

February 28, 2012

A **Regular** Meeting of the Township Council of the Township of Toms River was held in the L. Manuel Hirshblond Meeting Room, Municipal Complex, 33 Washington Street, Toms River, New Jersey at 6:01 PM.

The meeting was called to order by Council President Hill. Eagle Scout Brandon Vasquez and Troop 92 presented the Colors and led the Pledge of Allegiance to the Flag.

At the conclusion of the salute Mayor and Council presented to Brandon Vasquez and the Troop 92 a Toms River Township flag.

Council President Hill read the following statement pursuant to the Open Public Meetings Act:

OPEN PUBLIC MEETINGS ACT

This meeting is convened in accordance with the provisions of the Open Public Meetings Act of New Jersey. Let the official Minutes reflect that adequate notice of this meeting has been provided by publishing a notice in the Asbury Park Press on **Saturday, January 7, 2012** and also forwarded to the Toms River times, Toms River Patch, and Riverside Gazette on **Wednesday, January 4, 2012**, and thereafter posting same on the Town Hall Bulletin Board for such notices, and filing same with the Township Clerk, pursuant to a resolution adopted by the Township Council on **January 3, 2012**. Notice was also posted on the Township Web Page.

Roll Call:

Council Member Carr	- Present
Council Member Kubiel	- Present
Council Member Maruca	- Absent
Council Member Manforti	- Present
Council Member Wittmann	- Present
Council Vice-President Sevastakis	- Present
Council President Hill	- Present

A motion was made by Council Kubiel, seconded by Council Member Wittmann, and carried with Council Members Carr, Kubiel, Manforti, Wittmann and Sevastakis and Council President Hill voting yes, to approve an excused absence for Council Member Maruca for medical reasons.

APPROVAL OF MINUTES

A motion was made by Council Member Kubiel, seconded by Council Member Wittmann, and carried with Council Members Carr, Kubiel, Manforti, Sevastakis, Wittmann, and with Council President Hill voting yes, and with Council Member Maruca absent, to approve the Minutes of the Regular Meeting of **February 14, 2012**. The reading of this Minutes was dispensed with, as each member of the Township Council has reviewed a certified copy hereof.

HONORING RESOLUTIONS

A motion was made by Council Member Kubiel, seconded by Council Member Wittmann, and carried with Council Members Carr, Kubiel, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to make the following Proclamations a part of the Minutes:

Mayor Kelaher and Council presented proclamation to Peter Wilkens and Cathy Mulhern for their years of service with Pleasant Plains Volunteer First Aid.

Township of Toms River

Proclamation

Honoring 25 Years of Service with Pleasant Plains Volunteer First Aid

WHEREAS, volunteers play an integral part our lives by selflessly giving of themselves, so as to improve the quality of life for the entire community; and

WHEREAS, volunteers devote countless hours and expend untold amounts of energy in their pursuit to ensure the betterment of our lives and yet ask nothing in return; and

WHEREAS, the men and women of Pleasant Plains Volunteer First Aid demonstrate this volunteer spirit by putting their lives on the line each time they respond to an emergency; and

WHEREAS, PETER WILKENS, joined the Pleasant Plains Volunteer First Aid in 1987 and has served in a capacity of Captain, 1st Lieutenant, 2nd Lieutenant, president, vice president, treasurer and trustee, and continues to serve as a member; and

WHEREAS, the Township of Toms River wishes to acknowledge and thank PETER WILKENS for giving so much of himself to our community; and

NOW, THEREFORE, I, THOMAS F. KELAHER, Mayor of the Township of Toms River, on behalf of myself, and the Township Council and the residents of the Township of Toms River, do hereby thank you, PETER WILKENS, and present you with this proclamation on February 28, 2012 in recognition of your extraordinary service to the Pleasant Plains Volunteer First Aid and your commitment to our community. Your efforts have not gone unnoticed.

Mayor Thomas F. Kelaher

*Maurice B. Hill, Jr.
Council President*

*George E. Whittmann
Maria L. Maruca*

*Brian Kubi el
John C. Sevastakis*

*Jeffrey J. Carr
Alfonso J. Manforti*

Township of Toms River

Proclamation

Honoring 20 Years of Service with Pleasant Plains Volunteer First Aid

WHEREAS, volunteers play an integral part our lives by selflessly giving of themselves, so as to improve the quality of life for the entire community; and

WHEREAS, volunteers devote countless hours and expend untold amounts of energy in their pursuit to ensure the betterment of our lives and yet ask nothing in return; and

WHEREAS, the men and women of Pleasant Plains Volunteer First Aid demonstrate this volunteer spirit by putting their lives on the line each time they respond to an emergency; and

WHEREAS, CATHY MULHERN, joined the Pleasant Plains Volunteer First Aid in 1992 when her son, who was a member, convinced Cathy to join and give back to the community. Cathy still rides every Thursday night with the organization. Cathy has served as secretary, treasurer, vice president and numerous terms as trustee, along with two terms as president and continues to serve as a member; and

WHEREAS, the Township of Toms River wishes to acknowledge and thank CATHY MULHERN for giving so much of herself to our community; and

NOW, THEREFORE, I, THOMAS F. KELAHER, Mayor of the Township of Toms River, on behalf of myself, and the Township Council and the residents of the Township of Toms River, do hereby thank you, CATHY MULHERN, and present you with this proclamation on February 28, 2012 in recognition of your extraordinary service to the Pleasant Plains Volunteer First Aid and your commitment to our community. Your efforts have not gone unnoticed.

Mayor Thomas F. Kelaher

*Maurice B. Hill, Jr.
Council President*

*George E. Whittmann
Maria L. Maruca*

*Brian Kubi el
John C. Sevastakis*

*Jeffrey J. Carr
Alfonso J. Manforti*

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Kubi el, seconded by Council Member Sevastakis, and carried that an Ordinance entitled:

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 104-25 (INFORMAL COMPLAINT PROCEDURE), AND SECTION 104-26 (FORMAL COMPLAINT PROCEDURE) OF CHAPTER 104 (EMPLOYEE REGULATIONS AND BENEFITS) OF THE CODE OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President Hill announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Kubi el, seconded by Council Member Sevastakis and carried, the public hearing was closed.

Council Member Kubiel offered the following resolution and moved its adoption, Council Member Sevastakis seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published in the Asbury Park Press.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Carr	- Yes
Council Member Kubiel	- Yes
Council Member Manforti	- Yes
Council Member Maruca	- Absent
Council Member Wittmann	- Yes
Council Vice-President Sevastakis	- Yes
Council President Hill	- Yes

J. Mark Mutter, Township Clerk, announced that the Supplemental Debt Statement is not approved by the State yet. It is to be done by the Local Finance Board on March 13, 2012. As such, this item cannot be approved until March 27, 2012 at the earliest.

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Wittmann, seconded by Council Member Kubiel, and carried that an Ordinance entitled:

Refunding BOND ORDINANCE of the Township of Tom s River, in the County of Ocean, New Jersey, providing for the refunding of all or a portion of the Township's general improvement bonds, Series 2004, dated March 1, 2004, heretofore issued to finance capital improvements, appropriating an amount not exceeding \$18,500,000 therefor and authorizing the issuance of not to exceed \$18,500,000 general obligation refunding bonds of the Township of Toms River for financing the cost thereof.

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President Hill announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Kubiel, seconded by Council Member Sevastakis and carried, the public hearing was closed.

A motion was made by Council Member Wittmann, seconded by Council Member Kubiel, and carried with Council Members Carr, Kubiel, Manforti, Wittmann Sevastakis, and Council President Hill, and with Council Member Maruca absent, to **carry the Ordinance to March 27, 2012.**

No additional public notice is necessary per Township Attorney Fitzsimmons.

Council Member Sevastakis introduced the following Ordinance of which the title only was read in full:

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, REPEALING ARTICLE V (SECTIONS 287-26, 287-27 AND 287-28), AND ESTABLISHING A NEW ARTICLE V (FEES FOR ACTIVE MILITARY MEMBERS), SECTIONS 287-26 (BEACH ACCESS), AND SECTION 287-27 (GOLF COURSE, ICE RINKS, POOLS AND PARK FACILITIES) OF CHAPTER 287 (FEES) OF THE TOWNSHIP CODE

BE IT ORDAINED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. Sections 287-26, 287-27 and 287-28 of Article V (Waiver of Fees for Military Members and Dependents) of Chapter 287 (Fees) of the Code of the Township of Toms River, New Jersey, are repealed.

2. A new Article V (Fees for Active Military Members) of Chapter 287 (Fees) of the Code of the Township of Toms River, New Jersey, is hereby established, as follows:

ARTICLE V. FEES FOR ACTIVE MILITARY MEMBERS

Section 287-26. Beach access.

The Township waives fees associated with beach access for all active military members, upon presentation of a valid identification card indicating status as an active military member.

Section 287-27. Golf course, ice rinks, pools and park facilities.

The Township extends a discount equal to a senior citizen's discount for fees associated with the golf course, ice rinks, pools and park facilities for all active military members, upon presentation of a valid identification card indicating status as an active military member.

3. All ordinances or parts of ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency. All other parts of Chapter 287 of the Code of the Township of Toms River not inconsistent herewith are ratified and confirmed.

4. If any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

5. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

A motion was made by Council Member Sevastakis, seconded by Council Member Kubiel, and carried with Council Members Carr, Kubiel, Manforti, Wittmann, Sevastakis, and Council President Hill voting yes, and with Council Member Maruca absent, that the foregoing Ordinance be adopted on first reading with publication notice as follows:

NOTICE

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on February 28, 2012 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on March 13, 2012 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER
TOWNSHIP CLERK

APPROVED AS TO FORM:
KENNETH B. FITZSIMMONS
TOWNSHIP ATTORNEY
MUNICIPAL BUILDING
33 WASHINGTON STREET
TOMS RIVER, NJ 08753

This ordinance title and purpose, together with notice, shall be published in the Asbury Park Press in the issue of Friday, March 2, 2012.

Ordinance was adopted on first reading with Council Members Carr, Kubiell, Manforti, Wittmann, Sevastakis, and Council President Hill voting yes, and with Council Member Maruca absent.

Councilman Wittmann questioned the following Resolution.

A motion was made by Council Member Kubiell, seconded by Council Member Carr, and carried with Council Members Carr, Kubiell, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution.

**RESOLUTION AUTHORIZING THE EXECUTION AND
DELIVERY OF A LOAN AGREEMENT TO BE EXECUTED BY
THE TOWNSHIP OF TOMS RIVER AND THE STATE OF NEW
JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION, PURSUANT TO THE SFY
2012 NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE
TRUST FINANCING PROGRAM**

WHEREAS, the Township of Toms River (the "Local Unit"), in the County of Ocean, New Jersey, has determined that there exists a need within the Local Unit to finance (i) stormwater management improvements at the existing stormwater detention basin known as the Adams Avenue Basin and (ii) all work and materials necessary therefore or incidental thereto (the "Project") as defined in that certain Loan Agreement (the "Fund Loan Agreement") to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State"), pursuant to the SFY 2012 New Jersey Environmental Infrastructure Trust Financing Program (the "Program") of the New Jersey Environment Infrastructure Trust (the "Trust");

WHEREAS, the Local Unit has determined to finance the Project with the proceeds of a loan to be made by the State (the "Loan") pursuant to the Fund Loan Agreement; and

WHEREAS, to evidence the Loan, the State requires the Local Unit to authorize, execute, attest and deliver the Local Unit's Stormwater Improvement Bonds, Series 2012, to the State in an aggregate principal amount not to exceed \$1,900,000 (the "Local Unit Bonds") pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the "Local Bond Law"), other applicable law and the Fund Loan Agreement.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. The Fund Loan Agreement is hereby authorized to be executed and delivered on behalf of the Local Unit by either the Mayor or the Chief Financial Officer in substantially the form attached hereto as Exhibit A with such changes as the Mayor or the Chief Financial Officer (each an "Authorized Officer"), in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit (collectively, the "Local Unit Consultants") and after further consultation with the Trust, the State and their representatives, agents, counsel and advisors (collectively, the

“Program Consultants”, and together with the Local Unit Consultants, the “Consultants”), shall determine, such determination to be conclusively evidenced by the execution of such Fund Loan Agreement by an Authorized Officer as determined hereunder. The Local Unit Clerk is hereby authorized to attest to the execution of the Fund Loan Agreement by an Authorized Officer of the Local Unit as determined hereunder and to affix the corporate seal of the Local Unit to such Fund Loan Agreement.

Section 2. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Local Unit Clerk, as applicable, in their respective sole discretion, after consultation with the Consultants, to be executed in connection with the execution and delivery of the Fund Loan Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 3. This resolution shall take effect immediately.

Section 4. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to GluckWalrath LLP, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the Trust.

Recorded Vote

AYE

Jeffrey Carr
Brian Kubiel
Alfonso Manforti
George Wittmann
John Sevastakis
Maurice Hill

NO

ABSTAIN

ABSENT

Maria Maruca

The foregoing is a true copy of a resolution adopted by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey on February 28, 2012.

Township Clerk

**[MASTER FUND LOAN AGREEMENT – BARNEGAT BAY - 100%
PRINCIPAL FORGIVENESS - MUNICIPAL/COUNTY FORM]**

LOAN AGREEMENT

BY AND BETWEEN

THE STATE OF NEW JERSEY,

**ACTING BY AND THROUGH THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION,**

AND

[NAME OF BORROWER]

DATED AS OF _____, 201_

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NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FUND LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into on the Dated Date (as defined in Schedule A hereto), by and between THE STATE OF NEW JERSEY, acting by and through the New Jersey Department of Environmental Protection, and the Borrower (capitalized terms used in this Loan Agreement shall have, unless the context otherwise requires, the meanings ascribed thereto in Section 1.01 hereof);

WITNESSETH THAT:

WHEREAS, the Borrower has, in accordance with the Bond Act, if applicable, and the Regulations, made timely application to the State for a Loan to finance a portion of the Costs of the Project;

WHEREAS, the State has approved the Borrower's application for a Loan from either of the following sources: (i) the proceeds of State Bonds, if and when available, and moneys from repayments of loans previously made from such proceeds, and/or (ii) Federal Funds, if and when received by and available to the State, and moneys from repayments of loans previously made from such Federal Funds, in the amount of the loan commitment set forth in Exhibit A-2 attached hereto and made a part hereof to finance a portion of the Costs of the Project;

WHEREAS, the New Jersey State Legislature has approved an appropriations act that authorizes an expenditure of said proceeds, Federal Funds or related moneys to finance a portion of the Costs of the Project;

WHEREAS, the Borrower, in accordance with the Borrower Enabling Act, will issue a Borrower Note to the State evidencing said Loan at the Loan Closing; and

WHEREAS, in accordance with the New Jersey Environmental Infrastructure Trust Act, P.L. 1985, c. 334, as amended, and the Regulations, the Borrower and the Trust have executed and delivered in escrow a Trust Loan Agreement, pursuant to which the Trust will extend to the Borrower a Trust Loan for a portion of the Costs of the Project plus, if applicable to the Borrower, capitalized interest on the Trust Loan and certain costs of issuance. NOW, THEREFORE, for and in consideration of the award of the Loan by the State, the Borrower agrees to complete the Project and to perform under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as part hereof, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

(a) The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

“Administrative Fee” means an annual fee of up to one percent (1.0%) of the initial principal amount of the Loan or such lesser amount, if any, as may be authorized by any act of the New Jersey State Legislature and as the State may approve from time to time.

“Authorized Officer” means, in the case of the Borrower, any person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to perform any act or execute any document relating to the Loan, the Borrower Note or this Loan Agreement.

“Bond Act” means, as applicable, (i) the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. 1401 *et seq.*, as the same may from time to time be amended and supplemented, (ii) the Water Supply Bond Act of 1981, P.L. 1981, c. 261, as the same may from time to time be amended and

supplemented, (iii) the Wastewater Treatment Bond Act of 1985, P.L. 1985, c. 329, as the same may from time to time be amended and supplemented, (iv) the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989, P.L. 1989, c. 181, as the same may from time to time be amended and supplemented, and (v) the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992, P.L. 1992, c. 88, as the same may from time to time be amended and supplemented.

“Bond Counsel” means a law firm appointed or approved by the State, as the case may be, having a reputation in the field of municipal law whose opinions are generally acceptable by purchasers of municipal bonds.

“Borrower” means the New Jersey county or municipality that is a party to this Loan Agreement, and its successors and assigns, as further described in Schedule A attached hereto.

"Borrower Note" means the Borrower Note issued pursuant to the Borrower Enabling Act, authorized, executed, attested and delivered by the Borrower to the State to evidence the Borrower's obligations to pay the Loan Repayments and all other amounts due and owing by the Borrower under this Loan Agreement, a specimen of which is attached as Exhibit D hereto and made a part hereof, pursuant to which the power and obligation of the Borrower to make such payments shall be unlimited and for the payment of which the Borrower shall, if necessary, levy *ad valorem* taxes upon all the taxable property within the jurisdiction of the Borrower without limitation as to rate or amount.

“Borrowers” means any other Local Government Unit or Private Entity (as such terms are defined in the Regulations) authorized to construct, operate and maintain Environmental Infrastructure Facilities that have entered into Loan Agreements with the State pursuant to which the State will make Loans to such recipients from moneys on deposit in the State Fund.

“Costs” means those costs that are eligible, reasonable, necessary, allocable to the Project and permitted by generally accepted accounting principles, including Allowances and Building Costs (as defined in the Regulations), as shall be determined on a project-specific basis in accordance with the Regulations as set forth in Exhibit B hereto, as the same may be amended by subsequent eligible costs as evidenced by a certificate of an authorized officer of the State.

“Department” means the New Jersey Department of Environmental Protection.

“Environmental Infrastructure Facilities” means Wastewater Treatment Facilities, Stormwater Management Facilities or Water Supply Facilities (as such terms are defined in the Regulations).

“Environmental Infrastructure System” means the Environmental Infrastructure Facilities of the Borrower, including the Project, described in Exhibit A-1 attached hereto and made a part hereof for which the Borrower is borrowing the Loan under this Loan Agreement.

“Event of Default” means any occurrence or event specified in Section 5.01 hereof.

“Excess Project Funds” shall have the meaning set forth in Section 3.03A hereof.

“Exhibit A-2” means (i) prior to the execution and delivery of the Trust Loan Agreement, Exhibit A-2-1 hereto, and (ii) subsequent to the execution and delivery of the Trust Loan Agreement, Exhibit A-2-2 hereto, as further described in Section 3.03 to this Loan Agreement.

“Federal Funds” means those funds awarded to the State pursuant to the Clean Water Act (33 U.S.C. §1251 *et seq.*) and/or the Safe Drinking Water Act (42 U.S.C. §300f *et seq.*), as the same may from time to time be amended and supplemented.

“Loan” means the loan made by the State to the Borrower to finance or refinance a portion of the Costs of the Project pursuant to this Loan Agreement. For all purposes of this Loan Agreement, the principal amount of the Loan at any time shall be the amount of the loan commitment set forth in Exhibit A-2 attached hereto and made a part hereof (which Exhibit A-2 shall be reflective of the terms and provisions of Section 3.03(b) hereof) (such amount being also specified as the initial aggregate principal amount of the Borrower Note), less any amount of such principal amount that has been repaid by the Borrower under this Loan Agreement, and less any adjustment made for low bid or final building costs pursuant to the provisions of N.J.A.C. 7:22-3.26 and the appropriations act of the New Jersey State Legislature authorizing the expenditure of moneys to finance a portion of the Costs of the Project.

“Loan Agreement” means this Loan Agreement, including Schedule A and the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Agreements” means any other loan agreements entered into by and between the State and one or more of the Borrowers pursuant to which the State will make Loans to such Borrowers from moneys on deposit in the State Fund.

“Loan Closing” means the date upon which the Borrower shall deliver its Borrower Note, as previously authorized, executed and attested, to the State.

“Loan Repayments” means the sum of (i) the repayments of the principal amount of the Loan payable by the Borrower pursuant to Section 3.03(a) of this Loan Agreement and (ii) any late charges incurred hereunder, but shall not include the Administrative Fee.

“Loan Term” means the term of this Loan Agreement provided in Sections 3.01 and 3.03 hereof and in Exhibit A-2 attached hereto and made a part hereof.

“Loans” means the loans made by the State to the Borrowers under the Loan Agreements from moneys on deposit in the State Fund.

“Local Bond Law” means the “Local Bond Law”, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40A:2-1 *et seq.*), as the same may from time to time be amended and supplemented.

“Prime Rate” means the prevailing commercial interest rate announced by the Trustee from time to time in the State as its prime lending rate.

“Project” means the Environmental Infrastructure Facilities of the Borrower described in Exhibit A-1 attached hereto and made a part hereof, which constitutes a project for which the State is permitted to make a loan to the Borrower pursuant to the Bond Act and the Regulations, all or a portion of the Costs of which is financed or refinanced by the State through the making of the Loan under this Loan Agreement and which may be identified under either the Drinking Water or Clean Water Project Lists with the Project Number specified in Exhibit A-1 attached hereto.

“Regulations” means the rules and regulations, as applicable, now or hereafter promulgated under N.J.A.C. 7:22-3 *et seq.*, 7:22-4 *et seq.*, 7:22-5 *et seq.*, 7:22-6 *et seq.*, 7:22-7 *et seq.*, 7:22-8 *et seq.*, 7:22-9 *et seq.* and 7:22-10 *et seq.*, as the same may from time to time be amended and supplemented.

“State” means the State of New Jersey, acting, unless otherwise specifically indicated, by and through the Department, and its successors and assigns.

“State Bonds” means State of New Jersey general obligation bonds authorized by the Bond Act and the related bond proceedings of the State, together with any refunding bonds executed and delivered pursuant thereto.

“State Fund” means, as applicable, the Clean Water State Revolving Fund, the Wastewater Treatment Fund, the 1992 Wastewater Treatment Fund, the Stormwater Management and Combined Sewer Overflow Abatement Fund or the Water Supply Fund as defined in and as established pursuant to the applicable Bond Act.

“Trustee” means, initially, U.S. Bank National Association, the Trustee expected to be appointed by the Trust and its successors as Trustee under the Bond Resolution, as provided in Article X of the Bond Resolution.

(b) In addition to the capitalized terms defined in subsection (a) of this Section 1.01, certain additional capitalized terms used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings ascribed to such additional capitalized terms in Schedule A attached hereto and made a part hereof.

© Except as otherwise defined herein or where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF BORROWER

SECTION 2.01. Representations of Borrower. The Borrower represents for the benefit of the State as follows:

(a) Organization and Authority.

(i) The Borrower is an Entity duly created and validly existing under and pursuant to the Constitution and statutes of the State of New Jersey.

(ii) The acting officials of the Borrower who are contemporaneously herewith performing or have previously performed any action contemplated in this Loan Agreement either are or, at the time any such action was performed, were the duly appointed or elected officials of such Borrower empowered by applicable New Jersey law and, if applicable, authorized by ordinance or resolution of the Borrower to perform such actions. To the extent any such action was performed by an official no longer the duly acting official of such Borrower, all such actions previously taken by such official are still in full force and effect.

(iii) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain its Environmental Infrastructure System, to carry on its activities relating thereto, to execute, attest and deliver this Loan Agreement and the Borrower Note, to sell the Borrower Note to the State, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

(iv) The proceedings of the Borrower's governing body approving this Loan Agreement and the Borrower Note, authorizing the execution, attestation and delivery of this Loan Agreement and the Borrower Note, authorizing the sale of the Borrower Note to the State and authorizing the Borrower to undertake and complete the Project, including, without limitation, the "Proceedings", were duly published in accordance with applicable New Jersey law, and have been duly and lawfully adopted in accordance with the Borrower Enabling Act and other applicable New Jersey law at a meeting or meetings that were duly called pursuant to necessary public notice and held in accordance with applicable State law and at which quorums were present and acting throughout.

(v) By official action of the Borrower taken prior to or concurrent with the execution and delivery hereof, including, without limitation, the Proceedings, the Borrower has duly authorized, approved and consented to all necessary action to be taken by the Borrower for: (A) the execution, attestation, delivery and performance of this Loan Agreement and the transactions contemplated hereby; (B) the issuance of the Borrower Note and the sale thereof to the State upon the terms set forth herein; and (C) the execution, delivery and due performance of any and all other certificates, agreements and instruments that may be required to be executed, delivered and performed by the Borrower in order to carry out, give effect to and consummate the transactions contemplated by this Loan Agreement.

(vi) This Loan Agreement and the Borrower Note have each been duly authorized by the Borrower and duly executed, attested and delivered by Authorized Officers of the Borrower, and the Borrower Note has been duly sold by the Borrower to the State and duly issued by the Borrower; and assuming that the State has all the requisite power and authority to authorize, execute, attest and deliver, and has duly authorized, executed, attested and delivered, this Loan Agreement, and assuming further that this Loan Agreement is the legal, valid and binding obligation of the State, enforceable against the State in accordance with its terms, each of this Loan Agreement and the Borrower Note constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, except as the enforcement thereof may be affected by bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors' rights; and the information contained under "Description of Loan" in Exhibit A-2 attached hereto and made a part hereof is true and accurate in all respects.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the State in writing on the Borrower's application for the Loan or otherwise that materially adversely affects or (so far as the Borrower can now foresee) that will materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System, or the ability of the Borrower to make all Loan Repayments or otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Note.

(c) Pending Litigation. There are no proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect (i) the undertaking or completion of the Project, (ii) the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System, (iii) the ability of the Borrower to make all Loan Repayments, (iv) the authorization, execution, attestation or delivery of this Loan Agreement or the Borrower Note, (v) the issuance of the Borrower Note and the sale thereof to the State or (vi) the Borrower's ability otherwise to observe and perform its duties, covenants, obligations

and agreements under this Loan Agreement and the Borrower Note, which proceedings have not been previously disclosed in writing to the State either in the Borrower's application for the Loan or otherwise.

(d) Compliance with Existing Laws and Agreements. (i) The authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Note by the Borrower and the sale of the Borrower Note to the State, (ii) the observation and performance by the Borrower of its duties, covenants, obligations and agreements hereunder and thereunder, (iii) the consummation of the transactions provided for in this Loan Agreement and the Borrower Note, and (iv) the undertaking and completion of the Project will not (A) other than the lien, charge or encumbrance created hereby, by the Borrower Note and by any other outstanding debt obligations of the Borrower that are at parity with the Borrower Note as to lien on, and source and security for payment thereon from, the general tax revenues of the Borrower, result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Borrower pursuant to, (B) result in any breach of any of the terms, conditions or provisions of, or (C) constitute a default under, any existing ordinance or resolution, outstanding debt or lease obligation, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument to which the Borrower is a party or by which the Borrower, its Environmental Infrastructure System or any of its properties or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, injunctions, judgments, decrees, rules, regulations or existing orders of any court or governmental or administrative agency, authority or person to which the Borrower, its Environmental Infrastructure System or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Note, the sale of the Borrower Note to the State or the receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, its Environmental Infrastructure System or its properties may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System or the ability of the Borrower to make all Loan Repayments, to pay all other amounts due hereunder or otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Note.

(f) Governmental Consent. The Borrower has obtained all permits and approvals required to date by any governmental body or officer for the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Note, for the sale of the Borrower Note to the State, for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Note and for the undertaking or completion of the Project and the financing or refinancing thereof, including, but not limited to, the approval by the Local Finance Board in the Division of Local Government Services in the New Jersey Department of Community Affairs (the "Local Finance Board") of the issuance by the Borrower of the Borrower Note to the State and any other approvals required therefor by the Local Finance Board; and the Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Note or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Note, the sale of the Borrower Note to the State, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law. The Borrower:

(i) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect (A) the ability of the Borrower to conduct its activities or to undertake or complete the Project, (B) the ability of the Borrower to make the Loan Repayments and to pay all other amounts due hereunder, or (C) the condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System; and

(ii) has obtained all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its properties or for the conduct of its activities that, if not obtained, would materially adversely affect (A) the ability of the Borrower to conduct its activities or to undertake or complete the Project, (B) the ability of the Borrower to make the Loan Repayments and to pay all other amounts due hereunder, or (C) the condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System.

(h) Use of Proceeds. The Borrower will apply the proceeds of the Loan from the State as described in Exhibit B attached hereto and made a part hereof (i) to finance or refinance a portion of the Costs of the Borrower's Project; and (ii) where applicable, to reimburse the Borrower for a portion of the Costs of the Borrower's Project, which portion was paid or incurred in anticipation of reimbursement by the State and is eligible for such reimbursement under and pursuant to the Regulations and any other applicable law. All of such costs constitute Costs for which the State is authorized to make Loans to the Borrower pursuant to the Bond Act and the Regulations.

SECTION 2.02. Particular Covenants of Borrower.

(a) Full Faith and Credit Pledge. The Borrower unconditionally and irrevocably pledges its full faith and credit and covenants to exercise its unlimited taxing powers for the punctual payment of the principal of the Borrower Note and all other amounts due under the Borrower Note, which Borrower Note shall secure the Loan Repayments and all other amounts due under this Loan Agreement according to its terms.

(b) Performance Under Loan Agreement; Rates. The Borrower covenants and agrees (i) to comply with all applicable state and federal laws, rules and regulations in the performance of this Loan Agreement; (ii) to cooperate with the State in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the State under this Loan Agreement; and (iii) to establish, levy and collect rents, rates and other charges for the products and services provided by its Environmental Infrastructure System, which rents, rates and other charges, together with any other moneys available for the purpose, shall be at least sufficient to comply with all covenants pertaining thereto contained in, and all other provisions of, any bond ordinance, resolution, trust indenture or other security agreement, if any, relating to any bonds, notes or other evidences of indebtedness issued or to be issued by the Borrower, including without limitation rents, rates and other charges, together with other available moneys, sufficient to pay the principal of, and interest if any on, the Borrower Note, plus all other amounts due hereunder.

(c) Completion of Project and Provision of Moneys Therefor. The Borrower covenants and agrees (i) to exercise its best efforts in accordance with prudent environmental infrastructure utility practice to complete the Project and to accomplish such completion on or before the estimated Project completion date set forth in Exhibit G hereto and made a part hereof; (ii) to comply with the terms and provisions contained in Exhibit G hereto; and (iii) to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives under the Loan, required to complete the Project; provided, however, that notwithstanding the foregoing, the Borrower covenants and agrees to complete the Project on or prior to the Maturity Date of the Borrower Note.

(d) Disposition of Environmental Infrastructure System. The Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all of its Environmental Infrastructure System except on ninety (90) days' prior written notice to the State, and, in any event, shall not so sell, lease, abandon or otherwise dispose of the same unless the Borrower shall, in accordance with Section 4.02 hereof, assign this Loan Agreement and the Borrower Note and its rights and interests hereunder and thereunder to the purchaser or lessee of the Environmental Infrastructure System, and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Borrower under this Loan Agreement and the Borrower Note.

(e) Reserved.

(f) Operation and Maintenance of Environmental Infrastructure System. The Borrower covenants and agrees that it shall, in accordance with prudent environmental infrastructure utility practice, (i) at all times operate the properties of its Environmental Infrastructure System and any business in connection therewith in an efficient manner, (ii) maintain its Environmental Infrastructure System in good repair, working order and operating condition, and (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its Environmental Infrastructure System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted

(g) Records and Accounts.

(i) The Borrower shall keep accurate records and accounts for its Environmental Infrastructure System (the "System Records") separate and distinct from its other records and accounts (the "General Records"). Such System Records shall be audited annually by an independent registered municipal accountant or certified public accountant, which may be part of the annual audit of the General Records of the Borrower. Such System Records and General Records shall be made available for inspection by the State at any reasonable time upon prior written notice, and a copy of such annual audit(s) therefor,

including all written comments and recommendations of such accountant, shall be furnished to the State within 150 days of the close of the fiscal year being so audited or, with the consent of the State, such additional period as may be provided by law.

(ii) Within 30 days following receipt of any Loan proceeds, including without limitation the "Allowance for Administrative Costs" or the "Allowance for Planning and Design" set forth in Exhibit B hereto, the Borrower shall allocate such proceeds to an expenditures in a manner that satisfies the requirements of Treasury Regulation §1.148-6(d) and transmit a copy of each such allocation to the State. No portion of the Allowance for Administrative Costs will be allocated to a cost other than a cost described in N.J.A.C. 7:22-5.11(a) 3, 4, 5 or 6. No portion of the Allowance for Planning and Design will be allocated to a cost other than a cost described N.J.A.C. 7:22-5.12. The Borrower shall make such records available to the State within 15 days of any request by the State.

(h) Inspections; Information. The Borrower shall permit the State and any party designated by the State, at any and all reasonable times during construction of the Project and thereafter upon prior written notice, to examine, visit and inspect the property, if any, constituting the Project and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the State may reasonably require in connection therewith.

(i) Insurance. The Borrower shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self-insurance programs providing against risk of direct physical loss, damage or destruction of its Environmental Infrastructure System at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining Environmental Infrastructure Facilities of the nature of the Borrower's Environmental Infrastructure System, including liability coverage, all to the extent available at reasonable cost but in no case less than will satisfy all applicable regulatory requirements.

(j) Costs of Project. The Borrower certifies that the building cost of the Project, as listed in Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation thereof, and it will supply to the State a certificate from a licensed professional engineer authorized to practice in the State stating that such building cost is a reasonable and accurate estimation and that the useful life of the Project exceeds the maturity date of the Borrower Note.

(k) Delivery of Documents. Concurrently with the delivery of this Loan Agreement (as previously authorized, executed and attested) at the Loan Closing, the Borrower will cause to be delivered to the State each of the following items:

(i) an opinion of the Borrower's bond counsel substantially in the form of Exhibit E hereto; provided, however, that the State may permit portions of such opinion to be rendered by general counsel to the Borrower and may permit variances in such opinion from the form set forth in Exhibit E if such variances are acceptable to the State;

(ii) counterparts of this Loan Agreement as previously executed and attested by the parties hereto;

(iii) copies of those ordinances and/or resolutions finally adopted by the governing body of the Borrower and requested by the State, including, without limitation, (A) the resolution of the Borrower authorizing the execution, attestation and delivery of this Loan Agreement, (B) the ordinances and resolutions of the Borrower authorizing the execution, attestation, sale and delivery of the Borrower Note to the State, (C) the resolution of the Borrower, if any, confirming the details of the sale of the Borrower Note to the State, (D) the resolution of the Borrower, if any, declaring its official intent to reimburse expenditures for the Costs of the Project from the proceeds of the State Bonds, each of said ordinances and resolutions of the Borrower being certified by an Authorized Officer of the Borrower as of the date of the Loan Closing, (E) the resolution of the Local Finance Board approving the issuance by the Borrower of the Borrower Note to the State and setting forth any other approvals required therefor by the Local Finance Board, and (F) any other Proceedings;

(iv) the certificates of insurance coverage as required pursuant to the terms of Section 3.06(c) hereof and such other certificates, documents, opinions and information as the State may require in Exhibit F hereto, if any; and

(v) if the Loan is being made to reimburse the Borrower for all or a portion of the Costs of the Borrower's Project or to refinance indebtedness or reimburse the Borrower for the repayment of indebtedness previously incurred by the Borrower to finance all or a portion of the Costs of the Borrower's Project, an opinion of Bond Counsel, in form and substance satisfactory to the State, to the effect that such reimbursement or refinancing will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the State Bonds.

(l) Execution and Delivery of Borrower Note. Concurrently with the delivery of this Loan Agreement at the Loan Closing, the Borrower shall also deliver to the State the Borrower Note, as previously executed and attested.

(m) Notice of Material Adverse Change. The Borrower shall promptly notify the State of any material adverse change in the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its Environmental Infrastructure System, or in the ability of the Borrower to make all Loan Repayments and otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Note.

(n) Reserved.

(o) Continuing Representations. The representations of the Borrower contained herein shall be true at the time of the execution of this Loan Agreement and at all times during the term of this Loan Agreement.

(p) Additional Requirements. Additional defined terms, covenants, representations and requirements have been included in Schedule A attached hereto and made a part hereof. Such additional defined terms, covenants, representations and requirements are incorporated in this Loan Agreement by reference thereto as if set forth in full herein and the Borrower hereby agrees to observe and comply with each such additional term, covenant, representation and requirement included in Schedule A as if the same were set forth in their entirety herein.

ARTICLE III

LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

SECTION 3.01. Loan; Loan Term. The State hereby agrees to make the Loan as described in Exhibit A-2 hereof and to disburse proceeds of the Loan to the Borrower in accordance with Section 3.02 and Exhibit C hereof, and the Borrower hereby agrees to borrow and accept the Loan from the State upon the terms set forth in Exhibit A-2 attached hereto and made a part hereof; provided, however, that the State shall be under no obligation to make the Loan if (a) at the Loan Closing, the Borrower does not deliver to the State a Borrower Note and such other documents required under Section 2.02(k) hereof, or (b) an Event of Default has occurred and is continuing under this Loan Agreement. Although the State intends to disburse proceeds of the Loan to the Borrower at the times and up to the amounts set forth in Exhibit C to pay a portion of the Costs of the Project, due to unforeseen circumstances there may not be a sufficient amount on deposit in the State Fund on any date to make the disbursement in such amount. Nevertheless, the Borrower agrees that the aggregate principal amount set forth in Exhibit A-2-1 hereto shall constitute the initial principal amount of the Loan (as the same may be adjusted downward in accordance with the definition thereof), and the State shall have no obligation thereafter to loan any additional amounts to the Borrower.

The Borrower shall have no legal or equitable interest in the proceeds of the State Bonds or in any amounts from time to time on deposit in the funds and accounts applicable to the State Bonds created by the Bond Act and the bond proceedings of the State authorizing the form, execution, issuance and delivery of the State Bonds; the Federal Funds received by and available to the State or in moneys from repayments of loans previously made from the State Fund by the State.

The Borrower shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof.

The payment obligations created under this Loan Agreement and the obligations to pay the principal of and other amounts due under the Borrower Note are each direct, general, irrevocable and unconditional obligations of the Borrower payable from any source legally available to the Borrower, including, without limitation, the general tax revenues of the Borrower, and the Borrower shall, if necessary, levy *ad valorem* taxes upon all the taxable property within the Borrower for the payment of such obligations, without limitation as to rate or amount.

SECTION 3.02. Disbursement of Loan Proceeds.

The State shall disburse the amounts on deposit in the State Fund earmarked for the Loan to the Borrower in accordance with the terms hereof. Before each and every disbursement of the proceeds of the Loan by the State to the Borrower, the Borrower shall in accordance with the procedures set forth in the Regulations submit to the State a requisition executed by an Authorized Officer of the Borrower.

(b) The State shall not be under any obligation to disburse any Loan proceeds to the Borrower under this Loan Agreement, unless:

(i) the Loan Closing shall have occurred on the date established therefor by the State;

(ii) there shall be moneys available in the State Fund from time to time to fund the Loan, as determined solely by the State;

(iii) Reserved;

(iv) the Borrower shall have funds available to pay for the greater of (A) that portion of the total Costs of the Project that is not eligible to be funded from the Loan, or (B) that portion of the total Costs of the Project that exceeds the actual amounts of the loan commitments made by the State, for the Loan; and

(v) no Event of Default nor any event that, with the passage of time or service of notice or both, would constitute an Event of Default shall have occurred and be continuing hereunder.

SECTION 3.03. Amounts Payable; Principal Forgiveness.

(a) The Borrower shall repay the Loan at zero-interest in its entirety on the Maturity Date, subject to modification by the State, in particular, without limitation, (i) as provided in paragraph (b) of this Section 3.03, and (ii) to make any adjustments to the amount of the Loan in accordance with the definition thereof. The obligations of the Borrower under the Borrower Note shall be deemed to be amounts payable under this Section 3.03. Each payment made to the State pursuant to the Borrower Note shall be deemed to be a credit against the corresponding obligation of the Borrower under this Section 3.03, and any such payment made to the State shall fulfill the Borrower's obligation to pay such amount hereunder and under the Borrower Note. Each payment made to the State pursuant to this Section 3.03 shall be applied to the principal of the Loan.

(b) Prior to the Completion Date, the Loan shall be repaid in accordance with paragraph (a) of this Section 3.03. On the Completion Date, the State shall forgive in its entirety the principal of the Loan, provide that the Completion Date shall be no later than the Maturity Date. Subsequent to such Completion Date, no payments in respect of the Loan shall be due hereunder or pursuant to the Borrower Note.

(c) In addition to the principal payments on the Loan required by subsection (a) of this Section 3.03, the Borrower shall pay a late charge for any such payment that is received by the Trustee later than the tenth (10th) day following its due date in an amount equal to the greater of twelve percent (12%) per annum or the Prime Rate plus one half of one percent per annum on such late payment from its due date to the date actually paid; provided, however, that such late charge payable on the Loan shall not be in excess of the maximum interest rate permitted by law.

SECTION 3.03a. Amounts on Deposit in Project Loan Account after Completion of Project Draws. If, on the Completion Date, any Loan amounts have not been disbursed by the Department, such amounts shall be applied by the State as a prepayment of the Borrower's Loan Repayments, prior to the application of principal forgiveness as set forth in Section 3.03(b) hereof.

SECTION 3.04. Unconditional Obligations. The direct, general obligation of the Borrower to make the Loan Repayments and all other payments required hereunder and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever while any Loan Repayments remain unpaid, for any reason, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or Environmental Infrastructure System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the State to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State, the Trustee or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights. The Borrower shall not be obligated to make any payments required to be made by any other Borrowers under separate Loan Agreements.

SECTION 3.05. Loan Agreement to Survive Loan.

The Borrower acknowledges that its duties, covenants, obligations and agreements set forth in Sections 3.06(a) and (b) hereof shall survive the payment in full or forgiveness of the principal of the Loan. The Borrower acknowledges that all of its duties, covenants, obligations and agreements relating to the completion, operation and maintenance of the Project, and all other obligations of the Borrower that do not relate to repayment of the Loan, including, without limitation, the provisions of in Sections 2.02(b)(i), 2.02(b)(ii), 2.02(d), 2.02(f), 2.02(g), 2.02(h), 2.02(i), 2.02(j), 2.02(m) and 2.02(n), and Articles IV, V and VI hereof shall survive the payment in full or forgiveness of the principal of the Loan, and shall continue in effect for the useful life of the Project.

SECTION 3.06. Disclaimer of Warranties and Indemnification.

The Borrower acknowledges and agrees that: (i) the State does not make any warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Environmental Infrastructure System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the State or its agents be liable or responsible for any incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the Environmental Infrastructure System or the Project or any item or products or services provided for in this Loan Agreement; and (iii) to the fullest extent permitted by law, the Borrower shall indemnify and hold the State harmless against, and the Borrower shall pay any and all, liability, loss, cost, damage, claim, judgment or expense of any and all kinds or nature and however arising and imposed by law, which the State may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Borrower, the Borrower's ownership of the Environmental Infrastructure System or the Project, or the acquisition, construction or installation of the Project.

(b) It is mutually agreed by the Borrower and the State that the State and its commissioners, officers, agents, servants or employees shall not be liable for, and shall be indemnified and saved harmless by the Borrower in any event from, any action performed under this Loan Agreement and any claim or suit of whatsoever nature, except in the event of loss or damage resulting from their own negligence or willful misconduct.

(c) In connection with its obligation to provide the insurance required under Section 2.02(i) hereof: (i) the Borrower shall include, or cause to be included, the State and its employees and officers as additional "named insureds" on (A) any certificate of liability insurance procured by the Borrower (or other similar document evidencing the liability insurance coverage procured by the Borrower) and (B) any certificate of liability insurance procured by any contractor or subcontractor for the Project, and from the later of the date of the Loan Closing or the date of the initiation of construction of the Project until the date the Borrower receives the written certificate of Project completion from the State, the Borrower shall maintain said liability insurance covering the State and said employees and officers in good standing; and (ii) the Borrower shall include the State as an additional "named insured" on any certificate of insurance providing against risk of direct physical loss, damage or destruction of the Environmental Infrastructure System, and during the Loan Term the Borrower shall maintain said insurance covering the State in good standing.

The Borrower shall provide the State with a copy of each of any such original, supplemental, amendatory or reissued certificates of insurance (or other similar documents evidencing the insurance coverage) required pursuant to this Section 3.06(c).

ARTICLE IV

ASSIGNMENT OF LOAN AGREEMENT AND BORROWER NOTE

SECTION 4.01 Assignment and Transfer by State. The Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement and the Borrower Note that the State deems to be necessary in connection with the environmental infrastructure loan program of the State under the Bond Act, including the issuance of additional State Bonds.

SECTION 4.02 Assignment by Borrower. Neither this Loan Agreement nor the Borrower Note may be assigned by the Borrower for any reason, unless the following conditions shall be satisfied: (i) the State shall have approved said assignment in writing; (ii) the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Borrower's duties, covenants, obligations and agreements under this Loan Agreement and, to the extent permitted under applicable

law, the Borrower Note; and (iii) immediately after such assignment, the assignee shall not be in default in the observance or performance of any duties, covenants, obligations or agreements of the Borrower under this Loan Agreement or the Borrower Note.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.01 Events of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

- (a) failure by the Borrower to achieve the Completion Date of the Project on or prior to the Maturity Date;
- (b) failure by the Borrower to pay, or cause to be paid, any late charges incurred hereunder or any portion thereof when due or to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in subsection (a) of this Section 5.01 or other than the obligations of the Borrower contained in Section 2.02(c)(ii) hereof, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the State, unless the State shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the State may not unreasonably withhold its consent to an extension of such time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected;
- (c) any representation made by or on behalf of the Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect;
- (d) a petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Borrower shall become insolvent or bankrupt or shall make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee, but not including a takeover by the Division of Local Government Services in the New Jersey Department of Community Affairs) of the Borrower or any of its property shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days; and
- (e) the Borrower shall generally fail to pay its debts as such debts become due.

SECTION 5.02. Notice of Default. The Borrower shall give the State prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01(d) or (e) hereof and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof.

SECTION 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the State shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the observance and performance of any duty, covenant, obligation or agreement of the Borrower hereunder.

In addition, if an Event of Default referred to in Section 5.01(a) hereof shall have occurred and be continuing, the State shall, to the extent allowed by applicable law, have the right to declare all Loan Repayments and all other amounts due hereunder (including, without limitation, payments under the Borrower Note) to be immediately due and payable, and upon notice to the Borrower the same shall become due and payable without further notice or demand.

SECTION 5.04. Attorneys’ Fees and Other Expenses. The Borrower shall on demand pay to the State the reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of in-house counsel and legal staff) incurred by the State in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of the

observation or performance of any other duties, covenants, obligations or agreements of the Borrower upon an Event of Default.

SECTION 5.05. Application of Moneys. Any moneys collected by the State pursuant to Section 5.03 hereof shall be applied (a) *first* to pay any attorneys' fees or other fees and expenses owed by the Borrower pursuant to Section 5.04 hereof, (b) *second*, to the extent available, to pay principal due and payable on the Loan, (c) *third*, to the extent available, to pay any other amounts due and payable hereunder, and (d) *fourth*, to the extent available, to pay principal on the Loan and other amounts payable hereunder as such amounts become due and payable.

SECTION 5.06 No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the State is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the State to exercise any remedy reserved to it in this Article V, it shall not be necessary to give any notice other than such notice as may be required in this Article V.

SECTION 5.07. Retention of State's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the State shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Borrower at law or in equity, as the State may, in its discretion, deem necessary to enforce the obligations of the Borrower to the State pursuant to Section 5.03 hereof.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified in Exhibit A-1 attached hereto and made a part hereof and to the State and the Trustee at the following addresses:

(a) State:

New Jersey Department of Environmental Protection
Municipal Finance and Construction Element
401 East State Street – 3rd Floor
Trenton, New Jersey 08625-0425
Attention: Assistant Director

New Jersey Department of the Treasury
Office of Public Finance
State Street Square – 5th Floor
Trenton, New Jersey 08625-0002
Attention: Director

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent by notice in writing given to the others.

SECTION 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the State and the Borrower and their respective successors and assigns.

SECTION 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the State and the Borrower.

SECTION 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6.06. Applicable Law and Regulations. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, including the Bond Act and the Regulations, which Regulations are, by this reference thereto, incorporated

SECTION 6.07. Consents and Approvals. Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the State.

SECTION 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 6.09. Further Assurances. The Borrower shall, at the request of the State, authorize, execute, attest, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement and the Borrower Note.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed, sealed and delivered as of the date first above written.

**THE STATE OF NEW JERSEY
ACTING BY AND THROUGH THE
NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

[SEAL]

By: _____
**Bob Martin
Commissioner
Department of Environmental
Protection**

ATTEST:

**Eugene J. Chebra, P.E.
Acting Assistant Director
Municipal Finance and Construction Element,
Department of Environmental Protection**

[NAME OF BORROWER]

[SEAL]

By: _____
Authorized Officer

ATTEST:

Authorized Officer

SCHEDULE A

Certain Additional Loan Agreement Provisions

EXHIBIT A-1

Description of Project and Environmental Infrastructure System

EXHIBIT A-2

Reserved

EXHIBIT B

Basis for Determination of Allowable Project Costs

EXHIBIT C

Estimated Disbursement Schedule

EXHIBIT D

Specimen Borrower Note

[ASSESSMENT] [SELF-LIQUIDATING] [QUALIFIED] BORROWER NOTE

FOR VALUE RECEIVED, the [NAME OF BORROWER], a [municipal corporation] [political subdivision] duly created and validly existing under the Constitution and laws of the State of New Jersey (the "Borrower"), hereby promises to pay to the order of the State of New Jersey (the "State") the principal amount of [_____] Dollars (\$[_____]), or such lesser amount as shall be determined in accordance with Section 3.01 of the Loan Agreement (as hereinafter defined), on [MATURITY DATE], as provided in the Loan Agreement, plus any other amounts due and owing under the Loan Agreement at the times and in the amounts as provided therein. The Borrower irrevocably pledges its full faith and credit and covenants to exercise its unlimited taxing powers for the punctual payment of the principal of, and all other amounts due under, this Borrower Note and the Loan Agreement according to their respective terms.

This Borrower Note is issued pursuant to ["Local Bond Law", P.L. 1960, c. 169, as amended (N.J.S.A. 40A:2-1 *et seq.*) [the "Municipal Qualified Bond Act", P.L. 1976, c. 38, as amended (N.J.S.A. 40A:3-1 *et seq.*)] other applicable law and the Loan Agreement dated as of _____, 201_ by and between the State, acting by and through the New Jersey Department of Environmental Protection, and the Borrower (the "Loan Agreement"). This Borrower Note is issued in consideration of the loan made under the Loan Agreement (the "Loan") to evidence the payment obligations of the Borrower set forth therein. [As a qualified bond issued under Title 40A of the New Jersey Statutes, this Borrower Note is entitled to the benefits of the provisions of the Municipal Qualified Bond Act, codified at N.J.S.A. 40A:3-1 *et seq.*] Payments under this Borrower Note shall, except as otherwise provided in the Loan Agreement, be made directly to the Trustee (as defined in the Loan Agreement) for the account of the State. This Borrower Note is subject to assignment or endorsement in accordance with the terms of the Loan Agreement. All of the terms, conditions and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as part of this Borrower Note.

Pursuant to the Loan Agreement, disbursements shall be made by the State to the Borrower upon receipt by the State of requisitions from the Borrower executed and delivered in accordance with the requirements set forth in Section 3.02 of the Loan Agreement.

This Borrower Note is entitled to the benefits and is subject to the conditions of the Loan Agreement. The obligations of the Borrower to make the payments required hereunder shall be absolute and unconditional, without any defense or right of set-off, counterclaim or recoupment by reason of any default by the State under the Loan Agreement or under any other agreement between the Borrower and

the State or out of any indebtedness or liability at any time owing to the Borrower by the State or for any other reason.

To the extent allowed by applicable law, this Borrower Note may be subject to acceleration under the terms and conditions, and in the amounts, provided in Section 5.03 of the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Borrower Note to be duly executed, sealed and delivered as February 28, 2012.

[SEAL] [NAME OF BORROWER]

ATTEST: By: _____
Mayor

Clerk By: _____
(Treasurer) (Chief Financial Officer)

EXHIBIT E

Opinions of Borrower’s Bond Counsel and General Counsel

[LETTERHEAD OF COUNSEL TO BORROWER]

[DATE OF LOAN CLOSING]

State of New Jersey
Department of Environmental Protection
401 East State Street
Trenton, New Jersey 08625

Ladies and Gentlemen:

We have acted as counsel to the [Name of Borrower], a [municipal corporation] [political subdivision] of the State of New Jersey (the “Borrower”), which has entered into a Loan Agreement (as hereinafter defined) with the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the “State”), and have acted as such in connection with the authorization, execution, attestation and delivery by the Borrower of its Loan Agreement and Borrower Note (as hereinafter defined). All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

In so acting, we have examined the Constitution and laws of the State of New Jersey, including, without limitation, the “Local Bond Law”, P.L. 1960, c. 169, as amended (N.J.S.A. 40A:2-1 *et seq.*)[, the “Municipal Qualified Bond Act”, P.L. 1976, c. 38, as amended (N.J.S.A. 40A:3-1 *et seq.*),] and the various ordinances and resolutions of the Borrower identified herein. We have also examined originals, or copies certified or otherwise identified to our satisfaction, of the following:

- (a) the Loan Agreement dated as of _____, 201_ (the “Loan Agreement”) by and between the State and the Borrower;
- (b) the proceedings of the governing body of the Borrower relating to the approval of the Loan Agreement and the execution, attestation and delivery thereof on behalf of the Borrower and the authorization of the undertaking and completion of the Project;
- (c) the Borrower Note dated _____, 201_ (the “Borrower Note”) issued by the Borrower to the State to evidence the Loan; and
- (d) the proceedings (together with the proceedings referred to in clause (b) above and Section 5 below, the “Proceedings”) of the governing body of the Borrower, including, without limitation, [a] bond

ordinance[s] of the Borrower finally adopted on [.....] [and [.....], respectively,] and [respectively] entitled “[TITLE OF ORDINANCE]” [and “[TITLE OF ORDINANCE]”], and [a] resolution[s] of the Borrower adopted pursuant to the provisions of N.J.S.A. [40A:2-26 (f) and] 40A:2-27 on [.....] [and [.....], respectively,] and [respectively] entitled “[TITLE OF RESOLUTION]” [and “[TITLE OF RESOLUTION]”] (collectively, the “Borrower Note Proceedings”), all relating to the authorization of the Borrower Note and the sale, execution, attestation and delivery thereof to the State (the Loan Agreement and the Borrower Note are referred to herein collectively as the “Loan Documents”).

We have also examined and relied upon originals, or copies certified or otherwise authenticated to our satisfaction, of such other records, documents, certificates and other instruments, and have made such investigation of law as in our judgment we have deemed necessary or appropriate, to enable us to render the opinions expressed below.

We are of the opinion that:

1. The Borrower is a [municipal corporation] [political subdivision] duly created and validly existing under and pursuant to the Constitution and statutes of the State of New Jersey, with the legal right to carry on the business of its Environmental Infrastructure System as currently being conducted and as proposed to be conducted.
2. The Borrower has full legal right and authority to execute, attest and deliver the Loan Documents, to sell the Borrower Note to the State, to observe and perform its duties, covenants, obligations and agreements under the Loan Documents and to undertake and complete the Project.
3. The acting officials of the Borrower who are contemporaneously herewith performing or have previously performed any action contemplated in the Loan Agreement are, and at the time any such action was performed were, the duly appointed or elected officials of the Borrower empowered by applicable New Jersey law and authorized by ordinance or resolution of the Borrower to perform such actions.
4. The Borrower has unconditionally and irrevocably pledged its full faith and credit and covenanted to exercise its unlimited taxing powers for the punctual payment of the principal of the Borrower Note and all other amounts due under the Borrower Note, which Borrower Note secures the Loan Repayments and all other amounts due under the Loan Documents according to their respective terms. [The Borrower Note is entitled to the benefits of the Municipal Qualified Bond Act.]
5. The proceedings of the Borrower's governing body (i) approving the Loan Documents, (ii) authorizing their execution, attestation and delivery on behalf of the Borrower, (iii) with respect to the Borrower Note only, authorizing its sale by the Borrower to the State, (iv) authorizing the Borrower to consummate the transactions contemplated by the Loan Documents, (v) authorizing the Borrower to undertake and complete the Project, and (vi) authorizing the execution and delivery of all other certificates, agreements, documents and instruments in connection with the execution, attestation and delivery of the Loan Documents, have each been duly and lawfully adopted and authorized in accordance with applicable law and applicable ordinances or resolutions of the Borrower, including, without limitation and where applicable, the Local Bond Law [and the Municipal Qualified Bond Act], the Borrower Note Proceedings and the other Proceedings, which Proceedings constitute all of the actions necessary to be taken by the Borrower to authorize its actions contemplated by clauses (i) through (vi) above and which Proceedings were duly approved and published, where necessary, in accordance with applicable New Jersey law at a meeting or meetings duly called pursuant to necessary public notice and held in accordance with applicable New Jersey law and at which quorums were present and acting throughout.
6. The Loan Documents have been duly authorized, executed, attested and delivered by the Authorized Officers of the Borrower and the Borrower Note has been duly sold by the Borrower to the State; and assuming in the case of the Loan Agreement that the State has the requisite power and authority to authorize, execute, attest and deliver, and has duly authorized, executed, attested and delivered, the Loan Agreement, the Loan Documents constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally. No opinion is rendered as to the availability of any particular remedy.
7. The authorization, execution, attestation and delivery of the Loan Documents by the Borrower and the sale of the Borrower Note to the State, the observation and performance by the Borrower of its duties, covenants, obligations and agreements thereunder, the consummation of the transactions contemplated therein, and the undertaking and completion of the Project do not and will not (i) result in

any breach of any of the terms, conditions or provisions of, or (ii) constitute a default under, any existing ordinance or resolution, outstanding debt or lease obligation, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument to which the Borrower is a party or by which the Borrower, its Environmental Infrastructure System or any of its properties or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, injunctions, judgments, decrees, rules, regulations or existing orders of any court or governmental or administrative agency, authority or person to which the Borrower, its Environmental Infrastructure System or its properties or operations is subject.

8. All approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Borrower in connection with the authorization, execution, attestation, delivery and performance of the Loan Documents, the sale of the Borrower Note and the undertaking and completion of the Project have been obtained or made.

9. There is no litigation or other proceeding pending or, to our knowledge, after due inquiry, threatened in any court or other tribunal of competent jurisdiction (either State or federal) (i) questioning the creation, organization or existence of the Borrower, (ii) questioning the validity, legality or enforceability of the Loan or the Loan Documents, (iii) questioning the undertaking or completion of the Project, (iv) otherwise challenging the Borrower's ability to consummate the transactions contemplated by the Loan or the Loan Documents, or (v) that, if adversely decided, would have a materially adverse impact on the financial condition of the Borrower.

10. The Borrower has no bonds, notes or other debt obligations outstanding that are superior or senior to the Borrower Note as to lien on, and source and security for payment thereof from, the general tax revenues of the Borrower.

We hereby authorize McCarter & English, LLP, acting as bond counsel to the State in connection with the Loan, and the Attorney General of the State of New Jersey, acting as general counsel to the State in connection with the Loan, to rely on this opinion as if we had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT F

Reserved

EXHIBIT G

**General Administrative Requirements for the
State Environmental Infrastructure Financing Program**

Councilman Wittmann questioned the following Resolution.

A motion was made by Council Member Kubiell, seconded by Council Member Carr, and carried with Council Members Carr, Kubiell, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution.

**RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF
NOT EXCEEDING \$1,900,000 STORMWATER IMPROVEMENT
BONDS, SERIES 2012, OF THE TOWNSHIP OF TOMS RIVER, IN THE
COUNTY OF OCEAN, NEW JERSEY, AND PROVIDING FOR THEIR
SALE TO THE STATE OF NEW JERSEY PURSUANT TO THE SFY 2012**

**NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST
FINANCING PROGRAM.**

WHEREAS, the Township of Toms River (the “Local Unit”), in the County of Ocean, New Jersey, has determined that there exists a need within the Local Unit to finance (i) stormwater management improvements at the existing stormwater detention basin known as the Adams Avenue Basin and (ii) all work and materials necessary therefore or incidental thereto (the “Project”) as defined in that certain Loan Agreement (the “Fund Loan Agreement”) to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the “State”), all pursuant to the SFY 2012 New Jersey Environmental Infrastructure Trust Financing Program (the “Program”) of the New Jersey Environmental Infrastructure Trust (the “Trust”);

WHEREAS, the Local Unit has determined to finance the Project with the proceeds of a loan to be made by the State (the “Loan”) pursuant to the Fund Loan Agreement;

WHEREAS, to evidence the Loan, the State requires the Local Unit to authorize, execute, attest and deliver the Local Unit's Stormwater Improvement Bonds, Series 2012, to the State in an aggregate principal amount not to exceed \$1,900,000 (the “Fund Loan Bonds”) pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), other applicable law and the Fund Loan Agreement; and

WHEREAS, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the Fund Loan Bond to the State, without any public offering.

NOW, THEREFORE, BE IT RESOLVED by a 2/3 vote of the full membership of the governing body of the Local Unit as follows:

Section 1. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Local Unit hereby sells and awards its Fund Loan Bond in an aggregate principal amount not to exceed \$1,900,000 to the State in accordance with the provisions hereof. The Fund Loan Bonds have been referred to and are described in bond ordinance No. 4337-11 of the Local Unit, which bond ordinance is entitled “AN ORDINANCE OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN, NEW JERSEY, PROVIDING FOR VARIOUS WASTEWATER IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF TOMS RIVER AND APPROPRIATING \$1,900,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$1,900,000 IN GENERAL IMPROVEMENT BONDS OR NOTES OF THE TOWNSHIP OF TOMS RIVER TO FINANCE THE SAME” and was finally adopted by the Local Unit at a meeting duly called and held on November 29, 2011, at which time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 2. The Chief Financial Officer of the Local Unit (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the Trust and the State under the Fund Loan Agreement and the terms and conditions hereof, the following items with respect to the Fund Loan Bonds:

- (a) The aggregate principal amount of the Fund Loan Bonds to be issued;
- (b) The maturity and annual principal installments of the Fund Loan Bonds, which maturity shall not exceed twenty (20) years;
- (c) The date of the Fund Loan Bonds;
- (d) The interest rates of the Fund Loan Bonds;
- (e) The purchase price for the Fund Loan Bonds; and
- (f) The terms and conditions under which the Fund Loan Bonds shall be subject to redemption prior to their stated maturities.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Fund Loan Bonds by the parties authorized under Section 4(c) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Fund Loan Bonds shall be as follows:

- (a) The Fund Loan Bond shall be issued in a single denomination and shall be numbered R-1;
- (b) The Fund Loan Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Fund Loan Bonds shall be executed by the manual or facsimile signatures of the Mayor or the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. The Fund Loan Bond shall be substantially in the form set forth in the Fund Loan Agreement.

Section 6. The law firm of GluckWalrath LLP is hereby authorized to arrange for the printing of the Fund Loan Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the Trust and the State for the Program, to arrange for same. The Local Unit auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Fund Loan Bonds. The Mayor, the Chief Financial Officer and the Local Unit Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information.

Section 7. The terms of the Fund Loan Bonds authorized to be issued in accordance with Section 2 hereof shall be set forth in an Award Certificate of the Chief Financial Officer.

Section 8. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Fund Loan Bonds, and are further authorized to deliver same to the State upon delivery of the Fund Loan Bonds and the receipt of payment therefor in accordance with the Fund Loan Agreement.

Section 9. This resolution shall take effect immediately.

Section 10. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to GluckWalrath LLP, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the Trust.

The foregoing is a true copy of a resolution adopted by the Township Council of the Township of Toms River, in the County of Ocean, New Jersey on February 28, 2012.

Township Clerk

Township Clerk Mutter indicated there will be a public hearing on March 27, 2012 at 6:00 P.M., as to the following item.

Councilman Wittmann questioned the following item.

A motion was made by Council Member Sevastakis, seconded by Council Member Wittmann, and carried with Council Members Carr, Kubiel, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following item for introduction:

Toms River Business Development Corporation

2012 Operating Budget
 Toms River Township Public Hearing
 Tuesday, March 27, 2012

Revenue

- . Total Projected Revenue \$358,500.
- \$235,000 to be raised from taxes

Taxable S01 Ratables : \$171,600,300
 Taxable S02 Ratables: \$ 59,247,000
 Proposed tax rates:
 S01 = 0.001314 (less than the 10% allowable)
 S02 – 0.000400 (less than the 3% allowable)
 - \$121,000 from special events (vendor & attendee fees)
 - \$2,500 from grants

Expenses

- . Total Projected Expenses 4358,500

Highlighted Individual Committee Expenditures:

- . Land Use..... \$15,000
- . Economic Restructuring.....\$20,000
- . Promotions.....\$72,300
- . Cultural.....\$10,000
- . Design.....\$12,500

2012 v. 2011

- . Notable emphasis changes from 2011 Council-Approved Budget:
- Incorporating special event management in-house (i.e. not renewing vendor contract)
- Hiring full-time Executive Director
- More investment in TRBID Economic Restructuring Committee Budget (e.g. **Co-operative marketing of available lease/sale retail & office space; Production of Business Recruitment/Retention piece...**)
- Heightened concentration on creation of the Redevelopment Zone (TRBID Land Use Committee)
- Introduction of a **New Downtown Toms River Gift Card Program** – Keeping business local!

SPECIAL DISTRICT TAX RATE CERTIFICATION

Township of Toms River 1508
 Taxing District

2012
 Tax Year

	1	2	3	4	5	6
DISTRICT NO.	AMOUNT OF SPECIAL DISTRICT BUDGET TO BE RAISED BY TAXATION	ASSESSED VALUE OF REAL PROPERTY	TAXABLE VALUE OF TANGIBLE PERSONAL PROPERTY	TOTAL TAXABLE VALUE (COL. 2+ COL 3)	SPECIAL DISTRICT TAX RATE PER \$100 ASSESSED VALUE COL 1/(COL 4*100)	SPECIAL DISTRICT TAX RATE PER \$100 ASSESSED VALUE ROUNDED UP TO MILS
1	\$211,500.00	\$171,600,300		\$171,600,300	\$0.12325153	\$0.124
2	23,500.00	59,247,000		59,247,000	0.03966446	0.040
3					#div/01	#div/01
4					#div/01	#div/01

• Net taxable value as shown on Special Taxing District Summary Report.

I, Richard T. Kenny, CTA, Municipal Assessor of Township of Toms River (1508), do hereby certify that Column 6 represents the special district tax rates for the tax year 2012.

February 23, 2012

INSTRUCTIONS FOR COMPLETING CALCULATION OF FIRE DISTRICT TAX RATE

In the gray cells, enter

Your Name	Richard T. Kenny CTA
District Name	Township of Toms River (1508)
Current Tax Year	2012
Special District 1	
Approved Budget	\$ 211,500.00
Ratables – Net Valuation	\$171,000,300
Pub Util-Net Valuation	
Special District 2	
Approved Budget	\$ 23,500.00
Ratables – Net Valuation	\$ 59,247,000
Pub Util-Net Valuation	
Special District 3	
Approved Budget	
Ratables – Net Valuation	
Pub Util-Net Valuation	
Special District 4	
Approved Budget	
Ratables – Net Valuation	
Pub Util-Net Valuation	

When completed print calculation worksheet.

Councilman Wittmann questioned the following Resolution.

Township Administrator Shives explained the following Resolution.

A motion was made by Council Member Wittmann, seconded by Council Member Manforti, and carried with Council Members Carr, Kubiell, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution.

**RESOLUTION PROVIDING FOR EMERGENCY TEMPORARY APPROPRIATIONS
February 28, 2012**

WHEREAS, the Township Council of the Township of Toms River passed a 2012 Temporary Budget Resolution on January 3, 2012; and,

WHEREAS, N. J. S. A. 40A:4-20 authorizes the Township Council by resolution adopted by a two-thirds vote of the full membership thereof to make emergency temporary appropriations;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean and State of New Jersey, that the attached list of 2012 emergency temporary appropriations are hereby approved.

BE IT FURTHER RESOLVED that certified copies of this Resolution be provided by the Office of the Township Clerk to each of the following:

- a) Director, Division of Local Government Services
- b) Administrator
- c) Township Attorney

- d) Township Auditor
- e) Chief Financial Officer
- f) Affected Department Heads

Approved as to Content:

	2/28/2012
Description	Temp Bdgt
ADMIN SALARY & WAGES	\$92,387.50
ADMIN. DEPT EXPENSES	\$0.00
Public Defender O/E	\$23,100.00
Prosecutor - Other Expense	\$40,950.00
ADMINISTRATION O/E	\$4,325.01
PURCHASINGSALARY & WAGES	\$58,333.75
PURCHASING O/E	\$6,281.11
VETERANS COMMISSION	\$315.00
Off. Of MAYOR SALARIES & WAGES	\$44,017.50
OFFICE OF THE MAYOR O/E	\$8,359.76
COUNCIL OFF. SALARIES & WAGES	\$42,337.50
OFFICE OF THE COUNCIL-O/E	\$3,080.00
IT SALARY & WAGES	\$63,262.50
IT DEPT O/E	\$70,525.00
EMG MGMT SALARY & WAGES	\$62,271.25
EMERGENCY MGMT O/E	\$4,984.88
EMERGENCY MGMT GRANT	\$0.00
Cty of Ocean- 966 Reimb Program	\$0.00
MASS TRANSPORTATION	\$5,000.00
Shared Svcs-Brick-Construction Svcs	\$250,000.00
CONST/INSPECT SALARY & WAGES	\$400,525.00
CONS & INSP SVCS EXPENSES	\$3,850.00
CONSTRUCTION & INSPECTION SVCS	\$32,480.00
CODE ENFORCEMENT SALARIES	\$110,050.00
Code Enforcement Other Expense	\$661.51
HSG/PROP MAINT SALARY & WAGES	\$0.26
HSG/PROP MAINTENANCE O/E	\$1,750.00
DEMOL SALARY & WAGES	\$105.00
DEMOLITION OF BLDS O/E	\$3,675.00
PAYMENT OF BOND PRINCIPAL	\$5,000,000.00
INTEREST ON BONDS	\$1,610,000.00
INTEREST ON NOTES	\$390,000.00
Payment of BANs and Cap Notes	\$131,250.00
FINANCE SALARY & WAGES	\$185,456.25
ANNUAL AUDIT EXPENSE	\$60,000.00
DIR OF FINANCE O/E	\$12,950.00
DIV OF REV COLL SALARY & WAGES	\$146,431.25
DIV OF REVENUE COLLECT-O/E	\$28,000.03
INSURANCE	\$0.00
EMP GROUP INSURANCE	\$6,711,430.23
OTHER INSURANCE	\$1,190,000.00
WORKERS COMPENSATION INSURANCE	\$2,083,185.00
HEALTH BENEFIT WAIVER	\$0.00
UNEMPLOYMENT INSURANCE	\$50,000.00
USE OF SURPLUS-LFB-EMPLOYEE GROUP HLTH	\$0.00
	\$0.00
FIRST AID SQUADS	\$150,000.00
CONDO SERVICES ACT	\$200,000.00
SOLID WASTE COLL-APARTMENT CMP	\$100,000.00
CONTINGENT FUND	\$1,000.00
	\$0.00
CULTURAL AFFAIRS O/E	\$9,703.75
BEACHFRONT SALARY & WAGES	\$148,050.00
BEACHFRONT O/E	\$62,923.13
PRKS/PLYGRDS SALARY & WAGES	\$47,012.50
PARKS & PLAYGROUNDS	\$21,192.50

RECREATION SALARIES & WAGES	\$103,543.75
RECREATION O/E	\$6,268.13
PERSONNEL SALARIES & WAGES	\$86,900.00
PERSONNEL O/E	\$12,285.00
MUNICIPAL ALLIANCE GRANT	\$48,000.00
MUN ALLIANCE GRT-MATCH	\$12,000.00
MUNICIPAL ALLIANCE SALARIES	\$3,412.50
HEALTH DEPT SALARY & WAGES	\$1,156.25
HEALTH DEPT O/E	\$147,000.00
UHC HEROES GRANT	\$0.00
YOUTH ADVS SALARY & WAGES	\$69,975.00
YOUTH ADV.OTHER EXP.	\$3,813.25
SENIOR CENTER GRANTS	\$0.00
SENIOR CENTER S & W	\$76,160.00
SEN CTR MTH - SALARIES	\$181,792.00
OCN CTY SEN CTR-CAREGIVERS	\$58,940.00
	\$0.00
SEN CTR MTH - FRINGE	\$92,348.00
SEN CTR MTH - OTHER EXPENSE	\$81,000.00
SEN CTR-PARTICIPANT O/E	\$2,700.00
OC SEN CTR GRT-CAREGIVERS O/E	\$43,413.00
OC SNR CTR CAREGIVER PARTCPTN	\$400.00
	\$0.00
MUN CLERK SALARIES & WAGES	\$166,721.25
MUNICIPAL CLERK O/E	\$26,032.01
ELECTIONS SALARIES	\$2,231.25
ELECTIONS O/E	\$5,381.25
REGISTRAR SALARIES	\$38,953.75
REGISTRAR O/E	\$3,150.00
RENT LVL BD SALARIES	\$3,441.25
RENT LEVELING BD O/E	\$1,715.00
Labor Counsel	\$6,300.00
LEGAL SERVICES O/E	\$59,339.00
LAW DEPT SALARIES	\$163,442.50
LAW DEPARTMENT O/E	\$10,115.00
ENGINEERING-SALARIES	\$183,525.00
ENGINEERING DEPT EXP	\$2,625.00
ENGINEERING O/E	\$11,550.00
Mand. Storm Water Management Salaries	\$70,000.00
Mand. Storm Water Mgmt-Other Expenses	\$30,187.50
PLANNING BOARD SALARIES	\$23,367.50
PLANNING BOARD O/E	\$17,325.00
SALARIES & WAGES	\$36,842.50
BOARD OF ADJUSTMENT O/E	\$16,364.25
DIV ECONOMIC DVLPMNT SALARIES	\$32,082.50
DIV ECONOMIC DEVELOPMENT O/E	\$5,600.00
LAND USE REG SALARIES	\$43,705.00
LAND USE REGULATION O/E	\$94.50
SALARY & WAGES	\$257,225.00
MUNICIPAL COURT O/E	\$13,034.00
CSO - SALARIES & WAGES	\$392,025.00
CSO - O/E	\$51,712.52
Shared Svcs-Fire Commissioners-Spillman	\$20,000.00
SALARY & WAGES	\$6,925,750.01
POLICE DEPT O/E	\$199,955.00
POLICE GRANTS	\$140,000.00
ENV HLTH SVCS SALARIES	\$303,071.25
ENVIRONMENTAL HLTH SVCS O/E	\$109,567.15
TOMS RIVER BID-BLDGS & GRDS SALARIES	\$6,562.50
PUBLIC LANDS SALARIES	\$181,300.00
PUBLIC LANDS O/E	\$14,497.03
CAPITAL	
CAPITAL IMPROVEMENT	\$400,000.00
PURCHASE POLICE CARS	\$135,000.00
FAIR SHARE HOUSING	\$26,250.00
LANDFILL REMEDIATION	\$62,812.50
CAPITAL PRJ-COMPUTER EQUIP	\$18,125.00
DCRP	\$1,500.00
SOCIAL SECURITY SYST	\$1,626,875.00

CONSENT AGENDA

Council President Hill announced the consideration of the Consent Agenda and noted if anyone had a desire to discuss an individual item it would be removed from the Consent Agenda.

A motion was made by Council Member Kubiell, seconded by Council Member Manforti, and carried with Council Members Carr, Kubiell, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve all the following items listed on the Consent Agenda, except items **F, G, and J**, which were done separately.

RESOLUTION

FEBRUARY 28, 2012

WHEREAS, an overpayment of taxes has appeared on the following properties for the year indicated, and in the amount indicated,

WHEREAS, the party or parties have shown proof of payment and/or have executed an affidavit for same, and;

WHEREAS, the party or parties have delivered to the municipality and executed voucher for same.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

- 1. A refund shall be processed to party or parties to wit as follows:*

<i>NAME</i>	<i>BLOCK</i>	<i>LOT</i>	<i>QUAL.YEAR</i>	<i>AMOUNT</i>
<i>ARCHER & GREINER</i>	<i>1012</i>	<i>1</i>	<i>2011/4</i>	<i>3697.18</i>
<i>CORELOGIC</i>	<i>172</i>	<i>18.06</i>	<i>2011/3</i>	<i>2704.11</i>
<i>COURTNEY, JAMES & CARRIE</i>	<i>277</i>	<i>12</i>	<i>2012/1</i>	<i>1736.28</i>
<i>CURCIO JOANNA</i>	<i>171.10</i>	<i>17</i>	<i>2011/4</i>	<i>1400.43</i>
<i>FIESTA PLAZA ASSOC., LLC.</i>	<i>788</i>	<i>36</i>	<i>2011/4</i>	<i>6521.53</i>
<i>GIANNUARIO, PHILLIP</i>				
<i>SEE SCHEDULE A.</i>				<i>15249.58</i>
<i>HIERING, ALEXIS</i>	<i>234.13</i>	<i>34.02</i>	<i>2011/4</i>	<i>1236.82</i>
<i>KIZIMA, LOISE &LEOTTA@GARIPPA</i>	<i>1109.14</i>	<i>2</i>	<i>2011/4</i>	<i>550.55</i>
<i>OCEAN BEACH @HALSEY FINK</i>	<i>1111</i>	<i>9</i>	<i>2010/4</i>	<i>2875.77</i>
<i>ROLLAR, THOMAS R. JR.</i>	<i>931.03</i>	<i>8</i>	<i>2010/4</i>	<i>887.67</i>
<i>SP ACQUISITION @GLEN D.</i>	<i>608</i>	<i>2.02</i>	<i>2011/4</i>	<i>97726.00</i>
<i>SCHWARSCHILD</i>				
<i>SUBTOTAL:</i>				<i>134585.92</i>

- 2. Township Clerk shall send a copy of this resolution to Township Auditor, Township Chief Financial Officer and Tax Collector.*

approved as to content:

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN, AND STATE OF NEW JERSEY, REJECTING BIDS RECEIVED, AS NON-RESPONSIVE, TO RETROFIT THREE EXISTING RECYCLING TRUCKS WITH BOX SPREADERS AND SNOW PLOWS FOR SNOW REMOVAL, FOR THE DEPARTMENT OF PUBLIC WORKS, AND AUTHORIZING REVISION OF THE SPECIFICATIONS AND SOLICITATION OF NEW BIDS FOR THIS PROJECT

FEBRUARY 28, 2012

WHEREAS, bids were invited on November 11, 2011 to Retrofit Three Existing Recycling Trucks with Box Spreaders and Snow Plows for Snow Removal, for the Department of Public Works; and

WHEREAS, the Township Council adopted a resolution on December 13, 2011 rejecting bids received as being excessive in cost; and

WHEREAS, rebids were received on January 24, 2012, as follows:

Bristol Donald Co., Inc.
50 Roanoke Avenue
Newark, NJ 07105

Retro Fit Existing Sanitation Trucks: \$44,522.00 ea. x 3 = Total - \$133,566.00

Trius Inc.
5049 Industrial road
Farmingdale, N.J. 07727

Retro Fit Existing Sanitation Trucks: \$49,380.00 ea. x 3 = Total - \$148,140.00

Intercon Truck Equipment Inc.
591 Meetinghouse Road
Boothwyn, PA 19061

Retro Fit Existing Sanitation Trucks: \$46,543.00 ea. x 3 = Total - \$139,629.00

WHEREAS, the low bidder, Bristol Donald Co., Inc. took exception to the liquidated damages provision and the 20 cubic-yard container capacity. Intercon Truck Equipment also took exception to the 20 cubic-yard capacity container capacity, and did not acknowledge the exception in the appropriate section of the bid. Trius Inc. took exception to using the existing hydraulics, offering instead to replace existing PTO and pump and include a hydraulic reservoir along with plow controls and spreader dual-flow control with appropriate hydraulic lines and the 20 cubic-yard container capacity; and

WHEREAS, the above bids have been reviewed by the Township Attorney, Purchasing Division and Public Works Department, and it has been recommended that the bids be rejected, as non-responsive;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby rejects the above-mentioned bids as non-responsive.
2. It hereby authorizes the revision of the specifications for this project.
3. It hereby authorizes the appropriate Township Official(s) to solicit new bids, pursuant to Local Public Contracts Law, N.J.S.A. 40A:11-13.2(d).
4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

a) Purchasing Division

- b) Chief Financial Officer
- c) Township Attorney
- d) Public Works Department
- e) Aforementioned bidders

**RESOLUTION ACCEPTING PERFORMANCE GUARANTEES FOR MAJOR SITE PLAN
KNOWN AS LESTER GLENN AUTO GROUP, BLOCK 504, LOT 5 (1501 ROUTE 37 WEST)**

FEBRUARY 28, 2012

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan entitled Lester Glenn Auto Group, Block 504, Lot 5 (1501 Route 37 West).

WHEREAS, Performance Bonds have been posted as follows:

- 1) Check in the amount of \$20,000.00 which represents the entire performance guarantee amount.
- 2) Check in the amount of \$1000.00 which represents the required escrow amount for inspection fees.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1) The bonds set forth in the preamble hereto are hereby approved.
- 2) Said bond approval is conditioned upon compliance by Lester Glenn Auto Group, its successors and assignees, with all terms set forth in the preamble hereof and all requirements of the Land Use Ordinance of the Township of Toms River.
- 3) Township Clerk shall send a certified copy hereof to each of the following:
 - a. Engineer
 - b. Finance Department
 - c. Township Attorney
 - d. Lester Glenn Auto Group
386 Route 37 East
Toms River, N.J. 08753

**RESOLUTION RETURNING WATER LINE CONNECTION FEE WITH RESPECT TO TOMS
RIVER CRESCENT, BLOCK 120, LOT 2
(257 ROUTE 70 WEST)**

FEBRUARY 28, 2012

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan entitled TOMS River Crescent, Block 120, Lot 2 (257 Route 70 West) that maintenance bonds were previously released by way of Resolution dated February 14, 2012.

WHEREAS, the Township Engineer has recommended that the remaining balance on account for a water line connection fee in the amount of \$1000.00 currently on deposit in account number X-19- -601-703 be released due to the fact that the homeowner does not wish to be connected to the water system.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1) Water line fee currently on deposit in account number X-19- -601-703 is hereby released.
- 2) Township Clerk shall send a certified copy hereof to each of the following:
 - a. Engineer
 - b. Finance Department
 - c. Township Attorney
 - d. Maridan Enterprises, Inc.
952 Lakewood Road
Toms River, N.J. 08753

**RESOLUTION ACCEPTING PERFORMANCE GUARANTEES FOR MAJOR SITE PLAN
KNOWN AS MARIDAN ENTERPRISES, INC. BLOCK 171, LOTS 16, 29, 58.01
(COX CRO ROAD AND LAKEWOOD ROAD)**

FEBRUARY 28, 2012

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Major Site Plan entitled Maridan Enterprises, Inc., Block 171, Lots 16, 29 and 58.01 (Cox Cro Road and Lakewood Road).

WHEREAS, Performance Bonds have been posted as follows:

- 1) Check in the amount of \$33,500.00 which represents the 10% cash portion of the performance guarantee amount.
- 2) Check in the amount of \$8375.00 which represents the initial required escrow amount for inspection fees.
- 3) Surety Bond in the amount of \$301,500.00 which represents the 90% portion of the performance guarantee amount.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1) The bonds set forth in the preamble hereto are hereby approved.
- 2) Said bond approval is conditioned upon compliance by Maridan Enterprises, Inc., its successors and assignees, with all terms set forth in the preamble hereof and all requirements of the Land Use Ordinance of the Township of Toms River.
- 3) Township Clerk shall send a certified copy hereof to each of the following:
 - e. Engineer
 - f. Finance Department
 - g. Township Attorney
 - h. Maridan Enterprises, Inc.
952 Lakewood Road
Toms River, N.J. 08753

**RESOLUTION AUTHORIZING THE APPROPRIATE TOWNSHIP OFFICIALS TO ENTER INTO A TWO YEAR
AGREEMENT WITH OCEAN COUNTY RECYCLING CENTER, INC., IN RESPONSE TO REQUEST FOR
PROPOSALS, FOR THE RECYCLING AND DISPOSAL OF ASPHALT, CONCRETE AND TREE STUMPS
RECEIVED AT THE MUNICIPAL RECYCLING CENTER, IN THE MAXIMUM
AMOUNT OF \$60,000.00 OVER TWO YEARS**

WHEREAS, the Township of Toms River is in need of recycling and disposal services in order to dispose of concrete, asphalt and tree stumps at the municipal recycling center in need of disposal; and

WHEREAS, certain recycling laws have been put into effect within the State of New Jersey, which have been imposed on all municipalities by the Department of Environmental Protection for the disposal of concrete, asphalt and tree stump products; and

WHEREAS, as "recycling services" are exempt from competitive bidding pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(s), requests for proposals were solicited on January 31, 2012 for Recycling Services for the Recycling and Disposal of Asphalt, Concrete and Tree Stumps received at the Municipal Recycling Center, pursuant to N.J.S.A. 19:44A-20.5 et seq., and the Township Administrative Code, Chapter 84.1 et. seq.; and

WHEREAS, four (4) proposals were received, as follows:

Reliable Wood Products, LLC
 1 Caven Point Avenue
 Jersey City, NJ 07305
 Stumps to: 3220 Shafto Road
 Tinton Falls, NJ

Unit Price Per Ton for Asphalt:	No Bid
Unit Price Per Ton for Concrete:	No Bid
Unit Price Per Ton for Tree Stumps: Recycling of Central Jersey, LLC 577 South Hope Chapel Road Jackson, NJ 08527	\$32.00
Unit Price Per Ton for Asphalt:	\$ 1.00
Unit Price Per Ton for Concrete:	\$ 6.55
Unit Price Per Ton for Tree Stumps:\$24.55

Ocean County Recycling Center, Inc.
 1497 Lakewood Road
 Toms River, NJ 08755

Unit Price Per Ton for Asphalt:	\$ 4.00
Unit Price Per Ton for Concrete:	\$ 4.00
Unit Price Per Ton for Tree Stumps:	\$28.00

Pure Soil Technologies, Inc.
 P. O. Box 43
 Farmingdale, NJ 07727 ...

Unit Price Per Ton for Asphalt:	\$7.00
Unit Price Per Ton for Concrete:	\$7.00
Unit Price Per Ton for Tree Stumps:	No Bid

WHEREAS, based upon a memorandum received from Louis Amoruso, Director, Department of Public Works, recommendation has been made to award this contract to Ocean County Recycling Center, Inc., at the unit prices bid, up to a maximum amount of \$60,000.00 over the term of a twenty-four (24) month agreement; and

WHEREAS, this recommendation has been made upon review of the four (4) RFP's submitted, as the Township of Toms River has had a good working relationship with this company for over fifteen (15) years. The close proximity of Ocean County Recycling Center, Inc. to the Township's municipal recycling center shall result in cost savings for the municipality in labor, time and equipment, when reviewed in comparison to the other respondents RFP's; and

WHEREAS, Ocean County Recycling Center, Inc. has the necessary means for the removal and recycling services for the disposal of concrete, asphalt and tree stump products;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes the appropriate Township Official(s) of the Township of Toms River to enter into an agreement with Ocean County Recycling Center, Inc., for the removal and recycling services to dispose of concrete, asphalt and tree stumps, at the municipal recycling center in need of disposal, to be paid at the rates listed above, for a total maximum amount of \$60,000.00 over the two year contract. Funds in the amount of \$30,000.00, through December 21, 2012, are available in Account No. 2-01- -U24-412 - \$8,000.00 with the balance of \$22,000.00 contingent upon adoption of the CY2012 budget. The balance of the funds in the amount of \$30,000.00 is contingent upon approval and adoption of the CY2013 Municipal Budget in a lawful manner by the Township of Toms River. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. The contract term is for twenty-four (24) months, effective upon award of contract by resolution of the Township Council through December 31, 2013. The award of this contract is subject to all the terms and conditions of the Request for Proposal.

2. This contract may be cancelled by either party, upon thirty (30) days written notice.

3. This contract is awarded without competitive bidding as a "recycling service" in accordance with N.J.S.A. 40A:11-5 (1)(s) of the Local Public Contracts Law of New Jersey.

4. A notice of this action shall be advertised once by the Clerk in the Asbury Park Press.

5. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Township Attorney
- b) Public Works Dept.
- c) Chief Financial Officer
- d) Purchasing Division
- e) Ocean County Recycling Center, Inc.
1497 Lakewood Road
Toms River, N.J. 08755

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract with Ocean County Recycling Center, Inc., for concrete, asphalt and tree stump recycling services, in the total maximum amount of \$60,000.00 over two (2) years. Funds in the amount of \$30,000.00, through December 31, 2012, are available in Account No. 2-01- -U24-412 - \$8,000.00 with the balance of \$22,000.00 contingent upon adoption of the CY2012 municipal budget. The balance of the funds in the amount of \$30,000.00 are contingent upon the approval and adoption of the CY2013 Municipal Budget in a lawful manner by the Township of Toms River.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO
CHIEF FINANCIAL OFFICER

Dated: February 28, 2012

AMENDMENT TO RESOLUTION DATED DECEMBER 13, 2011, AUTHORIZING THE HIRING OF ONE (1) ADDITIONAL ICE SKATING INSTRUCTOR, JACKIE MARTIN, FOR THE WINDING RIVER SKATING CENTER FOR CALENDAR YEAR 2012

FEBRUARY 28, 2012

WHEREAS, the Township of Toms River sponsors ice skating instruction at the Winding River Skating Center; and

WHEREAS, resolution of the Township Council dated December 13, 2011 authorized the extraordinary unspecifiable services of six (6) ice skating instructors for Calendar Year 2012, in an amount not to exceed \$5,000.00, with funds being available in Account No. 2-31- -147-534 for this purpose; and

WHEREAS, it is necessary to amend the resolution of December 13, 2011, in order to add one (1) additional ice skating instructor, Jackie Martin, at the rate of \$12.00 per student, per week, per semester, with no additional monies being required in this resolution; and

WHEREAS, the funds which were encumbered by resolution dated December 13, 2011 (\$5,000.00) shall be used for the additional ice skating instructor, Jackie Martin; and

WHEREAS, the certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) permits the awarding of contracts for extraordinary unspecifiable services without competitive bids;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes an amendment to the resolution dated December 13, 2011, in order to add one (1) additional ice skating instructor, at the rate of \$12.00 per student, per week, per semester, with no additional monies being required by this resolution, as follows:

- a) Jackie Martin
115 Schooner Avenue
Barnegat, N.J. 08005

2. The funds for the ice skating instructors which were encumbered by resolution of December 13, 2011, shall be used for payment of the fees for the additional ice skating instructor, Jackie Martin.

3. Fully executed purchase orders shall serve as the necessary contract documentation between the parties hereto. The aforesaid payments are authorized pursuant to Sec. 6A-8 of the "Code of the Township of Toms River, New Jersey".

4. This contract is awarded without competitive bidding as "extraordinary unspecifiable services" in accordance with 40A:11-5(1)(a) of the Local Public Contracts Law of New Jersey.

5. A notice of this action shall be advertised once by the Clerk in the Asbury Park Press.

6. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Chief Financial Officer
- b) Township Attorney
- c) Purchasing Division
- d) Recreation
- e) Craig Lyons, Ice Rink Manager
- f) Jackie Martin
115 Schooner Avenue
Barnegat, N.J. 08005

AMENDED CERTIFICATION

THIS IS TO CERTIFY that the funds for the extraordinary unspecifiable services contract with Jackie Martin, for ice skating instructions for calendar year 2012, at the rate of \$12.00 per student, per week, per semester, are available in Account No. 2-31- -147-534. No additional funds are required by this resolution. The resolution of December 13, 2011 which encumbered \$5,000.00 for ice skating instructors, shall be used for the fees charged per this resolution.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Township Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO
CHIEF FINANCIAL OFFICER

Dated: February 28, 2012

RESOLUTION AUTHORIZING THE ISSUANCE OF DUPLICATE TAX SALE CERTIFICATES

WHEREAS, Robert H. Barden Jr., 1120 Biondo Drive Toms River, N.J., is the holder of the tax sale certificates listed below; and;

WHEREAS, said lien holder lost its original Tax Sale Certificates; and

WHEREAS, duplicate tax sale certificates are requested for a fee of \$100.00 each; now therefore;

BE IT RESOLVED, that the Tax Collector is hereby authorized, pursuant to NJSA 54:5-52.1 to prepare and issue Duplicate Tax Sale Certificates to the outside lien holders as follows:

Tax Sale Certificate 09670 Block/Lot 750/26

Dated March 28, 2012,

The above has been reviewed and approved as to form.

KATHLEEN M. ADAMS, CTC.

RESOLUTION

February 28, 2012

WHEREAS, the following application for masseuse and massage business licenses have been made under the Provisions of Ordinance numbers 1606 and 1682:

**MESSAGE BUSINESS
#01-12**

**All Stars Day Spa
1757 Adams Ave
Toms River, NJ 08753**

**MESSAGE MASSEUSE
#02-12**

**Marina Kotzareva
All Stars Day Spa**

**MESSAGE) BUSINESS
#03-12**

**Sunny Days Massage
1594 Route 9, Unit 8**

Toms River, NJ 08753

**MESSAGE LICENSE
#04-12**

**Mei Lan Allen
Sunny Days Massage**

**MESSAGE LICENSE
#05-12**

**Gaukhar Jetbaveva
All Stars Day Spa**

**MESSAGE LICENSE
#016-12**

**Volha Gringauz
All Stars Day Spa**

WHEAREAS, said applicants have complied with all the requirements of Ordinance numbers 1606 and 1682, Chapter 357, of the “Code of the Township of Toms River, New Jersey,” with respect to licensing; and

WHEREAS, the appropriate licensing fee has been paid to the Township of Toms River;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

- 1. The Township Clerk is hereby authorized to issue the licenses Listed in the preamble hereof.**
- 2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:**
 - a. Attorney**
 - b. Chief of Police**
 - c. Code Enforcement**
 - d. Applicants listed above**

RESOLUTION

February 28, 2012

WHEREAS, the following application has been filed for TAXI DRIVER / TAXI CAB / TAXI CAB COMPANY in accordance with Chapter 457.

<u>Name</u>	<u>Type of License</u>	<u>Taxi Company</u>
04-12 Robert Evans	Taxi Driver (New)	A Team Taxi
08-12 Richard Midgley	Taxi Driver (Renewal)	TR Taxi
0912 John MacDonald	Taxi Driver (Renewal)	TR Taxi
10-12 Joseph Venidis	Taxi Driver (Renewal)	TR Taxi
11-12 Adam Mateo	Taxi Driver (Renewal)	Beach Taxi
12-12 Arlene Mateo	Taxi Driver (Renewal)	Beach Taxi Cab
14-12 Richard DeGraff	Taxi Driver (Renewal)	Ace Livery
15-12 Alex Lartey	Taxi Driver (Renewal)	Alex Taxi
16-12 Kimberly Mell	Taxi Driver (Renewal)	A-Team Taxi

17-12	Joseph Galletto	Taxi Driver (Renewal)	A-Team Taxi
18-12	Richard Schurich	Taxi Driver (Renewal)	A-Team Taxi
21-12	Micheal Wulf	Taxi Driver (Renewal)	AA-1 Taxi
22-12	Basilliso Burgos	Taxi Driver (Renewal)	AB TAXi
23-12	Ahmet Ugur	Taxi Driver (Renewal)	L&A Taxi
24-12	Azza Mohamed	Taxi Driver (New)	Nora Taxi
26-12	Linda Lanphere	Taxi Driver (Renewal)	AA-1 Taxi
27-12	Timothy Tassoni	Taxi Driver (Renewal)	A&L Taxi
28-12	Michael Hock	Taxi Driver (Renewal)	Beach Taxi
29-12	David Rahn	Taxi Driver (Renewal)	A&L Taxi
30-12	Robert Maurer	Taxi Driver (Renewal)	Walter's Taxi
31-12	Martin Wink	Taxi Driver (Renewal)	Beach Taxi
33-12	Frank Wescott	Taxi Driver (Renewal)	All American Cab
34-12	John Edgar	Taxi Driver (Renewal)	All American Cab
35-12	Linda Ambrose	Taxi Driver (Renewal)	All American Cab
37-12	Charles Raab	Taxi Driver (Renewal)	Eveready Trans.
38-12	Lisa Raab	Taxi Driver (Renewal)	Eveready Trans.
39-12	Walter Powell	Taxi Driver (Renewal)	Walter's Taxi
40-12	William Olesky	Taxi Driver (Renewal)	A&L Taxi
41-12	Anthony Marinelli	Taxi Driver (Renewal)	A Absolutely the Best
42-11	Carol Smith	Taxi driver (Renewal)	A Absolutely the Best
44-12	Thomas Lynn	Taxi Driver (Renewal)	All American Cab
46-12	Thomas Fry	Taxi Driver (Renewal)	AA-1 Taxi
47-12	Austin Ross	Taxi Driver(Renewal)	Beach Taxi Cab
48-12	Anthony Galletto	Taxi Driver (Renewal)	A-Team Taxi

WHEREAS, the Township Clerk has reported to this Council that said applications and requirements are in order;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the Clerk of this Township is hereby authorized and directed to issue the TAXI LICENSE to the applicants listed above, in accordance

with Chapter 457 (Taxicab and Taxicab Drivers) the "Code of the Township of Toms River".

2. The applicant is required to conform to all provisions of Chapter 457 (Taxi cabs and Taxi Drivers)
3. The Township Clerk shall send a certified copy of Resolution to the:

- a. Police Department
- b. Licensee (s)
- c. Clerk's File
- d. Law Dept.

Carol Benson questioned the following Resolution.

A motion was made by Council Member Kubiel, seconded by Council Member Carr, and carried with Council Members Carr, Kubiel, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution:

RESOLUTION AMENDING RESOLUTION OF THE TOWNSHIP OF TOMS RIVER, COUNTY OF OCEAN, STATE OF NEW JERSEY, DATED JANUARY 24, 2012, AUTHORIZING THE EXECUTION OF A SCHEDULE "C" AGREEMENT WITH THE COUNTY OF OCEAN FOR 2012

FEBRUARY 28, 2012

WHEREAS, the Interlocal Services Act, N.J.S.A. 40:8a-1 et seq. authorized the Township of Toms River to enter into a contract for the provision of certain governmental services with the County of Ocean; and

WHEREAS, N.J.S.A. 40:8 requires such a contract to be authorized by resolution or ordinance; and

WHEREAS, it is the desire of the governing body to authorize the execution of a contract with the County of Ocean for the provision of services, materials and equipment as set forth in Schedule "C" attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes Mayor, Thomas F. Kelaher, to execute and Township Clerk, J. Mark Mutter, to attest to a Schedule "C" agreement with the County of Ocean in accordance with the provisions of the law, to include \$30,000.00 for Street Sweepings, and \$10,000.00 for Truck Washing Services, for a total maximum amount not to exceed \$40,000.00, and funds are available in Account No. 2-01- -L25-547 (\$40,000.00), contingent upon availability of funds and the adoption of the CY12 budget. The certification of funds available statement is on file in the Office of the Township Clerk. A copy of the said agreement is attached hereto and made part hereof as Schedule "C".

2. This agreement is for the period retroactive to January 1, 2012 through December 31, 2012.

3. A copy of this agreement referenced herein shall be kept on file and made available for public inspection in the Municipal Clerk's office during normal business hours.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor Thomas Kelaher
- b) Business Administrator

- c) Township Attorney
- d) Chief Financial Officer
- e) Public Works Department
- f) Purchasing Division
- g) Ocean County Road Department
129 Hooper Avenue
P.O. Box 2191
Toms River, N.J. 08754-2191
Attn: Thomas Curcio
County Road Supervisor

CERTIFICATION

I, J. Mark Mutter, Municipal Clerk of the Township of Toms River, do hereby certify that the foregoing resolution was duly adopted by the Township Council of the Township of Toms River, Ocean County, New Jersey at the regular meeting of February 28, 2012.

J. MARK MUTTER
MUNICIPAL CLERK

CERTIFICATION

THIS IS TO CERTIFY that the funds for agreement with the County of Ocean – Schedule C – 2012, for street sweepings in the amount of \$30,000.00, and truck washing services in the amount of \$10,000.00, for a total maximum amount not to exceed \$40,000.00, are available in Account No. 2001- -L25-547, contingent upon availability of funds and the adoption of the CY12 budget.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO
CHIEF FINANCIAL OFFICER

Dated: February 28, 2012

Ken Langdon questioned the following Resolution.

A motion was made by Council Member Kubiel, seconded by Council Member Carr, and carried with Council Members Carr, Kubiel, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution:

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE
AND THE TOWNSHIP CLERK TO ATTEST TO AGREEMENTS
AUTHORIZING THE EXCHANGE OF TOWNSHIP BEACH
CLEANING SERVICES FOR USE OF THE BEACHES**

FEBRUARY 28, 2012

WHEREAS, Ordinance No. 3108-95, authorizes the Township to enter into agreements with various beach associations providing for the use of Township beach cleaning equipment and personnel in exchange for the Township being given the right to utilize those beaches for environmental and other educational programs; and

WHEREAS, the Township Council has determined that such an exchange, coupled with an obligation by the owners of such private beaches to pay for the salaries of the Township employees while providing these services, constitutes an exchange of equivalent value and that the exchange will benefit the Township;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. The Mayor is hereby authorized to execute and the Township Clerk to attest to agreements between the Township of Toms River and the following:

- a) Silver Beach Association
- b) Normandy Shores Beach Club
- c) Ocean Beach & Yacht Club
- d) Rustic Dunes
- e) Vision Beach Assn. & Surf Cottages Homeowners Assn.
- f) Ocean Beach Surf Club
- g) Seacrest Beach Club
- h) Normandy Beach Improvement Association
- i) Monterey Beach Club Association
- j) Ocean Beach & Bay Club-OB III
- k) Ocean Beach Shores Club
- l) Tri-Beach,

which provide for the utilization of Township personnel and beach cleaning equipment to clean their beaches in exchange for a grant of the right of the Township to utilize those beaches for environmental or other educational programs, provided that the Silver Beach Association, Normandy Shores Beach Club, Ocean Beach & Yacht Club, Rustic Dunes, Vision Beach Assn. & Surf Cottages Homeowners Assn, Ocean Beach Surf Club, Seacrest Beach Club, Normandy Beach Improvement Association, Monterey Beach Club Association, Ocean Beach & Bay Club-OB III, Ocean Beach Shores Club, and Tri-Beach, bear the cost of the salaries of the Township personnel associated with such beach cleanings.

2. A copy of each of the aforementioned agreements shall be kept on file in the Office of the Township Clerk upon execution.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Township Attorney
- b) Chief Financial Officer
- c) Public Works Department
- d) Recreation Department
- e) **Ocean Beach & Yacht Club**
Attn: Pat Daley
P.O. Box 92
Lavallette, N.J. 08735
- f) **Rustic Dunes**
Attn: John Mamone, Sr.
704 Somerset Street
Franklin Lakes, N.J. 07417
- g) **Normandy Shores Beach Club**
Attn: Gary Webb
PO Box 844
Normandy Beach, N.J. 08739
- h) **Vision Beach Assn. & Surf Cottages Homeowners Assn.**
Attn: Richard Bishop
616 Bernita Dr.
River Vale, N.J. 07675
- i) **Ocean Beach Surf Club**

- Ocean Beach Unit #1
Attn: Jim Pendergast
P.O. Box 213
Lavallette, N.J. 08735
- j) **Seacrest Beach Club**
Attn: Tom Craig
P.O. Box 1032
Lavallette, N.J. 08735
- k) **Silver Beach Association**
Attn: Richard Milligan
P.O. Box 3
Normandy Beach, N.J. 08739
- l) **Normandy Beach Improvement Association**
ATTN: Joseph Ferris
P.O. Box 483
Normandy Beach, N.J. 08739
- m) **Monterey Beach Club Association**
ATTN: Steve Nicholas
P.O. Box 288
Lavallette, N.J. 08735
- n) **Ocean Beach & Bay Club-OB III**
ATTN: James Martino
P.O. Box 245
Lavallette, N.J. 08735
- o) **Ocean Beach Shores Club**
ATTN: Richard Pfaff, Beach Chairman
P.O. Box 292
Lavallette, N.J. 08735
- p) **Tri-Beach**
Attn: Richard Mechler
P.O. Box 1025
Lavallette, N.J. 08735

Councilman Wittmann questioned the following Resolution.

A motion was made by Council Member Kubieli, seconded by Council Member Carr, and carried with Council Members Carr, Kubieli, Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Member Maruca absent, to approve the following Resolution:

RESOLUTION AUTHORIZING AWARD OF CONTRACT TO VENDOR WITH STATE CONTRACT, IBM CORPORATION, FOR THE PURCHASE OF A SPILLMAN CAD SYSTEM SERVER UPGRADE FOR THE POLICE DEPARTMENT, IN THE TOTAL MAXIMUM AMOUNT OF \$169,948.46

FEBRUARY 28, 2012

BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. In accordance with the requirements of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the regulations promulgated thereunder, the following purchases without competitive bids from a vendor with a State contract are hereby approved.
2. Contract for the Purchase of a Spillman CAD System Server Upgrade for the Police Department.

DESCRIPTION OF ITEMS TO BE PURCHASED:

- (1) IBM Power 740 Express Server \$ 62,012.00
(Pricing per attached Proposal #PA001846)
- (1) Server Software \$ 59,658.96

(1) Technical Support – Service	\$ 30,577.50
(1) Installation	\$ 17,700.00
TOTAL	\$169,948.46

Contract Awarded to: IBM Corporation

7100 Highlands Parkway
Smyrna, GA 30083

NJ State Contract No.: 70265

Maximum Amount: \$169,948.46

Account No. X-04- -178-078

3. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing
- b) Chief Financial Officer
- c) Township Attorney
- d) Police Department, Attn: Captain Little
- e) IBM Corporation
7100 Highlands Parkway
Smyrna, GA 30083

CERTIFICATION

THIS IS TO CERTIFY that the funds for the contract for vendor with State contract, IBM Corporation, in the total maximum amount of \$169,948.46, are available Account No. X-04- -178-078.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO
CHIEF FINANCIAL OFFICER

Dated: February 28, 2012

REPORTS

NONE

APPROVAL OF BILLS

Council President Hill asked for a report on the bills.

The Bill List, dated **February 24, 2012**, was approved on motion by Council Member Kubiell, seconded by Council Member Wittmann, and carried with Council Members Carr, Manforti, Kubiell, Sevastakis, Wittmann, and Council President Hill voting yes, and

with Council Member Maruca absent. The following respective exceptions to their votes were noted as abstentions to this vote:

Council Member Hill abstained due to Business conflicts on the following:

Purchase Order 12-00975, payable to Board of Education-Toms River Schools in the amount of \$9,979,255.29.

Purchase Order 12-00698, payable to Terry Brady, Esquire, in the amount of \$3,500.00.

Purchase Order 12-00495, payable to Michael LaMana in the amount of \$546.00.

Purchase Order 12-00763, payable to Owen, Little and Associates, Inc., in the amount of \$15,473.74.

Purchase Order 12-00422, payable to Toms River Board of Education in the amount of \$350.00.

Purchase Order 12-00903, 12-00765 and 12-00914, payable to Saint Luke's Church in the amount of \$546.00.

Purchase Order 12-00903, 12-00765 and 12-00914, payable to Toms River Schools in the amount of \$5,990.50.

Purchase Order 12-00374, payable to Heartwood Ecological Consultant in the amount of \$507.00.

ELECTED OFFICIALS COMMENTS

Mayor Kelaher had no comments.

Councilman Carr welcomed Boy Scouts Troop 92.

Councilman Manforti expressed get well wishes to Councilwoman Maria Maruca and congratulated Boy Scouts Troop 92 in Toms River. He also spoke regarding Township Recreation Committee members and their volunteerism.

Councilman Wittmann congratulated Eagle Scout Brandon Vasquez.

Councilman Brian Kubiel had no comments.

Councilman Sevastakis spoke regarding Recreation Committee February Meeting, and Township Website regarding Recreation Programs.

Councilman Hill thanked Troop 92, and spoke regarding 2012 Budget process and State Aid.

Mayor Kelaher left the meeting.

PUBLIC COMMENTS

Council President Hill announced the public portion and asked if any one wished to speak at this time.

William Gumper spoke regarding calendars with meeting dates for the Township.

George Schuck spoke regarding Stormwater Management Grant Resolution, and meetings on internet.

Gene McNany spoke regarding Eisenhower Avenue Bulkhead Project.

Frank Shrinko, Eric Haug, and Jerry Arena, all spoke regarding building permit issued to a food market on Route 35 North.

Dennis Galante spoke regarding tax payments by mail, and Open Space Taxes in New Jersey.

Gene Sverchek spoke regarding Route 35 North food market.

Kenneth Vasquez spoke regarding Scouting Programs, and Recreation Programs.

Carol Benson spoke regarding Agenda format procedure; Business Improvement District Budget and Temporary Budget Resolution.

Ken Langdon spoke regarding Barrier Island Development and land use notice requirements.

Nels Luthmann spoke regarding Fire District One budget review.

Eric Haug spoke regarding market on Route 35 North parking spaces.

No further comments from the public appearing, a motion was made by Council Member Kubiell, seconded by Council Member Wittmann, and carried with Council Members Carr, Hill, Kubiell, Manforti, Sevastakis and Council President Hill voting yes, and with Council Member Maruca absent, to enter into a private Executive Session at 7:24 p.m.

A motion was made by Council Member Kubiell, seconded by Council Member Wittmann and carried, to adopt the following resolution, which was read into the record by the Township Clerk:

RESOLUTION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, Public Law 1975, permits the exclusion of the public from a meeting in certain circumstances to discuss matters requiring confidentiality and/or of a privileged nature; and

WHEREAS, the Township Council is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The Township Council will now conduct a private Executive Session.
2. The general nature of the subject matter to be discussed and/or acted upon is as follows:
 1. Matters of Personnel
 2. Attorney Client Privilege
3. The following specific topics were announced.
 1. February 14, 2012 Executive Session Minutes
 2. Personnel
 3. Council Liasonships for 2012
 4. Ward Reconfigurations – Meeting Date
 5. Fire District One – Review of Defeated Budget Process

4. It is anticipated that deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Council that the public interest will no longer be served by such confidentiality.

The foregoing resolution was approved on the following roll call vote:

Council Member Carr	Yes
Council Member Kubiell	Yes
Council Member Manforti	Yes
Council Member Maruca	Absent
Council Member Sevastakis	Yes
Council Member Wittmann	Yes
Council President Hill	Yes

The Council reconvened the public portion at 8:01 PM, all Council Members Manforti, Sevastakis, Wittmann and Council President Hill present, and with Council Members Carr, Kubiell, and Maruca absent.

A motion was made by Council Member Wittmann, seconded by Council Member Sevastakis, and carried with Council Members Manforti, Sevastakis, Wittmann, and Council President Hill voting yes, and with Council Members Carr, Kubiell and Maruca absent, to approve the following Resolution:

RESOLUTION APPROVING EXECUTIVE SESSION MINUTES

WHEREAS, the attached Executive Session Minutes have been reviewed as to form and accuracy;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, State of New Jersey, as follows:

1. The following Executive Session Minutes are approved:

February 14, 2012

2. The Township Clerk shall maintain same as an official record.

No other business appearing, the meeting was adjourned at 8:02 P. M., with Council Members Manforti, Sevastakis, Wittmann and Council President Hill voting yes, and with Council Members Carr, Kubiell, and Maruca absent.

MAURICE B. HILL, COUNCIL PRESIDENT

J. MARK MUTTER, TOWNSHIP CLERK