

**RESOLUTION APPROVING SETTLEMENT AND AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH DES LAURIERS MUNICIPAL SOLUTIONS, INC., WITH RESPECT TO THE SETTLEMENT OF PENDING LITIGATION WITH DES LAURIERS MUNICIPAL SOLUTIONS, INC.**

**WHEREAS**, Des Lauriers Municipal Solutions, Inc. ("DES LAURIERS") is a corporation duly organized and authorized to conduct business within the State of New Jersey, which provides municipal, proprietary software to municipalities for municipal use; and

**WHEREAS**, the Township of Franklin (the "Township") is a municipal corporation, public body corporate and politic organized under the laws of the State of New Jersey, which previously had an agreement with DES LAURIERS to provide it with certain municipal, proprietary software for use by Township Departments; and

**WHEREAS**, a dispute subsequently arose between the Township and DES LAURIERS with respect to the scope and breadth of the agreement entered into between the Parties; and

**WHEREAS**, despite the efforts of the Parties to amicably resolve that dispute, the Parties were unable to do so; and

**WHEREAS**, on or about February 28, 2006, DES LAURIERS filed a Complaint against the Township (and former Township employee Michael J. Gallagher) in the United States District Court for the District of New Jersey, captioned DES LAURIERS MUNICIPAL SOLUTIONS, INC. v. TOWNSHIP OF FRANKLIN, ET AL., Docket No. 3:06-cv-00919-FLW-TJB (hereinafter, the "DES LAURIERS Litigation"); and

**WHEREAS**, the Ten Count Complaint alleged that DES LAURIERS was entitled to the payment, on either a contractual or quasi-contractual basis, of the full cost of additional, proprietary software provided to the Township under the agreement of the Parties; and

**WHEREAS**, in response to the Complaint the Township filed an Answer on behalf of itself and Michael J. Gallagher, which set forth the Township's and Mr. Gallagher's legal claims and defenses thereto; and

**WHEREAS**, after engaging in discovery and subsequent motion practice, the Court granted the Township and Mr. Gallagher partial summary judgment in the DES LAURIERS Litigation with respect to the contractual claims of DES LAURIERS, and thereafter scheduled the matter for a Settlement Conference with respect to the remaining claims of the Complaint; and

**WHEREAS**, the Settlement Conference was, in fact, held on July 8, 2009 with United States Magistrate Judge Tonianne J. Bongiovanni and the Parties to the DES LAURIERS Litigation, at which time Judge Bongiovanni recommended settlement of the remaining claims in the DES LAURIERS Litigation for the sum of \$60,000 to be paid to DES LAURIERS from the Township; and

**WHEREAS**, the Township and DES LAURIERS, after having considered the Court's recommendation that this matter be settled for the sum of \$60,000, now desire to resolve the disputed claims by settlement in accordance with the terms of the Settlement Agreement and General Release appended to this Resolution, by the payment from the Township to DES

LAURIERS of the amount of \$60,000.00, all in accordance with the terms and conditions of the said Settlement Agreement; and

**WHEREAS**, the Township, after considering the Court's Settlement recommendation and the cost benefit of resolving the DES LAURIERS Litigation at this time, believes that the settlement of the DES LAURIERS Litigation in the manner recommended by the Court at conference, and as set forth at length in the Settlement Agreement appended hereto, is in the best interests of the Township of Franklin.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF FRANKLIN IN THE COUNTY OF SOMERSET**, as follows:

**Section 1.** That the Settlement of the DES LAURIERS Litigation, as embodied in the Settlement Agreement and General Release attached hereto, is approved in substantially the form in which it appears as appended to this Resolution, including without limitation provisions thereof relating to the Release of Claims with respect to both the Township and Michael J. Gallagher.

**Section 2.** The Mayor of the Township be and hereby is authorized and directed to execute the Settlement Agreement with DES LAURIERS in order to effectuate the Settlement of the DES LAURIERS Litigation in accordance with the terms and conditions of the Settlement Agreement.

**Section 3.** The Settlement as set forth by the foregoing, including the above Recitals, be and hereby is, approved.

**Section 4.** The Township's Chief Financial Officer is hereby authorized and directed to coordinate the Township's performance pursuant to the terms of the Settlement Agreement with the Township Attorney, including without limitation the payment of \$60,000 to be made pursuant thereto to DES LAURIERS.

This resolution shall take effect immediately.

#### **CERTIFICATION**

I, Ann Marie McCarthy, Clerk of the Township of Franklin, in the County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Council at a regular meeting held on the 8<sup>th</sup> day of September 2009.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Township this 9<sup>th</sup> day of September 2009.

Ann Marie McCarthy  
Township Clerk