

3 NOVEMBER 2010

**TOWN BOARD MEETING
TOWN HALL, MAHOPAC, N.Y.**

A Regular Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 3rd day of November 2010 at 7:14 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Ravallo, Councilman Lombardi, Councilwoman McDonough, Councilman DiCarlo and Supervisor Schmitt.

The Pledge of Allegiance to the Flag was observed prior to the start of official business and a moment of silence was observed to honor those serving in the United States Armed Forces.

PUBLIC HEARING HELD IN REGARD TO THE PRELIMINARY BUDGET FOR FISCAL YEAR 2011

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town's official newspapers:

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing on the 3rd day of November, 2010 at Town Hall, 60 McAlpin Avenue, Mahopac, New York, at 7:00 p.m. or as soon thereafter as can be heard, in regard to the Preliminary Budget for the fiscal year 2011 including the General Town Fund, Highway Funds as well as all Water Districts, Sewer Districts, Park Districts, Fire Districts, Fire Protection Districts and Lighting Districts, and
BE IT FURTHER NOTICED that pursuant to Section 108 of the Town Law, the proposed salaries of the following officials for fiscal year 2011 are hereby specified as follows:
Supervisor: \$94,882.56.

Town Councilman (ea): \$18,489.60, Town Clerk: \$80,280.72, and Highway Superintendent: \$101,808.72;
AND BE IT FURTHER NOTICED, that the Preliminary Budget for the Town of Carmel has been completed and filed in the Office of the Town Clerk, Town Hall, 60 McAlpin Avenue, Mahopac, New York, where it is available for public inspection from 8:30 a.m. to 4:30 p.m. Monday through Friday.
At said Public Hearing any resident may be heard in favor of or against the Preliminary Budget as compiled or for or against any item or items contained therein.
By Order of the Town Board
of the Town of Carmel
Ann Garriss, Town Clerk

With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:15 p.m. Twenty-nine (29) people were in attendance.

Mickey Farina expressed his appreciation to the Town Board for reducing their salaries in 2011. He went on to comment with regard to the way property taxes are collected. He suggested that it would be helpful to residents if the payments could be broken down into four equal installments per year. He commented that the 4% interest charged by Putnam County for partial payments is excessive and that a tax increase imposed every year should not be routine.

Supervisor Schmitt stated that much of the tax increases are a result of New York State mandates.

Diane Carlson asked for an explanation regarding certain expenditures within the budget; increases in employee benefits, police department uniform costs and police department holiday compensation. Ms. Carlson also asked for clarification regarding the audit expense, lake patrol, engineering services and water district capital projects expenditures.

Mary Ann Maxwell, Deputy Comptroller explained that the increases in employee benefits are generally mandated by union contracts. Discussion ensued regarding the increases to employee health insurance and retirement expenditures.

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Thomas Carey, Financial Consultant went on to explain that pursuant to their contract, the police department holiday compensation increases are based on staff scheduling. He further explained that the internal audit expense is offset on the revenue side of the budget; that the Town Board is entertaining candidates for the position of full-time Town Engineer, however, engineering consulting services have been retained until the appointment is made; and that the Town annually recovers 40-60% of the marine patrol expense from New York State. Discussion regarding the marine patrol expense was held.

Mr. Carey explained with regard to the capital improvements proposed in the various water districts, that the Town Board will address what projects to undertake under their multi-year capital plan sometime in January or February, 2011.

Joyce Lambert stated her disappointment with regard to the three minute limit on public comments. She asked if the Preliminary Budget contains any changes from the Tentative Budget.

Councilman Ravallo stated that the budget presented at the Public Hearing is not the final budget. Discussion was held regarding the annual budget procedure.

Supervisor Schmitt stated that \$5,000.00 was restored to fund a senior citizen recreational program and that subsequent discussions were held pertaining to individual personnel matters with regard to the budget.

Ms. Lambert asked if there will be a decrease to another budget line to cover the \$50,000.00 increase in health insurance costs.

Councilman Ravallo replied that there will be.

Ms. Lambert inquired why the actual 2010 year to date MTA tax expenditure is higher than in the 2011 Tentative Budget.

Ms. Maxwell explained that MTA tax expense under the police line still needs to be allocated to the other departmental budget lines.

Ms. Lambert suggested that the Town Board consider reducing the fund balance to lower the amount of money to be raised in taxes. She suggested that Reed Library should look to cut back on their budget request. Ms. Lambert asked for clarification regarding the celebration line within the budget.

Supervisor Schmitt stated that the celebration line was established to reimburse the VFW and the American Legion for various veterans' ceremonial events and items relating thereto.

Ms. Lambert inquired about the recycling budget and an increase to the special rental expense. She went on to suggest that since the taxpayers fund the Mahopac Volunteer Fire Department, they should not charge the Town for the use of their building for the senior citizen program. Ms. Lambert questioned the budget lines for lighting.

Mr. Carey explained that the cost accounting system for the Town's recycling function includes the funding of one employee which will be shifted to a line in the Highway Department prior to adoption of the final budget. The remaining expenditure in the recycling budget is for landfill monitoring. He stated that the special rental fee is for a tree grinder. Mr. Carey explained that there are five lighting districts within the Town. Street lights that are usually at major intersections and not included within a specific lighting district are a town-wide expense and included in the general fund.

Ms. Lambert inquired about the increases to the contracts with the three fire districts.

(Cont.)

Supervisor Schmitt stated that he had requested that the fire districts consider keeping their budgets at the same level in 2011. He expressed his concern regarding their yearly increases and discussion was held regarding the matter.

Ms. Lambert expressed her concern regarding the amount of funding in the budget allocated to the Mahopac Sports Association.

Lori Kemp inquired about the Union Place development fees.

Supervisor Schmitt indicated that the fees paid are current to date. A discussion ensued.

John Butler asked how the unions responded to requests made to reopen their contracts.

Supervisor Schmitt responded that negotiations were held and further negotiations are necessary. A discussion was held regarding the municipal contracts.

Mr. Butler went on to suggest that an analysis be performed on the long term costs to the Town for engaging consultants versus employees, as well as an analysis with regard to the impact that new development projects under consideration may have on Town services. Mr. Butler questioned if the revenue generated from the fees paid by applicants for proposed development projects covers all expenses incurred by the Town. Mr. Butler concluded by speaking about the benefits of zero based budgeting.

Councilman DiCarlo noted that the Town Board has discussed on numerous occasions, the pros and cons of hiring consultants as opposed to hiring employees. A discussion was held regarding the issue.

Mr. Carey explained that the Town has recently changed to full cost accounting which will enable the Town Board to make better comparisons when reviewing the user fees annually. A discussion regarding the user fees ensued.

Mike Barile commented on the increase in the amount of people present at the Public Hearing in comparison to prior years. He spoke regarding the way property taxes are collected in Florida, explaining that when the bills are received, payment is due in five months with a one percent reduction given for every month early that payment is made prior to the due date. He noted that special districts, town, county and school taxes are included on one bill, which he commented, saves on municipal expenses.

Mr. Carey noted that the schools and municipalities have a different calendar year and a brief discussion took place.

Mr. Barile spoke in favor of union givebacks. He complemented the members of the Mahopac Volunteer Fire Department, however urged that they not be paid the fee for the room rental and those funds be put toward the budget for other senior citizen programs. Mr. Barile spoke in favor of increasing user fees because he feels the Town is not collecting what it pays out. He concluded by commenting on the illegal posting of political signs at the previous election.

David Gagliardi asked what the fee paid to the Mahopac Volunteer Fire Department goes toward.

Mr. Carey stated that the Fire Department has indicated that the money goes toward air conditioning and lighting of the building.

Supervisor Schmitt stated that he is in the process of finding a new location for the senior citizens to meet. Discussion was held regarding the matter.

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Fred Lambert commented that the budget process was confusing to him. He suggested that in the future, the major departments within the Town should present their budgets at a public meeting.

Jerry Ravnitzky stated that when reviewing the budget, he did not know what certain line items and abbreviations were. He suggested that greater detail, along with an explanation would be helpful.

Mr. Carey responded that the computer system allows for only a certain amount of characters with regard to the budget. He stated that residents may contact the comptroller's office with any specific questions or requests for clarification regarding the budget.

Thomas McNally inquired about the funding for the Mahopac Sports Association (MSA).

Mr. Folchetti explained that MSA provides contractual services to the Recreation Department and their funding allocated in the budget is in exchange for the services that they render to the Town.

Mr. McNally questioned the necessity of the contract.

Mr. Carey stated that if the Town had to fund the expense for recreation services, the cost would be much greater. Discussion was held regarding the contact with the Mahopac Sports Association.

Councilwoman McDonough, Councilman Ravallo and Councilman Lombardi spoke regarding the benefits to the Town gained by contracting with MSA for recreational services and discussion continued.

Ms. Carson inquired if contracts with the Town for water and sewer district maintenance services were reviewed on an annual basis.

Supervisor Schmitt stated that all vendor contracts are reviewed on an ongoing basis.

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilwoman McDonough, seconded by Councilman Lombardi, with all members of the Town Board present and in agreement; the Public Hearing was closed at 8:39 p.m.

PAYMENT OF 2009 CLAIMS FROM FISCAL YEAR 2010 OPERATING FUNDS - AUTHORIZED

WHEREAS the Town Comptroller's Office has received a list of claims from the Engineering Projects Coordinator for expenditures incurred in fiscal year 2009 which were not encumbered; and

WHEREAS the Town Board must authorize and approve the payment of fiscal year 2009 claims out of funds budgeted for fiscal year 2010;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the payment from 2010 fiscal year operating fund of the 2009 claims as itemized on the attached list which is incorporated herein and made a part hereof.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	X	
Frank Lombardi	X	
Suzanne McDonough	X	
Anthony DiCarlo	X	
Kenneth Schmitt	X	

BUILDING DEPARTMENT - PAYMENT FOR CONTINUING EDUCATION
AUTHORIZED - DIRECTOR OF CODES ENFORCEMENT

RESOLVED that the Town Board of the Town of Carmel hereby authorizes payment of registration fees for mandatory continuing education for Michael Carnazza, Director of Codes Enforcement, in accordance with the schedule of classes which is attached hereto and made a part hereof.

(Cont.)

Resolution
Offered by: Councilman DiCarlo
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

ADA Guide for Small Towns	1 Credit	\$24.00
Energy Efficient Roofs	1 Credit	\$24.00
Fair Housing (Accessible Routes)	1 Credit	\$24.00
Fair Housing (Overview)	2 Credit	<u>\$48.00</u>
Total		\$120.00

DEPARTMENT OF RECREATION AND PARKS - SUBMISSION OF APPLICATION FOR GRANT FUNDING AUTHORIZED - NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES FOR RECREATION PROGRAMS

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the submission of the 2011 Municipal Funding Grant Application to the New York State Office of Children and Family Services for Recreation Programs, and
BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt is hereby authorized to execute any and all necessary documentation required in connection with the aforesaid grant application.

Resolution
Offered by: Councilman Ravallo
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

Supervisor Schmitt stated that the \$7,199.00 funding will go toward operating recreation programs at Sycamore Park.

POLICE DEPARTMENT - SUBMISSION OF APPLICATION FOR GRANT FUNDING AUTHORIZED - NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES FOR YOUTH BUREAU PROGRAMS

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the submission of the 2011 Municipal Funding Grant Application to the New York State Office of Children and Family Services for Youth Bureau Programs, and
BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt is hereby authorized to execute any and all necessary documentation required in connection with the aforesaid grant application.

(Cont.)

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

Supervisor Schmitt stated that the \$6,459.00 funding will go toward operating the Juvenile Aid Bureau and the Drug Abuse Resistance Education (DARE) program.

POLICE DEPARTMENT - ADVERTISING FOR BIDS AUTHORIZED - DAILY CLEANING SERVICES

RESOLVED that, pursuant to the request of Michael Johnson, Town of Carmel Chief of Police, the Town Clerk of the Town of Carmel is hereby authorized to advertise for bids for daily cleaning services to be provided in the Town of Carmel Police Department; and

BE IT FURTHER RESOLVED that the Chief of Police is to furnish detailed specifications for the above to the Town Clerk to be used in conjunction with the Town's general bid conditions and specifications.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

POLICE DEPARTMENT - ADVERTISING FOR BIDS AUTHORIZED - PURCHASE OF POLICE UNIFORMS

RESOLVED that, pursuant to the request of Michael Johnson, Town of Carmel Chief of Police, the Town Clerk of the Town of Carmel is hereby authorized to advertise for bids for the purchase of Police uniforms for the Town of Carmel Police Department; and

BE IT FURTHER RESOLVED that the Chief of Police is to furnish detailed specifications for the above to the Town Clerk to be used in conjunction with the Town's general bid conditions and specifications.

Resolution

Offered by: Councilman DiCarlo
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

POLICE DEPARTMENT - ADVERTISING FOR BIDS AUTHORIZED - CLEANING OF POLICE UNIFORMS

RESOLVED that, pursuant to the request of Michael Johnson, Town of Carmel Chief of Police, the Town Clerk of the Town of Carmel is hereby authorized to advertise for bids for the cleaning of Police uniforms for the Town of Carmel Police Department; and

BE IT FURTHER RESOLVED that the Chief of Police is to furnish detailed specifications for the above to the Town Clerk to be used in conjunction with the Town's general bid conditions and specifications.

Resolution

Offered by: Councilman Ravallo
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

RE-APPOINTMENT MADE TO BOARD OF ASSESSMENT REVIEW - ROBERT P. MORINI - RETROACTIVE 10/1/10 THROUGH 9/30/15

RESOLVED, that the Town Board of the Town of Carmel hereby re-appoints Robert P. Morini to the Town of Carmel Board of Assessment Review for a term commencing retroactive to October 1, 2010 through September 30, 2015.

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

SIGNING OF INTERMUNICIPAL AGREEMENT BETWEEN THE MAHOPAC CENTRAL SCHOOL DISTRICT AND THE TOWN OF CARMEL FOR USE OF RECREATIONAL AND SCHOOL FACILITIES AND ATHLETIC FIELDS - AUTHORIZED

WHEREAS James R. Gilchrist, Director of the Town of Carmel Recreation and Parks has requested that the Town Board authorize the signing of an Intermunicipal agreement between the Mahopac Central School District and the Town of Carmel providing for use by the Town of Carmel of the recreation facilities, school facilities and athletic fields belonging to the Mahopac Central School District;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the Town Supervisor to sign on behalf of the Town of Carmel, the Intermunicipal Agreement between the Mahopac Central School District and the Town of Carmel in regard to the foregoing in the form as attached hereto and made a part hereof, and

BE IT FURTHER RESOLVED that a copy of said Intermunicipal Agreement be filed with the Town Clerk after signature by the Town Supervisor.

(Cont.)

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman DiCarlo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Ravallo	X	
Frank Lombardi	X	
Suzanne McDonough	X	
Anthony DiCarlo	X	
Kenneth Schmitt	X	

MUNICIPAL COOPERATION AGREEMENT
SCHOOL DISTRICT FACILITIES
excluding Route 6 Roller Skating Rink & HS Concession Stand

THIS AGREEMENT (the "Agreement") entered into as of the ____ day of _____, 2010, by and between the BOARD OF EDUCATION OF THE MAHOPAC CENTRAL SCHOOL DISTRICT (hereinafter referred to as the "School District"), with offices for the transaction of business located at 179 East Lake Boulevard, Mahopac, New York and the TOWN OF CARMEL (hereinafter referred to as the "Town"), with offices for the transaction of business located at 60 McAlpin Avenue, Mahopac, New York.

WITNESSETH

WHEREAS, under the provisions of Section 119-o of the General Municipal Law, each party has the power to enter into agreements for the performance among themselves of their respective functions, powers and duties or for the provisions of a joint service;

WHEREAS, the School District and the Town were previously parties to a series of agreements pertaining to the use of certain facilities owned by the School District; and

WHEREAS, the parties are desirous of entering into a single agreement which would encompass all such uses and replace all previous agreements; and

WHEREAS, to that end, the School District and the Town have entered into discussions pertaining to engaging in municipal cooperation for the joint use of certain facilities and services; and

WHEREAS, the School District is permitted to allow the use of its facilities in accordance with Education Law section 414; and

WHEREAS, both parties believe that it is in the best interest of their respective taxpayers to share resources with respect to the use of certain facilities and services; and

WHEREAS, the School District and the Town wish to contract with one another in accordance with General Municipal Law section 119-o;

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

(Cont.)

1. The parties understand and agree that by execution of this Agreement, all prior agreements for the use of the facilities covered by the terms hereunder are hereby rescinded and rendered null and void.

2. The term of this Agreement shall commence on July 1, 2009 and terminate on June 30, 2012 unless earlier terminated as provided herein.

3. The School District and the Town each represents that it is authorized by applicable law to enter into inter-municipal agreements.

4. The School District and the Town, believing it to be in the best interest of their taxpayers, do hereby authorize an inter-municipal cooperation and assistance agreement with and between each other for the use of the facilities in accordance with applicable law and as provided for in this Agreement.

5. During the term of this Agreement, the School District hereby grants to the Town a non-transferable, revocable license to use the athletic, practice fields, recreational and school building facilities throughout the School District including the artificial turf field at the Mahopac High School (excepting School District property on which the Skating Rink is located and the High School concession stand) for appropriate recreation programs operated by the Town and/or the Mahopac Sports Association (the "MSA") in accordance with Education Law section 414 and applicable School District policies and practices as amended from time to time. Nothing herein shall be construed as a grant of permission to advertise or allow others to advertise or engage in commercial/corporate promotion of any kind on School District property.

6. Each school year, the Town shall provide the School District with a written schedule according to which the Town and/or the MSA will have access to and/or use of the School District's facilities. The schedule shall set forth the date, time, specific facility and/or field and the name of the Town or MSA program that will be utilizing the School District's facilities. The Town may supplement or change this schedule from time to time in writing upon the approval of the School District, which shall not be unreasonably withheld.

7. The parties understand and agree that the Town's use shall be subject to the use of the facilities by the School District which shall, at all times, have priority over the Town's use.

8. The School District shall have the right to alter or cancel any previously scheduled use upon reasonable advance notice to the Town in the event that the School District needs to use the same facilities; however, in the

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event of an emergency, the School District shall provide notice to the Town as soon as practicable under the circumstances.

9. The Town understands and agrees that its use shall not disrupt normal school district operations or the School District's educational process. The School District reserves exclusive judgment to determine whether any intended use of school facilities and/or athletic fields by the Town would interfere with or disturb normal school district operations, the school buildings, school grounds or other property of the School District.

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10. Notwithstanding, at the end of any session, the Town shall leave the premises in an organized and tidy manner. All trash and debris related to the Town's or the MSA's use shall be removed at the end of each use. The Town shall be responsible for the cost of any repair to and/or replacement of the School District's facilities, fields and/or property caused by the Town's or MSA's use including excessive wear and tear sustained while in use by either the Town or MSA. In the event that the Town and/or MSA leaves any personal property, such property shall be deemed abandoned by the Town and/or MSA and the School District shall be automatically authorized to dispose of such abandoned property without liability of any kind.

11. During the term of this Agreement, the Town's programs, including those of the MSA, shall be conducted by, and remain under, the direct supervision and control of the Town. The Town shall be responsible for and ensure that adequate supervision is maintained over the participants and the School District's property at all times when in use by the Town or the MSA. The Town further acknowledges that the premises are being provided to the Town "as is" and that no representations or warranties are made concerning its fitness.

12. In consideration of the use provided for herein, the Town shall pay to the School District the sum of \$ 80,000.00 each year. Payment to the School District shall be due on February 15th of each year of this Agreement. ~~The parties hereto agree that during the first year of this Agreement, the School District shall have the right to separately invoice the Town and Town shall pay to the School District the costs associated with the use of the facilities during the spring and summer of 2008 and 2009.~~ DELETED 10/15/10 [Signature] PA 10/20/10

13. To the fullest extent permitted by law, the Town shall indemnify and hold harmless the School District, its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the services or the use of the School District's facilities under this Agreement, provided that any claim, damage, loss or expense is (i) attributable to bodily injury, sickness, disease or

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death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and (ii) caused by any negligent act or omission of the Town, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described in this paragraph.

14. Each party shall purchase from and maintain in a company or companies lawfully licensed to do business in the State of New York, such insurance as will protect themselves from claims set forth below for which they may be legally liable:

- a. claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the obligations to be performed under this Agreement;
 - b. claims for damages because of bodily injury, occupational sickness or disease, or death of employees;
 - c. claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;
 - d. claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of this person by either party, or (2) by another person;
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(Cont.)

- e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- f. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle

Each party's liability insurance shall include all major divisions of coverage and be on a comprehensive basis including, without limitation:

Premises/Operations;
Personal Injury Liability with Employment Exclusion deleted;
Owned, non-owned and hired motor vehicles;
Broad Form Property Damage.

The insurance herein required shall be written for not less than the following limits:

Occurrence - 1988 ISO or equivalent
General Aggregate - \$2,000,000.00
Products - Aggregate - \$1,000,000.00
Personal & Advert. Injury - \$1,000,000.00

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Each Occurrence - \$1,000,000.00
Fire Damage (Any one fire) - \$50,000.00
Medical Expense (Any one person) - \$5,000.00

The Town shall list the School District as an additional insured on its insurance policy.

15. All employees of the Town shall be deemed employees of the Town for all purposes and the Town alone shall be responsible for their work, personal conduct, direction, and compensation. The Town acknowledges that it will not hold itself, its officers, employees and/or agents out as employees of the School District. The Town's relationship with the School District is only for the purposes and to the extent set forth in this Agreement, and its relationship to the School District shall, during the periods of its services hereunder, be that of an independent contractor. The Town shall not be considered as having employee status and shall not be entitled to participate in any of the School District's workers' compensation, retirement, fringe benefits, unemployment insurance, liability insurance, disability insurance, or other similar employee benefit programs. Similarly, the Town, its officers, its employees and/or agents shall not be considered as having employee status for the purposes of any other rights, privileges or benefits derived from employment by the School District. The Town agrees that this Agreement does not confer benefits of any nature whatsoever upon it other than payment for services provided herein. The Town shall not assert any claim for additional benefits of any nature, including, but not limited to, unemployment compensation benefits, by reason of the services to be performed pursuant to this Agreement. The Town shall not be entitled to assert any claim to entitlements pursuant to any collective bargaining agreement now or hereafter in effect between the School District and its employees.

16. The term of this Agreement shall be subject to the right of either party to suspend or terminate this Agreement in whole or in part for convenience upon six (6) months prior written notice in which case such Agreement shall thereafter be null and void for all purposes.

(Cont.)

17. Notwithstanding the foregoing, the parties understand and agree that in the event that the facilities covered by this agreement become needed for School District purposes, the School District shall have the right to suspend or terminate this agreement, in whole or in part, upon written notice to the Town. Further, the School District shall have the right to suspend the use of particular facilities or locations for a period of time if such facilities or locations become needed for School District purposes upon written notice to the Town. Notice shall advise the Town of the effective date of such suspension or termination. In the event that the School District exercises such right to suspend, the Town's use

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of the remaining facilities shall continue under the terms and conditions set forth herein.

18. The Town and School District shall each maintain all documents and records created or maintained in connection with this Agreement for a period of six (6) years after the termination of this Agreement. Each party agrees to make those documents available for audit and inspection by any government official or agency with authority and/or jurisdiction over the provision of the services described herein.

19. Any notices to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after mailing. Notice shall be delivered or mailed to:

For the School District:

Dorothy Gilroy
District Clerk
Mahopac Central School District
179 East Lake Boulevard
Mahopac, New York 10541

For the Town:

Town of Carmel
60 McAlpin Avenue
Mahopac, NY 10541

20. This Agreement constitutes the full and complete Agreement between the School District and the Town and supersedes all prior written and oral agreements, commitments or understandings with respect thereto.

21. Any alteration, change, addition, deletion, or modification of any of the provisions of this Agreement or any right either party has under this Agreement must be made by mutual assent of the parties in writing and signed by both parties.

22. This Agreement shall be governed by the laws of the State of New York. If any portion of this Agreement is found by a court of competent

3 NOVEMBER 2010
TOWN BOARD MEETING

(Cont.)

jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

23. The Town shall comply with any and all applicable regulations of the State of New York State Education Department concerning operations in a school district facility and hereby represents that it has reviewed and is familiar with those rules and regulations which are applicable to the use of the School District's facilities.

24. Nothing contained in this Agreement shall be construed to create an employment or principal-agent relationship, or partnership or joint venture, between the Town and the School District and any officer, employee, servant, agent or independent contractor of the School District.

25. This Agreement must be approved by the Board of Education of the Mahopac Central School District and the Board of the Town of Carmel in public session. Absent said approvals, this Agreement is null and void and unenforceable.

26. This Agreement has been arrived at mutually and is not to be construed against any party hereto as being the drafter hereof or causing the same to be drafted.

27. The undersigned representative of each party hereby represents and warrants that the undersigned is an officer, director or agent of that party with full legal rights, power and authority to enter into this Agreement on behalf of that party and bind that party with respect to the obligations enforceable against that party in accordance with the terms contained herein.

IN WITNESS WHEREOF, the undersigned hereby acknowledge that they have read and fully understand the foregoing Agreement and further, that they agree to each of the terms and conditions contained herein.

TOWN OF CARMEL

By: _____

Printed Name: _____

Date: _____

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MAHOPAC CENTRAL SCHOOL DISTRICT

By: Penny Swift
Board President

Printed Name: Penny Swift, Board President

Date: 09-07-10

Approved at the September 2, 2010 Special Board Meeting

3 NOVEMBER 2010
TOWN BOARD MEETING

**SIGNING OF INTERMUNICIPAL AGREEMENT BETWEEN THE MAHOPAC
CENTRAL SCHOOL DISTRICT AND THE TOWN OF CARMEL FOR USE OF INLINE
SKATING RINK - AUTHORIZED**

WHEREAS James R. Gilchrist, Director of the Town of Carmel Recreation and Parks has requested that the Town Board authorize the signing of an Intermunicipal agreement between the Mahopac Central School District and the Town of Carmel providing for use by the Town of Carmel of the inline skating rink belonging to the Mahopac Central School District;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the Town Supervisor to sign on behalf of the Town of Carmel, the Intermunicipal Agreement between the Mahopac Central School District and the Town of Carmel in regard to the foregoing in form as attached hereto and made a part hereof, and

BE IT FURTHER RESOLVED that a copy of said Intermunicipal Agreement be filed with the Town Clerk after signature by the Town Supervisor.

Resolution

Offered by: Councilman DiCarlo
Seconded by: Councilman Lombardi

Roll Call Vote	YES	NO
Robert Ravallo	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Anthony DiCarlo	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

MUNICIPAL COOPERATION AGREEMENT

Route 6 Property in which the Town's Skating Rink is located

THIS AGREEMENT (the "Agreement") entered into as of the ____ day of _____, 2010, by and between the BOARD OF EDUCATION OF THE MAHOPAC CENTRAL SCHOOL DISTRICT (hereinafter referred to as the "School District"), with offices for the transaction of business located at 179 East Lake Boulevard, Mahopac, New York and the TOWN OF CARMEL (hereinafter referred to as the "Town"), with offices for the transaction of business located at 60 McAlpin Avenue, Mahopac, New York.

WITNESSETH

WHEREAS, under the provisions of Section 119-o of the General Municipal Law, each party has the power to enter into agreements for the performance among themselves of their respective functions, powers and duties or for the provisions of a joint service;

WHEREAS, the School District and the Town were previously parties to a series of agreements pertaining to the use of certain facilities owned by the School District; and

WHEREAS, the parties are desirous of entering into a single agreement which would encompass all such uses and replace all previous agreements; and

WHEREAS, to that end, the School District and the Town have entered into discussions pertaining to engaging in municipal cooperation for the joint use of certain facilities and services; and

WHEREAS, the School District is permitted to allow the use of its facilities in accordance with Education Law section 414; and

(Cont.)

WHEREAS, both parties believe that it is in the best interest of their respective taxpayers to share resources with respect to the use of certain facilities and services; and

WHEREAS, the School District and the Town wish to contract with one another in accordance with General Municipal Law section 119-o;

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

- 1 -

1. The parties understand and agree that by execution of this Agreement, all prior agreements for the use of the facilities covered by the terms hereunder are hereby rescinded and rendered null and void.

2. The term of this Agreement shall commence on July 1, 2009 and terminate on June 30, 2012 unless earlier terminated as provided herein.

3. The School District and the Town each represents that it is authorized by applicable law to enter into inter-municipal agreements.

4. The School District and the Town, believing it to be in the best interest of their taxpayers, do hereby authorize an inter-municipal cooperation and assistance agreement with and between each other for the use of the facilities in accordance with applicable law and as provided for in this Agreement.

5. During the term of this Agreement, the School District hereby grants to the Town a non-transferable, revocable license to use the School District property upon which the Skating Rink is located for appropriate recreation programs operated by the Town and/or the Mahopac Sports Association (the "MSA") in accordance with Education Law section 414 and applicable School District policies and practices as amended from time to time. Nothing herein shall be construed as a grant of permission to advertise or allow others to advertise or engage in commercial/corporate promotion of any kind on School District property.

6. Each school year, the Town shall provide the School District with a written schedule according to which the Town and/or the MSA will have access to and/or use of the School District's facilities. The schedule shall set forth the date, time, specific facility and/or field and the name of the Town or MSA program that will be utilizing the School District's facilities. The Town may supplement or change this schedule from time to time in writing upon the approval of the School District, which shall not be unreasonably withheld.

7. The parties understand and agree that the Town's use shall be subject to the use of the facilities by the School District which shall, at all times, have priority over the Town's use.

8. The School District shall have the right to alter or cancel any previously scheduled use upon reasonable advance notice to the Town in the event that the School District needs to use the same facilities; however, in the event of an emergency, the School District shall provide notice to the Town as soon as practicable under the circumstances.

(Cont.)

9. The Town understands and agrees that its use shall not disrupt normal school district operations or the School District's educational process. The School District reserves exclusive judgment to determine whether any intended use of school facilities and/or athletic fields by the Town would interfere with or disturb normal school district operations, the school buildings, school grounds or other property of the School District.

10. Notwithstanding, at the end of any session, the Town shall leave the premises in an organized and tidy manner. All trash and debris related to the Town's or the MSA's use shall be removed at the end of each use. The Town shall be responsible for the cost of any repair to and/or replacement of the School District's facilities, fields and/or property caused by the Town's or MSA's use including excessive wear and tear sustained while in use by either the Town or MSA. In the event that the Town and/or MSA leaves any personal property, such property shall be deemed abandoned by the Town and/or MSA and the School District shall be automatically authorized to dispose of such abandoned property without liability of any kind.

11. During the term of this Agreement, the Town's programs, including those of the MSA, shall be conducted by, and remain under, the direct supervision and control of the Town. The Town shall be responsible for and ensure that adequate supervision is maintained over the participants and the School District's property at all times when in use by the Town or the MSA. The Town further acknowledges that the premises are being provided to the Town "as is" and that no representations or warranties are made concerning its fitness.

12. As part of this Agreement, the Town agrees to permit the following additional uses of the property:

- a. The Fire Department will have the use of the property periodically throughout the year, in particular for their annual fair for two weekends in July, so long as the Town is provided with notification fourteen (14) days prior to the date of intended use. In addition, the Fire Department will have the use of the facility for parking for firefighters responding to an alarm at all times the facility is not opened to the public.
- b. Temple Beth Shalom will have the use of the property as a parking lot during the High Holy Days, so long as the Town is provided with notification fourteen (14) days prior to the date of intended use.

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13. In consideration of the use provided for herein, the Town shall pay to the School District the sum of \$1 each year. Payment to the School District shall be due on February 15th of each year of this Agreement. The parties hereto agree that during the first year of this Agreement, the School District shall have the right to separately invoice the Town and Town shall pay to the School District the costs associated with the use of the facilities during the spring and summer of 2008 and 2009.

(Cont.)

14. To the fullest extent permitted by law, the Town shall indemnify and hold harmless the School District, its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the services or the use of the School District's facilities under this Agreement, provided that any claim, damage, loss or expense is (i) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and (ii) caused by any negligent act or omission of the Town, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described in this paragraph.

15. Each party shall purchase from and maintain in a company or companies lawfully licensed to do business in the State of New York, such insurance as will protect themselves from claims set forth below for which they may be legally liable:

- a. claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the obligations to be performed under this Agreement;
- b. claims for damages because of bodily injury, occupational sickness or disease, or death of employees;
- c. claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;
- d. claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of this person by either party, or (2) by another person;
- e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- f. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle

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Each party's liability insurance shall include all major divisions of coverage and be on a comprehensive basis including, without limitation:

Premises/Operations;
Personal Injury Liability with Employment Exclusion deleted;
Owned, non-owned and hired motor vehicles;
Broad Form Property Damage.

The insurance herein required shall be written for not less than the following limits:

Occurrence - 1988 ISO or equivalent
General Aggregate - \$2,000,000.00
Products - Aggregate - \$1,000,000.00
Personal & Advert. Injury - \$1,000,000.00
Each Occurrence - \$1,000,000.00
Fire Damage (Any one fire) - \$50,000.00
Medical Expense (Any one person) - \$5,000.00

The Town shall list the School District as an additional insured on its insurance policy.

(Cont.)

16. All employees of the Town shall be deemed employees of the Town for all purposes and the Town alone shall be responsible for their work, personal conduct, direction, and compensation. The Town acknowledges that it will not hold itself, its officers, employees and/or agents out as employees of the School District. The Town's relationship with the School District is only for the purposes and to the extent set forth in this Agreement, and its relationship to the School District shall, during the periods of its services hereunder, be that of an independent contractor. The Town shall not be considered as having employee status and shall not be entitled to participate in any of the School District's workers' compensation, retirement, fringe benefits, unemployment insurance, liability insurance, disability insurance, or other similar employee benefit programs. Similarly, the Town, its officers, its employees and/or agents shall not be considered as having employee status for the purposes of any other rights, privileges or benefits derived from employment by the School District. The Town agrees that this Agreement does not confer benefits of any nature whatsoever upon it other than payment for services provided herein. The Town shall not assert any claim for additional benefits of any nature, including, but not limited to, unemployment compensation benefits, by reason of the services to be performed pursuant to this Agreement. The Town shall not be entitled to assert any claim to entitlements pursuant to any collective bargaining agreement now or hereafter in effect between the School District and its employees.

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17. The term of this Agreement shall be subject to the right of either party to suspend or terminate this Agreement in whole or in part for convenience upon six (6) months prior written notice in which case such Agreement shall thereafter be null and void for all purposes.

18. Notwithstanding the foregoing, the parties understand and agree that in the event that the facilities covered by this agreement become needed for School District purposes, the School District shall have the right to suspend or terminate this agreement, in whole or in part, upon written notice to the Town. Further, the School District shall have the right to suspend the use of particular facilities or locations for a period of time if such facilities or locations become needed for School District purposes upon written notice to the Town. Notice shall advise the Town of the effective date of such suspension or termination. In the event that the School District exercises such right to suspend, the Town's use of the remaining facilities shall continue under the terms and conditions set forth herein.

19. The Town and School District shall each maintain all documents and records created or maintained in connection with this Agreement for a period of six (6) years after the termination of this Agreement. Each party agrees to make those documents available for audit and inspection by any government official or agency with authority and/or jurisdiction over the provision of the services described herein.

20. Any notices to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after mailing. Notice shall be delivered or mailed to:

(Cont.)

For the School District:

Dorothy Gilroy, District Clerk
District Clerk
Mahopac Central School District
179 East Lake Boulevard
Mahopac, New York 10541

For the Town:

Town of Carmel
60 McAlpin Avenue
Mahopac, NY 10541

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21. This Agreement constitutes the full and complete Agreement between the School District and the Town and supersedes all prior written and oral agreements, commitments or understandings with respect thereto.

22. Any alteration, change, addition, deletion, or modification of any of the provisions of this Agreement or any right either party has under this Agreement must be made by mutual assent of the parties in writing and signed by both parties.

23. This Agreement shall be governed by the laws of the State of New York. If any portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

24. The Town shall comply with any and all applicable regulations of the State of New York State Education Department concerning operations in a school district facility and hereby represents that it has reviewed and is familiar with those rules and regulations which are applicable to the use of the School District's facilities.

25. Nothing contained in this Agreement shall be construed to create an employment or principal-agent relationship, or partnership or joint venture, between the Town and the School District and any officer, employee, servant, agent or independent contractor of the School District.

26. This Agreement must be approved by the Board of Education of the Mahopac Central School District and the Board of the Town of Carmel in public session. Absent said approvals, this Agreement is null and void and unenforceable.

27. This Agreement has been arrived at mutually and is not to be construed against any party hereto as being the drafter hereof or causing the same to be drafted.

28. The undersigned representative of each party hereby represents and warrants that the undersigned is an officer, director or agent of that party with full legal rights, power and authority to enter into this Agreement on behalf of that party and bind that party with respect to the obligations enforceable against that party in accordance with the terms contained herein.

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TOWN BOARD MEETING

(Cont.)

IN WITNESS WHEREOF, the undersigned hereby acknowledge that they have read and fully understand the foregoing Agreement and further, that they agree to each of the terms and conditions contained herein.

TOWN OF CARMEL

By: _____

Printed Name: _____

Date: _____

MAHOPAC CENTRAL SCHOOL DISTRICT

By: Penny Swift

Board President

Printed Name: Penny Swift, Board President

Date: 09-07-10

Final - 9/2/2010 Special Board Meeting

Approved @ 9/2/10 Bd Mtg.

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RESOLUTION AUTHORIZING SIGNING OF INTERMUNICIPAL AGREEMENT BETWEEN THE TOWN OF KENT, WILDER BALTER PARTNERS, LLC AND THE TOWN OF CARMEL FOR STORMWATER MANAGEMENT FACILITIES MAINTENANCE AGREEMENT - HILLCREST COMMONS - TABLED

WHEREAS, Wilder Balter Partners, LLC and the Town of Kent have requested that the Town Board authorize the signing of an Intermunicipal agreement between the Town of Kent, Wilder Balter Partners, LLC and the Town of Carmel providing for stormwater management facilities maintenance at the project/site plan within the Town of Carmel and Town of Kent known and designated as "Hillcrest Commons";

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the Town Supervisor to sign on behalf of the Town of Carmel, the Intermunicipal Agreement between Town of Kent, Wilder Balter Partners, LLC and the Town of Carmel in regard to the foregoing in the form as attached hereto and made a part hereof, and

BE IT FURTHER RESOLVED that a copy of said Intermunicipal Agreement be filed with the Town Clerk after signature by the Town Supervisor.

MOTION TO TABLE

Offered by: Councilman Ravallo

Seconded by: Councilman DiCarlo

(Cont.)

Roll Call Vote	YES	NO
Robert Ravallo	X	
Frank Lombardi	X	
Suzanne McDonough	X	
Anthony DiCarlo	X	
Kenneth Schmitt	X	

**STORMWATER MANAGEMENT FACILITIES
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made this ____ day of _____, _____, by and between BBJ Associates, LLC, a New York limited liability company having an office at 570 Taxter Road, Sixth Floor, Elmsford, New York 10523 (“Owner”), the **TOWN OF KENT**, New York, a municipal corporation having an office at Town Hall, 25 Sybil’s Crossing, Kent Lakes, New York, 10512 (“Kent”), and the **TOWN OF CARMEL**, New York, a municipal corporation with an office at Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 (“Carmel”).

WITNESSETH:

WHEREAS, Owner is the fee owner of certain premises located in the Town of Kent having tax map numbers _____ and _____, more particularly described by metes and bounds on **Schedule A** annexed hereto (the “Kent Property”); and

WHEREAS, Owner is the fee owner of real property contiguous to the Kent Property and located within the Town of _____, having tax map numbers _____ and _____, more particularly described by metes and bounds on **Schedule B** annexed hereto (the “Other Town Property”); and

WHEREAS, Owner is seeking one or more approvals from the Town of Kent and the Town of _____ for unified land development activity covering both the Kent Property and the Other Town Property, in connection with which stormwater management facilities (the “Facilities”), in the event of administrative land use approvals, shall be required in accordance with the respective Town Codes in effect as of the date of this Agreement (the “Codes”); and

WHEREAS, the Facilities as designed and submitted to the respective Towns by the Owner provide, in part, for the management of stormwater generated from the Other Town Property in the direction of the Kent Property; and

WHEREAS, the purpose of this Agreement is to provide, among other remedies which may be found in separate and independent stormwater management agreements between the Owner and the respective Towns, that breach by the Owner of obligations to either Town to maintain, clean, repair, replace, and/or continue the Facilities located in that Town, shall entitle both Towns, in aid of each other, to convert any amount expended, or caused to be expended due to the Owner’s breach, to a tax on the next succeeding annual tax roll covering both the Kent Property and the Other Town Property.

NOW THEREFORE, for valuable consideration received, the Owner and the respective Towns hereby agree as follows:

-
1. The Owner, or upon Owner’s conveyance of the Premises, its successors and assigns, shall at all times properly operate and maintain all Facilities and all related systems of stormwater treatment and control located on the Kent Property and/or the Other Town Property in accordance with the applicable conditions of land use approval of each Town, the relevant provisions of local stormwater legislation or regulation of each Town, applicable New York State Department of Environmental Conservation and Empire State Chapter of the Soil and Water Conservation Society regulations, standards and guidelines, and any separate and independent stormwater management agreements between the Owner and the respective Towns (collectively, the “Standards”).

(Cont.)

2. This agreement shall not confer upon either Town any duty or obligation to fix or maintain the Facilities within its borders or within the other Town. Further, either Town's acceptance or exercise of any rights pursuant to this Agreement shall not be deemed or construed as acceptance by either Town of any duty or obligation to fix or maintain the Facilities.

3. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall continue to be bound to the maintenance provisions depicted in the approved project plans for the Facilities described in **Schedule C** annexed hereto as to the Kent Property and **Exhibit D** annexed hereto as to the Other Town Property to this Agreement.

4. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall maintain, clean, repair, replace and continue the stormwater control measures for the Facilities described in **Schedule C and D**, respectively, as necessary to ensure performance of the measures to design specifications and in accordance with the Standards.

5. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall be responsible for all expenses related to the aforesaid maintenance of the stormwater control measures for the Facilities.

6. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall provide for the periodic inspection of the stormwater control measures for the Facilities, not less than once in every _____-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Stormwater Management Officer of the Town of Kent ("KSMO") and the Stormwater Management Officer of the Town of _____ ("CSMO"), within 30 days of the inspection, a written report of the findings, including recommendations for those actions necessary for the continuation of the stormwater control measures for the Facilities located in each Town.

7. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall not authorize, undertake or permit alteration, abandonment,

modification or discontinuation of the Facilities' stormwater control measures except in accordance with prior written approval of both the KSMO and the CSMO.

8. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall promptly undertake necessary repairs and replacement of the Facilities' stormwater control measures in each Town at the direction of the SMO for that Town in accordance with the recommendations of the inspecting engineer which have been reviewed and approved by the relevant SMO.

9. If an SMO determines that the Owner, or its successors or assigns, have failed to maintain the Facilities' stormwater control measures in the Town of jurisdiction of the SMO, or has failed to undertake corrective action specified by the SMO in accordance with the recommendations of the inspecting engineer, and the Owner does not remedy that failure within thirty (30) days from the receipt of notice thereof given by the SMO, the SMO is authorized to undertake all steps reasonably necessary for the preservation, continuation or maintenance of the Facilities' stormwater control measures in that Town. The Owner, or its successors or assigns, shall be responsible to reimburse the relevant Town for any funds expended to compensate for consulting and professional services, including reasonable attorney's services, rendered to that Town, or costs for the corrective action incurred by that Town, to remedy the breach of Owner's obligations with respect to maintenance of the Facilities.

(Cont.)

10. In the event of failure of the Owner to reimburse the relevant Town for such fees, costs or expenses, that Town may convert any amount expended, or caused to be expended due to the Owner's breach, to a tax on the next succeeding annual tax roll covering the Property in that Town which is described herein in Schedule A or B, as the case may be. The other Town which is a party to this Agreement may, in this event, convert such amount expended, or caused to be expended by the other Town, to a tax on the next succeeding annual tax roll covering the Property described herein in Schedule A or B as the case may be.

11. Owner hereby covenants that the Owner is seized of the Premises in fee simple and has good right to execute this Agreement; shall do nothing in the Premises which would prevent, impede or disturb the full use and intended purpose of this Agreement; and shall execute and deliver any further documents reasonably necessary to assure the benefits of this Agreement to the respective Towns.

12. This Agreement shall run with the land in perpetuity and is binding upon the Owner, its successors and assigns.

13. A memorandum of this Agreement shall be recorded with the Clerk of Putnam County.

14. The remedies in this Agreement are cumulative to, and in addition to, any other terms and conditions of separate and independent stormwater maintenance agreements or easement agreements entered into between either Town and the Owner.

IN WITNESS WHEREOF, the Owner and the respective Towns have executed this Agreement as of the date first herein above set forth.

TOWN OF KENT

BBJ ASSOCIATES, LLC

By: _____
Katherine M. Doherty, Supervisor

By: _____
Robert H. Wilder, Jr.,
Managing Member

TOWN OF CARMEL

By: _____
Kenneth Schmitt, Supervisor

STATE OF NEW YORK)
COUNTY OF _____)

On the ____ day of _____, in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or person upon behalf of which individual acted, executed the instrument.

NOTARY PUBLIC

3 NOVEMBER 2010
TOWN BOARD MEETING

(Cont.)

STATE OF NEW YORK)
COUNTY OF _____)

On the ____ day of _____, in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or person upon behalf of which individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF _____)

On the ____ day of _____, in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or person upon behalf of which individual acted, executed the instrument.

NOTARY PUBLIC

The foregoing resolution was offered by Councilman Ravallo and seconded by Councilman DiCarlo for discussion.

Councilman Ravallo expressed his concerns as to the Town of Carmel’s potential liability with regard to the Intermunicipal Agreement. Discussion was held.

At the conclusion of the discussion, the resolution was tabled to address the Town Board’s concerns regarding the matter and allow for further review.

PUBLIC COMMENTS

Joyce Lambert thanked the Town Board for tabling the resolution authorizing the Intermunicipal Agreement between Town of Kent, Wilder Balter Partners, LLC and the Town of Carmel if unclear with regard to its legalities. Discussion ensued regarding the Intermunicipal Agreement.

Jerry Ravnitzky inquired about the use of the Carmel Central School District fields by the Carmel Sports Association.

Councilwoman McDonough stated that she believed that there is an agreement pertaining to the fields on file in the Recreation Department. A discussion took place with regarding the issue.

Michael Simone, Highway Superintendent inquired about the interim Town Engineer and discussion was held regarding the matter.

**3 NOVEMBER 2010
TOWN BOARD MEETING**

TOWN BOARD MEMBER COMMENTS

Councilman DiCarlo announced that the Mahopac High School varsity football team will be participating in the sectional football championship contest on November 7, 2010 at 1:00 p.m. at the Mahopac High School and encouraged residents to attend.

Supervisor Schmitt reported that the public referendum held on November 2, 2010 to determine whether the Service Award Program for Volunteer Ambulance Workers of Town of Carmel Ambulance District No. 1 should be amended was approved by the voters in the district 43 to 9.

Supervisor Schmitt announced that Putnam County is holding a Medication Take-Back event on November 13, 2010 from 10:00 am to 2:00 pm at the Putnam Hospital Center and the Putnam Valley Senior Center in order to provide a safe means of disposal of prescription medications.

Councilman DiCarlo spoke regarding the widespread abuse of prescription medications amongst adolescents in the community.

Supervisor Schmitt encouraged residents to attend Mahopac's first annual Veterans Day Parade to be held on November 7, 2010, commencing at 2:00 pm on Route 6 at Casse Court, sponsored by American Legion Post 1080.

Councilman Lombardi congratulated the seventh grade MSA football team and their coaches for their recent Orange Bowl Tournament victory.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman DiCarlo, seconded by Councilman Lombardi, with all Town Board members present and in agreement, the meeting was adjourned at 9:28 p.m. to Executive Session to discuss a matter of personnel - PBA collective bargain negotiations.

Respectfully submitted,

Ann Garris, Town Clerk