of contracts awarded based upon the solicitation of quotes for the Spring 2022 programs, and authorization to award contracts for the Summer 2022, Fall 2022 and Spring 2023 programs based upon the responses to

Request for Proposals issued and the solicitation of quotations, as follows:

- Youth Soccer: Frank Rizzi LLC, Campioni Soccer, DBA CTR Soccer, 44 Glenn Oaks Court, Old Bridge, NJ 08857 2022 fall season and the spring 2023 season in an amount of \$10,472.00 per season, for a total amount not to exceed \$20,944.00
- Youth Basketball: Slam Dunk Sportz, 25 Westbrook Drive, Morganville, NJ 07751 at a price of \$130.00 per participant in an amount not to exceed \$65,000.00
- Youth Fitness: Marla Rudich, 43 Orange Drive, Marlboro, NJ 07746 at a price of \$40.00 per class in an amount not to exceed \$2,160.00
- Youth Lacrosse: Centercourt Club and Sports of Marlboro, 185 Amboy Road, Morganville, NJ 07751 at a price of \$100.00 per participant in an amount not to exceed \$12,000.00
- Youth Tennis: Centercourt Club and Sports of Marlboro, 185 Amboy Road, Morganville, NJ 07751 at a price of \$110.00 per participant in an amount not to exceed \$16,800.00

; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Department, and to award contracts as set forth herein.

BE IT FURTHER RESOLVED, that the following contracts be confirmed and awarded for the PROVISION OF VARIOUS RECREATIONAL YOUTH SPORTS PROGRAM SERVICES FOR THE MARLBORO TOWNSHIP RECREATION DEPARTMENT for the 2022 summer and fall and the spring 2023 programs based on the solicitations conducted, as follows:

- Youth Soccer: Frank Rizzi LLC, Campioni Soccer, DBA CTR Soccer, 44 Glenn Oaks Court, Old Bridge, NJ 08857 2022 fall season and the spring 2023 season in an amount of \$10,472.00 per season, for a total amount not to exceed \$20,944.00
- Youth Basketball: Slam Dunk Sportz, 25 Westbrook Drive, Morganville, NJ 07751 at a price of \$130.00 per participant in an amount not to exceed \$65,000.00
- Youth Fitness: Marla Rudich, 43 Orange Drive, Marlboro, NJ 07746 at a price of \$40.00 per class in an amount not to exceed \$2,160.00
- Youth Lacrosse: Centercourt Club and Sports of Marlboro, 185 Amboy Road, Morganville, NJ 07751 at a price of \$100.00 per participant in an amount not to exceed \$12,000.00
- Youth Tennis: Centercourt Club and Sports of Marlboro, 185 Amboy Road, Morganville, NJ 07751 at a price of \$110.00 per participant in an amount not to exceed \$16,800.00

BE IT FURTHER RESOLVED, that funds for the required services will be certified by the Chief Financial Officer in Recreation Utility Accounts #09-201-55-400-288401, #09-201-55-400-288402, #09-201-55-400-288409, #09-201-55-400-288418, and #09-201-55-400-288420 at the time the 2022 municipal budget is adopted.

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

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

- a. Frank Rizzi LLC, Campioni Soccer, DBA CTR Soccer
- b. Slam Dunk Sportz
- c. Marla Rudich
- d. Centercourt Club and Sports of Marlboro
- e. Business Administrator
- f. Chief Financial Officer
- g. Director of Recreation

The following resolution #2022-128 (Authorizing Shared Service Agreement with the Marlboro Township Board of Education (MTBOE) for Food Services for Recreation Programs) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-128

AUTHORIZING AMENDMENT TO A SHARED SERVICES AGREEMENT WITH THE
MARLBORO TOWNSHIP BOARD OF EDUCATION FOR CONCESSION SERVICES FOR THE
MARLBORO TOWNSHIP RECREATION DEPARTMENT

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

WHEREAS, the Township of Marlboro ("Township") and Marlboro Board of Education ("Board") 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 operates the Marlboro Swim Club ("Swim Club") for Marlboro Township and area residents which has a snack bar; and

WHEREAS, the Board contracts with Chartwells, Inc. ("Vendor") as its food service provider for the provision of food service within the schools that comprise the Marlboro Township School District; and

WHEREAS, the Board has agreed to be the lead agency and supply concession services to the Township under its existing service contract; and

WHEREAS, the Township and the Board have previously entered into a Shared Services Agreement with a term of one (1) year, commencing on or about January 1, 2021, with actual services to be provided from May 1, 2015 through September 7, 2021; and

WHEREAS, the Township and the Board wish to extend the Shared Services Agreement with a term of forty-five days (45), commencing on or about May 15, 2022 and terminating on June 30, 2022, with actual services to be provided from May 28, 2022 through June 30, 2022; and

WHEREAS, the parties are of the opinion that the provision of such services can be more efficiently provided through a joint agreement which will ultimately benefit Marlboro residents; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. authorizes local units to enter into shared services agreements for the provision of services, including the services contemplated herein; and

WHEREAS, the proposed Shared Services Agreement for the Concession Services is on file in the Municipal Clerk's office in accordance with the provisions of N.J.S.A. 40A:65-5(b); and

WHEREAS, the Mayor and Marlboro Township Council desire to enter into the proposed Shared Services Agreement with the Board of Education substantially in the form attached hereto and made a part hereof as Exhibit A.

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 are hereby authorized and directed to execute and witness, respectively, the Shared Services Agreement; and

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; and

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

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

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

The following resolution #2022-129 (Authorizing Participation in the New Jersey E-Procurement Pilot Program, Authorizing the Engagement of an On-Line Purchasing Agent and Authorizing Internet-Based Auctions and Execution of Agreements for the Sale of Solar Renewable Energy Credits) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-129

A RESOLUTION AUTHORIZING PARTICIPATION IN THE NEW JERSEY
E-PROCUREMENT PILOT PROGRAM, AUTHORIZING THE ENGAGEMENT OF AN
ON-LINE PURCHASING AGENT AND AUTHORIZING INTERNET-BASED AUCTIONS
AND EXECUTION OF AGREEMENTS FOR THE SALE OF SOLAR RENEWABLE
ENERGY CREDITS (SRECS)

WHEREAS, the Marlboro Township Municipal Utilities Authority (MTMUA) had a contract for the sale of solar renewable energy credits (SRECs) which expired on May 31, 2011; and

WHEREAS, pursuant to provisions of the *Local Unit Electronic Technology Pilot Program and Study Act* (P. L. 2001, c. 30), local contracting units are specifically authorized to engage, without competitive bidding, on-line purchasing agents for the purpose of conducting internet-based auctions to procure certain bulk commodities, including SRECs; and

WHEREAS, the Township has previously solicited proposals from three of the vendors authorized by the State of New Jersey to conduct internet-based auctions of S-RECs; and

WHEREAS, since 2012, the Township Council has authorized the engagement of Marex Spectron, an on-line purchasing agent approved by the State of New Jersey to conduct internet-based auctions for the sale of SRECs generated or anticipated to be generated, at a reasonable sum of \$3.00 per SREC; and

WHEREAS, the State of New Jersey allows local government units, through participation in an *E-Procurement Pilot Program* in accordance with the provisions of the *Local Unit Electronic Technology Pilot Program and Study Act* (P. L. 2001, c. 30), to utilize on-line auction services for the sale of SRECs; and

WHEREAS, the Department of Public Works, Water Utility Division continues to recommend the selection of Marex Spectron to serve as Marlboro Township's on-line purchasing agent in accordance with its proposal.

WHEREAS, the Department of Public Works, Water Utility Division routinely monitors market conditions and advises that a contract for the sale of SRECs to be generated between June 1, 2023 and May 31, 2024 (Energy Year 2024) may be beneficial at this time.

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

Section 1. The participation of Marlboro Township in the New Jersey *E-Procurement Pilot Program* pursuant to the provisions of the *Local Unit Electronic Technology Pilot Program and Study Act* (P. L. 2001, c. 30) is hereby authorized and approved for the sale of Solar Renewable Energy Credits utilizing on-line competitive bidding services and, in particular, an internet-based auction platform.

Section 2. The Township is hereby authorized to enter into an agreement with Marex Spectron, with corporate offices located at 360 Madison Avenue, Third Floor, New York, NY 10017, as an on-line purchasing agent, to conduct competitive auctions utilizing an internet-based platform in conjunction with the Township's planned sale of SRECs.

Section 3. The engagement of Marex Spectron, shall be effected through the execution of an Agreement substantially in the form attached hereto and made a part hereof as Exhibit A, which said contract is hereby awarded, without competitive bidding, pursuant to the provisions of Section 7 of the *Local Unit Electronic Technology Pilot Program and Study Act* (P. L. 2001, c. 30).

BE IT FURTHER RESOLVED, that

Section 1. The Mayor, or his designee, is hereby authorized to conduct internet-based auctions through Marex Spectron for the sale of an estimated 900 EY 2024 SRECs to be generated between June 1, 2023 and May 31, 2024; and

Section 2. Funds in the amount of \$2,700.00 for the sale of 900 SRECs to be generated have been certified by the Chief Financial Officer in Water Utility Operating account # 05-201-55-500-268030; and

Section 3. Funds in the additional amount of \$600.00 have been certified by the Chief Financial Officer in Water Utility Operating account # 05-201-55-500-268030 for the sale of up to 200 excess SRECs which may be generated during the EY 2024 period; and

Section 4. The Mayor, or his designee, is hereby authorized to award a contract to and execute an agreement, in a form approved by the Township Attorney, with the responsible bidder(s) which offer(s) the highest per credit price offering resulting from the aforementioned internet-based auction for the sale of SRECs, provided the bid accepted offers a per SREC price equal to or higher than \$215.00; and

Section 5. The Mayor, or his designee, shall report on the bid results at the first meeting of the Township Council following the conclusion of the auctions to enable the Township Council to ratify and confirm the contract award.

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

- a. Marlboro Township Administrator
- b. Marlboro Township Chief Financial Officer
- c. Marlboro Township Director of Public Works
- d. Marex Spectron

NJ Division of Local Government Services

The following resolution #2022-130 (Confirming Contract for Sale of Solar Renewable Energy Credits) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2022-130

RESOLUTION CONFIRMING SALE OF SOLAR RENEWABLE ENERGY CREDITS (SRECS) THROUGH INTERNET-BASED AUCTIONS

WHEREAS, the Township Council approved Resolution #2020-152 which authorized the sale of S-RECS to be generated between June 1, 2021 and May 31, 2022 (Energy Year 2022 or "EY 2022"), provided the bid accepted offers per S-REC price equal to or higher than \$215.00; and

WHEREAS, the Township Council authorized an agreement with Marex Spectron, with corporate offices located at 360 Madison Avenue, Third Floor, New York, NY 10017, as the on-line purchasing agent, to conduct competitive auctions utilizing an internet-based platform in conjunction with the Township's sale of SRECS at a fee of \$3.00 per SREC; and

WHEREAS, the Township Water Utility anticipates generating between 125 and 200 additional SRECs for the EY 2022 period; and

WHEREAS, Marex Spectron has confirmed a price of \$234.50 per SREC for the additional SRECs; and

WHEREAS, pursuant to Resolution #2020-152, the Township accepted the price of \$234.50 per SREC for the excess SRECs by Marex Spectron, 360 Madison Avenue, Third Floor, New York, NY 10017.

NOW, THEREFORE BE IT RESOLVED, that the Township Council hereby confirms the acceptance of the offer by Marex Spectron, 360 Madison Avenue, Third Floor, New York, NY 10017 to purchase a minimum of 125 SRECs plus any additional EY 2022 SRECs generated by the Water Utility at a price of \$234.50 per SREC.

BE IT FURTHER RESOLVED, that the Mayor, Business Administrator and Municipal Clerk are hereby authorized to execute the necessary documents in a form approved by the Township Attorney to effectuate the transaction.

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

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

Council President Qazi introduced a motion to pull the following Resolution #2022-132 (Authorizing Contract Renewal for The Purchase of Leaf Bags Year 2 of 3 (Bid 2021-SSA)) from the Consent Agenda and table it to the June 16, 2022 Council meeting; this was seconded by Councilwoman Marder passed on a roll call vote of 3 - 0 in favor. Council Vice President DiNuzzo and Councilman Milman voted no.

TABLED
RESOLUTION #2022-132

A RESOLUTION AUTHORIZING YEAR 2 OF CONTRACT TO DANO
ENTERPRISES, INC. FOR THE PURCHASE OF LEAF BAGS FOR THE
TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro requires leaf bags for distribution to residents in order to facilitate the removal and disposal of yard waste and to promote clean and safe streets within the Township; and

WHEREAS, in order to secure the most advantageous pricing, the Township of Marlboro entered into a shared services agreement with the Township of Edison, with Edison serving as a lead agency, to conduct a public bid process in accordance with the Local Public Contracts Law (Resolution #2021-143); and

WHEREAS, on July 15, 2021 (Resolution #2021-233) the Township Council of the Township of Marlboro awarded a contract to DANO ENTERPRISES, INC. FOR THE PURCHASE OF LEAF BAGS FOR THE TOWNSHIP OF

MARLBORO DEPARTMENT OF PUBLIC WORKS at the low bid price of \$.465 per bag, not to exceed \$46,500.00; and

WHEREAS, the bid specifications included the option to renew said contract for an additional one two-year, or two one-year extensions on the same terms and conditions at the exclusive option of the Township; and

WHEREAS, in a memo dated April 20, 2022, the Director of Public Works has recommended that the Township approve the first one (1) year extension of the contract; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be renewed with DANO ENTERPRISES, INC. whose address is 4 Omega Drive, Stamford, CT 06907 for a period of one year commencing on August 1, 2022 and expiring on July 31, 2023, in a total amount not to exceed \$46,500.00.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Municipal Clerk to witness, contracts with DANO ENTERPRISES, INC. in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney.

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certify funds in the amount of \$46,500.00 from Clean Communities Grant Account 02-213-19-703-123000.

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

- n. DANO ENTERPRISES, INC.
- o. Township Business Administrator
- p. Director of Public Works
- q. Chief Financial Officer

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

RESOLUTION #2022-131

RESOLUTION AUTHORIZING RENEWAL OF MEMBERSHIP AS THE LEAD
AGENCY IN THE WESTERN MONMOUTH PURCHASING GROUP COOPERATIVE
PRICING SYSTEM

WHEREAS, the Township of Freehold has previously been the lead agency for the Western Monmouth Purchasing Group Cooperative Pricing System CPS-10WMPC; and

WHEREAS, the Township of Marlboro has taken over as the lead agency for the Western Monmouth Purchasing Group Cooperative Pricing System CPS-10WMPC; and

WHEREAS, the Western Monmouth Purchasing Group currently has Freehold Township, Freehold Borough, Manalapan Township and Marlboro Township as members; and

WHEREAS, approval has been granted by the New Jersey Division of Local Government Services, indicating Marlboro Township as the lead agency and renewing the Cooperative Pricing System through June 30, 2027.

BE IT RESOLVED, that the Governing Body of the Township of Marlboro hereby renews its membership, as the lead agency in the Western Monmouth Purchasing Group, effective July 1, 2022 and that such membership shall be for the five year duration of the Agreement (June 2027) unless the Governing Body of the Contracting Unit elects to withdraw.

BE IT FURTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Division of Local Government Services, Cooperative Purchasing Department.

BE IT FUTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Municipal Clerks of Freehold Township, Freehold Borough and Manalapan Township.

RESOLUTION #2022-133

A RESOLUTION AUTHORIZING YEAR 2 OF CONTRACT TO MAZZA RECYCLING SERVICES FOR THE PROVISION OF TYPE 13 BULKY WASTE DISPOSAL SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, on July 15, 2021 (Resolution #2021-236) the Township Council of the Township of Marlboro awarded a contract to MAZZA RECYCLING SERVICES FOR THE PROVISION OF TYPE 13 BULKY WASTE DISPOSAL SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS; and

WHEREAS, the bid specifications included the option to renew said contract for an additional one two-year, or two one-year extensions on the same terms and conditions at the exclusive option of the Township; and

WHEREAS, in a memo dated April 20, 2022, the Director of Public Works has recommended that the Township approve the first one (1) year

extension of the contract; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be renewed with MAZZA RECYCLING SERVICES whose address is 3230A Shafto Road, Tinton Falls, New Jersey 07753 for a period of one year commencing on September 1, 2022 and expiring on August 31, 2023, in a total amount not to exceed \$59,850.00.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Municipal Clerk to witness, contracts with MAZZA RECYCLING SERVICES in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney.

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified funds in the amount of \$19,950.00 from Operating Account 01-201-32-170-233122 for the 2022 portion of these services.

BE IT FURTHER RESOLVED, funds in the amount of \$39,900.00 will be made available and certified in 2023 upon adoption of the budget.

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

- a. MAZZA RECYCLING SERVICES
- b. Township Business Administrator
- c. Director of Public Works
- d. Chief Financial Officer

RESOLUTION #2022-134

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY RENEWING THE SHARED SERVICES AGREEMENT WITH THE MARLBORO BOARD OF EDUCATION TO PROVIDE FOR SCHOOL RESOURCE OFFICERS (SROs) IN MARLBORO TOWNSHIP K-8 SCHOOLS

WHEREAS, there are police officers specifically trained in educating, counseling, and protecting the public in an educational setting within the Township of Marlboro Division of Police known as School Resource Officers (SROs); and

WHEREAS, the Township of Marlboro ("Township") and Marlboro Township Board of Education ("MTBOE") are partners in providing for School Resource Officers (SROs), and acknowledge that these officers have been a constructive and valuable presence in the schools; and

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

WHEREAS, the Township of Marlboro and Marlboro Board of Education 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, on June 15, 2021 (Resolution #2021-212) the Township Council authorized an amendment to the Shared Services Agreement to be executed with the Marlboro Board of Education extending the existing agreement to provide for School Resource Officers (SROs) for the 2021/2022 school year; and

WHEREAS, the Township and the MTBOE wish to extend the agreement to include the 2022/2023 school year; and

WHEREAS, the Township Council of the Township of Marlboro supports the SRO program in the K-8 schools and endorses this partnership between the Township and the MTBOE.

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Municipal Clerk are hereby authorized to execute the renewal of the Shared Services Agreement with the MTBOE providing for the extension of the School Resource Officer program for the 2022/2023 school year.
4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION #2022-135

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY,
NEW JERSEY RENEWING A SHARED SERVICES AGREEMENT WITH MARLBORO
BOARD OF EDUCATION TO PROVIDE FOR SCHOOL SECURITY
OFFICERS (SSOs) IN MARLBORO TOWNSHIP K-8 SCHOOLS

WHEREAS, the Township of Marlboro ("Township") and Marlboro Township Board of Education ("MTBOE") are committed to providing for the safety of Marlboro's youth while they attend school; and

WHEREAS, a Law was enacted during the 2014-15 session of the New Jersey State Legislature establishing a new class of Special Law Enforcement Officers (Class III) specifically to provide for security in schools under the direction of the local police agency (NJS C.40A:14-146.8 et seq.); and

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

WHEREAS, the Township of Marlboro and Marlboro Township Board of Education 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, on June 15, 2021, the Township and MTBOE (Resolution #2021-213) entered into a shared services agreement to provide for Class III Special Law Enforcement Officers in the Marlboro Township K-8 Schools for the 2021/2022 school year; and

WHEREAS, the Township and the MTBOE wish to reauthorize the agreement to continue the School Security Officer program for the 2022/2023 school year; and

WHEREAS, the Township Council of the Township of Marlboro supports the School Security Officer program in the Marlboro K-8 Schools and endorses this partnership between the Township and the MTBOE.

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.

2. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.

3. The Mayor and Municipal Clerk are hereby authorized to execute the renewal of the Shared Services Agreement with the MTBOE providing for the extension of the School Security Officer program for the 2022/2023 school year.

4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION #2022-136

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY RENEWING THE SHARED SERVICES AGREEMENT WITH THE FREEHOLD REGIONAL HIGH SCHOOL DISTRICT ("FRHSD") TO PROVIDE FOR SCHOOL RESOURCE OFFICERS (SROs) IN MARLBORO HIGH SCHOOL

WHEREAS, there are police officers specifically trained in educating, counseling, and protecting the public in an educational setting within the Township of Marlboro Division of Police known as School Resource Officers (SROs); and

WHEREAS, the Township of Marlboro ("Township") and Freehold Regional High School District ("FRHSD") are partners in providing for School Resource Officers (SROs), and acknowledge that these officers have been a constructive and valuable presence in the schools; and

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

WHEREAS, the Township of Marlboro and Freehold Regional High School District 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, on June 17, 2021 (Resolution #2021-214) the Township Council authorized a Shared Services Agreement to be executed with the FRHSD to provide for School Resource Officers (SROs) for the 2021/2022 school year; and

WHEREAS, the Township and the FRHSD wish to extend the agreement to include the 2022/2023 school year; and

WHEREAS, the Township Council of the Township of Marlboro supports the SRO program in Marlboro High School and endorses this partnership between the Township and the FRHSD.

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Municipal Clerk are hereby authorized to execute the renewal of the Shared Services Agreement with the FRHSD providing for the extension of the School Resource Officer program for the 2022/2023 school year.
4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION #2022-137

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY RENEWING A SHARED SERVICES AGREEMENT WITH FREEHOLD REGIONAL HIGH SCHOOL DISTRICT ("FRHSD") TO PROVIDE FOR SCHOOL SECURITY OFFICERS(SSOs) IN MARLBORO HIGH SCHOOL

WHEREAS, the Township of Marlboro ("Township") and Freehold Regional High School District ("FRHSD") are committed to providing for the safety of Marlboro's youth while they attend school; and

WHEREAS, a Law was enacted during the 2014-15 session of the New Jersey State Legislature establishing a new class of Special Law Enforcement Officers (Class III) specifically to provide for security in schools under the direction of the local police agency (NJS C.40A:14-146.8 et seq.); and

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

WHEREAS, the Township of Marlboro and Freehold Regional High School District 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, on June 17, 2021, the Township and FRHSD (Resolution #2021-215) entered into a shared services agreement to provide for Class III Special Law Enforcement Officers in the Marlboro High School for the 2021/2022 school year; and

WHEREAS, the Township and the FRHSD wish to reauthorize the agreement to continue the School Security Officer program for the 2022/2023 school year; and

WHEREAS, the Township Council of the Township of Marlboro supports the School Security Officer program in the Marlboro High School and endorses this partnership between the Township and the FRHSD.

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.
3. The Mayor and Municipal Clerk are hereby authorized to execute the renewal of the Shared Services Agreement with the FRHSD providing for the extension of the School Security Officer program for the 2022/2023 school year.
4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION #2022-138

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY,
NEW JERSEY AUTHORIZING A SHARED SERVICES AGREEMENT FOR THE
WESTERN MONMOUTH ACTIVE SHOOTER TRAINING GROUP

WHEREAS, there have been numerous well-publicized incidences of acts of violence involving active shooters in public spaces including schools; and

WHEREAS, the Township of Marlboro and the K-8 and Freehold Regional School Districts have entered into agreements to ensure that armed and trained school security officers under the command of the Marlboro Division of Police are stationed in Marlboro schools; and

WHEREAS, an active shooter scenario in Marlboro would likely result in a response from a number of different neighboring law enforcement agencies; and

WHEREAS, it is to the benefit of Marlboro and other neighboring Monmouth municipalities to coordinate training together on response and entry tactics, site command and organizational strategy; and

WHEREAS, Freehold Township ("Freehold") has agreed to serve as lead agency in a cooperative effort with Marlboro, Manalapan, Freehold Borough, Howell, Colts Neck, Englishtown, Allentown Borough and the Monmouth County Sheriff's Office to ensure the highest level of coordination by facilitating interdepartmental training on a regular basis for the joint response to active shooter and joint law enforcement emergencies ("Western Monmouth Active Shooter Training Group"); and

WHEREAS, Freehold has proposed an annual budget of \$8,000.00 to cover the costs of certain protective gear, simunitions, planning and execution materials and other incidental costs; and

WHEREAS, Freehold has proposed that the costs be shared on a proportional basis based upon the number of sworn officers in each department; and

WHEREAS, Marlboro's calculated share of the costs of participation in the consortium is \$1,000.00; and

WHEREAS, funds in the amount of \$1,000.00 have been certified by the Chief Financial Officer and are available in Account # 01-201-25-106-285; and

WHEREAS, the Township Council of the Township Marlboro desires to ensure that the highest level of trained and coordinated resources be available to respond to an event in Marlboro, and supports participation in the Western Monmouth Active Shooter Training Group to further that objective.

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

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.

2. The Shared Services Agreement shall be open to public inspection in the Municipal Clerk's office and shall take effect upon the adoption of a resolution and execution of the agreement by both parties.

3. The Mayor and Municipal Clerk are hereby authorized to execute a Shared Services Agreement in a form substantially similar to the document annexed hereto as EXHIBIT A, subject to review and approval by the Township Attorney.

4. A copy of the finalized Shared Services agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

RESOLUTION #2022-139

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

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

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

WHEREAS, Morganville has offered the Township a month-to-month lease, for a period of one year, of space at its property located at 78 Tennent Road, Morganville commencing on June 1, 2022 and terminating on May 31, 2022 for annual monthly fee of \$1,125.00, and a maximum allowance for utilities not to exceed \$600.00, for adult recreation programs to be held three (3) days per week, Monday through Thursday between the hours of 8:00 am and 12:30 pm.

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

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

BE IT FURTHER RESOLVED, funds in the amount of \$8,475.00 will be certified by the Chief Financial Officer in Current Account #01-201-28-145-216475 at the time of the 2022 budget is adopted.

BE IT FURTHER RESOLVED, funds in the amount of \$5,625.00 will be made available and certified in 2023 upon adoption of the budget.

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

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

RESOLUTION #2022-140

LIEN REDEMPTIONS

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$45,545.41 as per Schedule "A"; and

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 \$45,545.41 be refunded to the certificate holders as per Schedule "A".

RESOLUTION #2022-141

AMENDING 2022 COUNCIL MEETING SCHEDULE
TO INCLUDE A SPECIAL MEETING
FOR POLICE COMMUNICATION DISCUSSION

BE IT RESOLVED, by the Township Council of the Township of Marlboro is desirous to amend the 2022 council meeting schedule to include a special meeting on June 2, 2022. The purpose of this meeting is to discuss police communications. All meetings shall be held at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Action will not be taken at this meeting. A Citizen's Voice segment will be held; each speaker will be afforded three (3) minutes to speak and will not be permitted to transfer unused time to another speaker.

NOW, THEREFORE, BE AND IT IS FURTHER RESOLVED, that notice of this meeting date, shall be emailed to the Asbury Park Press, the Star Ledger, News Transcript and published in accordance with the requirements of the Open Public Meetings Act and N.J.S.A. 10:4-18 and posted on the Township's website at <https://www.marlbornoj.gov/township-council-agendas-and-minutes> .

June 2, 2022

At 9:15 p.m., Councilman Scalea moved that the meeting be adjourned. This was seconded by Councilwoman Marder, and as there was no objection, the Municipal Clerk was asked to cast one ballot.

MINUTES APPROVED: JUNE 16, 2022

OFFERED BY: MARDER AYES: 5

SECONDED BY: DINUZZO NAYS: 0

SUSAN A. BRANAGAN,
MUNICIPAL CLERK
061622

JUNED QAZI,
COUNCIL PRESIDENT