

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2012-096

Council Meeting Date: 3-12-2012

Date Adopted: 03-12-2012

TITLE RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT TO EXCEED \$850,000 OF GENERAL IMPROVEMENT REFUNDING BONDS OF THE BOROUGH OF NEW PROVIDENCE, IN THE COUNTY OF UNION, NEW JERSEY OR SUCH OTHER AMOUNT AS DETERMINED BY THE CHIEF FINANCIAL OFFICER TO ACCOMPLISH THE REFUNDING ON THE TERMS APPROVED BY THE LOCAL FINANCE BOARD CONSISTENT WITH THE REFUNDING PROVISIONS OF THE INTERNAL REVENUE CODE AND PROVIDING FOR THE SALE AND THE DELIVERY OF SUCH BONDS TO THE PURCHASER THEREOF.

Councilperson Lesnewich submitted the following resolution, which was duly seconded by Councilperson Cucco.

BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. An amount not to exceed \$850,000 of General Improvement Refunding Bonds of the Borough of New Providence, in the County of Union, New Jersey (the "Borough"), in specific amounts to be determined as provided herein and as more fully described in a bond ordinance finally adopted by the Borough pursuant to the Local Bond Law on March 12, 2012, and entitled, "Refunding Bond Ordinance of the Borough of New Providence, in the County of Union, New Jersey, Providing for the Refunding of All or a Portion of Certain General Improvement Bonds of 2001, Appropriating \$850,000 Therefor and Authorizing the Issuance by the Borough of Refunding Bonds in the Aggregate Principal Amount of Not Exceeding \$850,000 for Financing the Cost Thereof" shall be issued as "General Improvement Refunding Bonds" (the "Bonds").

Section 2. The Bonds are hereby authorized to be sold to a purchaser to be determined by the Chief Financial Officer, upon consultation with NW Capital Markets, the Borough's placement agent for the Bonds, and bond counsel to the Borough (the "Purchaser") at a purchase price determined by the parameters set forth below and otherwise consistent with the terms included in the approval by the Local Finance Board in the Department of Community Affairs, State of New Jersey (the "Local Finance Board"):

- (a) the principal amount of the Bonds does not exceed \$850,000;
- (b) the True Interest Cost of the Bonds does not exceed an interest rate that would enable the Borough to complete the refunding within the parameters established by the Local Finance Board;
- (c) the Underwriter's discount, if any, does not exceed the amount referenced in the approved Local Finance Board application;
- (d) the maturity structure or weighted average maturity for the Bonds is substantially similar to the structure submitted to and approved by the Local Finance Board together with any adjustments recommended by the Purchaser on the sale date designed to reduce the total costs of the borrowing to the Borough;
- (e) all conditions required by the Local Finance Board for the sale of the Bonds are satisfied.

Section 3. The Mayor and Chief Financial Officer are each hereby authorized and directed, without further authorization, to enter into and execute a purchase contract (the "Purchase Contract") on behalf of the Borough with the Purchaser in the form satisfactory to bond counsel to the Borough and upon terms consistent with the above parameters. Upon execution of the Purchase Contract, the signature of the Mayor and/or the Chief Financial Officer shall be conclusively presumed to evidence any necessary approvals for the sale of the Bonds. If the Mayor or Chief Financial Officer, after consultation with the Purchaser, determines that the above parameters cannot be satisfied in the present market, the Bonds shall not be sold until such time as said parameters may be amended, in whole or in part, or a sale on different terms is otherwise approved by resolution of this Borough Council.

Section 4. (a) The Bonds shall be issued in the par amounts consistent with the parameters set forth in Section 2 hereof and determined by the Mayor and/or Chief Financial Officer to be necessary to pay costs of issuance and to provide an escrow fund that, when invested, will be sufficient to provide for the timely payment of the principal and redemption premium, if any, of and interest on all or a portion of the \$765,000 outstanding principal amount of its General Improvement Bonds, dated July 15, 2001, originally issued in the principal amount of \$2,340,000, which amount matures on July 15 in the years 2012 through 2015, inclusive (collectively, the "Refunded Bonds"):

(b) The Bonds shall be dated and shall bear interest at the rates per annum as the Mayor and/or Chief Financial Officer shall determine.

(c) The Bonds shall be numbered and have such prefix or prefixes as determined necessary by the Mayor and/or Chief Financial Officer and be sold and issued with such serial maturities or with such term bond maturities payable from mandatory sinking fund payments made by the Borough as determined in the Purchase Contract.

(d) The Bonds shall mature in each of the years 2012 to 2015, inclusive, or such other dates deemed consistent with the approved Local Finance Board resolution and in the principal amounts as may be determined by the Mayor and/or Chief Financial Officer and shall bear interest on the dates as may be determined by the Mayor and/or Chief Financial Officer.

(e) The Bonds are not subject to redemption prior to their stated maturities.

(f) The Bonds may be issued in fully registered form. One certificate shall be issued for the aggregate principal amount of Bonds maturing in each year. Both principal of and interest on the Bonds will be payable in lawful money of the United States of America. Each certificate may be registered in the name of CEDE & Co., as nominee of The Depository Trust Company, New York, New York, which will act as securities depository (the "Securities Depository"). The certificates, if registered in the name of CEDE & Co., will be on deposit with the Securities Depository. The Securities Depository will be responsible for maintaining a book-entry system for recording the interests of its participants or the transfers of the interests among its participants. The

participants will be responsible for maintaining records recording the beneficial ownership interests in the Bonds on behalf of individual purchasers. Individual purchases may be made in the principal amount of \$5,000 or any integral multiple thereof through book-entries made on the books and the records of the Securities Depository and its participants except that an amount maturing in any one year in excess of the largest principal amount thereof equaling a multiple of \$5,000 will be in the denominations of \$1,000 or any integral multiple thereof.

(g) The principal of and the interest due on the Bonds will be paid to the Securities Depository or the registered holder if another than the Security Depository by the Borough on the respective maturity dates and due dates and will be credited on the respective maturity dates and due dates and due dates to the or the registered holder if another than the Security Depository participants of the Securities Depository as listed on the records of the Securities Depository as of the 15th next preceding each maturity date (the "Record Dates" for the Bonds). The Bonds shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under the official seal of the Borough (or facsimile thereof) affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Clerk.

Section 5. The Bonds shall be substantially in the following forms with such additions, deletions and omissions as may be necessary for the Borough to market the Bonds:

REGISTERED
No. GIRB-____

REGISTERED
\$_____

UNITED STATES OF AMERICA
STATE OF NEW JERSEY
BOROUGH OF NEW PROVIDENCE
GENERAL IMPROVEMENT REFUNDING BOND

PRINCIPAL AMOUNT:

DATED DATE:

MATURITY DATE:

RATE OF INTEREST PER ANNUM:

CUSIP NUMBER:

BOROUGH OF NEW PROVIDENCE, in the County of Union, New Jersey (the "Borough") hereby acknowledges itself indebted and for value received promises to pay to [CEDE & CO., as nominee of The Depository Trust Company, which will act as Securities Depository,] on the MATURITY DATE, the PRINCIPAL AMOUNT, and to pay interest on such sum from the DATED DATE of this bond until the MATURITY DATE at the RATE OF INTEREST PER ANNUM semiannually on the ___ days of _____ and _____ in each year until maturity, commencing on _____, 2012.

This bond is not transferable as to principal or interest. The participants are responsible for maintaining the records regarding the beneficial ownership interest in the bonds on behalf of the individual purchasers except to an authorized nominee of The Depository Trust Company. The Depository Trust Company shall be responsible for maintaining the book-entry system for recording the interests of its participants or the transfers of the interests among its participants.

This bond is not subject to redemption prior to its stated maturity.

This bond is one of an authorized issue of bonds and is issued pursuant to the Local Bond Law of the State of New Jersey, a bond ordinance of the Borough finally adopted March 12, 2012, and entitled, "Refunding Bond Ordinance of the Borough of New Providence, in the County of Union, New Jersey, Providing for the Refunding of All or a Portion of General Improvement Bonds, Series 2001 of the Borough, Appropriating \$850,000 Therefor and Authorizing the Issuance by the Borough of Refunding Bonds in the Aggregate Principal Amount of Not Exceeding \$850,000 for Financing the Cost Thereof" and a resolution of the Borough adopted March 12, 2012.

As long as The Depository Trust Company is the depository for the Bonds as provided herein, the procedures of The Depository Trust Company will determine the method of selection for redemption within a maturity. Otherwise, it will be by lot or by a similar method.

The full faith and credit of the Borough are hereby irrevocably pledged for the punctual payment of the principal of and the interest on this bond according to its terms.

It is hereby certified and recited that all conditions, acts and things required by the constitution or the statutes of the State of New Jersey to exist, to have happened or to have been performed precedent to or in the issuance of this bond exist, have happened and have been performed and that the issue of bonds of which this is one, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by such constitution or statutes.

IN WITNESS WHEREOF, the Borough has caused this bond to be executed in its name by the manual or facsimile signatures of its Mayor and its Chief Financial Officer, its corporate seal to be hereunto imprinted or affixed, this bond and the seal to be attested by the manual or facsimile signature of its Clerk and this bond to be dated the Dated Date as specified above.

BOROUGH OF NEW PROVIDENCE

By _____
Mayor

ATTEST:

By: _____ By: _____
Borough Clerk Chief Financial Officer

Section 6. The law firm of McManimon & Scotland, L.L.C. is authorized to arrange for the printing of the Bonds. The proper officials of the Borough are hereby authorized and directed to execute the Bonds and to deliver them to the purchaser upon receipt of payment therefor.

Section 7. The Bonds shall have printed thereon a copy of the written opinion with respect to the Bonds that is to be rendered by the law firm of McManimon & Scotland, L.L.C., complete except for omission of its date. The Clerk is hereby authorized and directed to certify the truth and the correctness of the copy of such opinion by executing on each of the Bonds by facsimile signature a certificate in form satisfactory to that law firm and to file a signed duplicate of such written opinion in the Clerk's office. Alternatively, each Bond may be accompanied by the signed legal opinion or copy thereof.

Section 8. The Bonds are being issued to refund the Refunded Bonds. The Mayor and/or Chief Financial Officer shall take all steps necessary to call the Refunded Bonds on the first available call date at the applicable redemption price, deposit the proceeds of the Bonds with a bank for the purpose of defeasing the Refunded Bonds, invest the proceeds of the Bonds for this purpose and assist with the redemption of the Refunded Bonds. The Mayor and Chief Financial Officer are each hereby authorized to enter into an agreement with a bank (the "Escrow Deposit Agreement") to effectuate the purpose of this Section 8.

Section 9. The Borough hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code") in order to preserve the exemption from taxation of interest on the Bonds, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Bonds, and that it will refrain from taking any action that would adversely affect the tax exemption of the Bonds under the Code.

Section 10. The Borough hereby approves the preparation and the distribution of the Preliminary Official Statement on behalf of the Borough in the form approved or to be approved by the Mayor and/or Chief Financial Officer. Such Official Statement may be distributed in preliminary form and deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission on behalf of the Borough by the Mayor or the Chief Financial Officer. The Preliminary Official Statement shall be prepared in final

form in connection with the issuance of the Bonds and the Mayor and/or the Chief Financial Officer of the Borough are authorized to execute any certificates necessary in connection with the distribution of the Official Statement. Final Official Statements shall be delivered to the Underwriter of the Bonds within the earlier of seven business days following the sale of the Bonds or to accompany the Underwriter's confirmations that request payment for the Bonds.

Section 11. The Mayor and/or Chief Financial Officer are each hereby authorized to make representations and warranties, to enter into agreements and to make all arrangements with the Securities Depository, as may be necessary in order to provide that the Bonds will be eligible for deposit with the Securities Depository and to satisfy any obligation undertaken in connection therewith.

Section 12. In the event that the Securities Depository may determine to discontinue providing its service with respect to the Bonds or is removed by the Borough and if no successor Securities Depository is appointed, the Bonds which were previously issued in book-entry form shall be converted to Registered Bonds (the "Registered Bonds") in denominations of \$5,000, or any integral multiple thereof, except that an amount maturing in any one year in excess of the largest principal amount thereof equaling a multiple of \$5,000 will be in denominations of \$1,000, or any integral multiple thereof. The beneficial owner under the book-entry system, upon registration of the Bonds held in the beneficial owner's name, will become the registered owner of such Registered Bonds. The Borough shall be obligated to provide for the execution and delivery of the Registered Bonds in certificate form.

Section 13. Solely for purposes of complying with Rule 15c2-12 of the Securities and Exchange Commission, as amended and interpreted from time to time (the "Rule"), and provided that the Bonds are not exempt from the Rule and provided that the Bonds are not exempt from the following requirements in accordance with paragraph (d) of the Rule, for so long as the Bonds remain outstanding (unless the Bonds have been wholly defeased), the Borough shall provide for the benefit of the holders of the Bonds and the beneficial owners thereof:

(a) On or prior to 270 days from the end of each fiscal year, beginning with the fiscal year ending December 31, 2012, to the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access Dataport (the "MSRB"), annual

financial information with respect to the Borough consisting of the audited financial statements (or unaudited financial statements if audited financial statements are not then available, which audited financial statements will be delivered when and if available) of the Borough and certain financial information and operating data consisting of (i) Borough and overlapping indebtedness including a schedule of outstanding debt issued by the Borough, (ii) the Borough's most current adopted budget, (iii) property valuation information, and (iv) tax rate, levy and collection data. The audited financial information will be prepared in accordance with modified cash accounting as mandated by State of New Jersey statutory principles in effect from time to time or with generally accepted accounting principles as modified by governmental accounting standards as may be required by New Jersey law and shall be filed electronically and accompanied by identifying information with the National Repository;

(b) in a timely manner not in excess of ten business days after the occurrence of the event, to the MSRB, notice of any of the following events with respect to the Bonds (herein "Material Events"):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For the purposes of the event identified in subparagraph (12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(c) in a timely manner to the MSRB, notice of failure of the Borough to provide required annual financial information on or before the date specified in this resolution.

(d) If all or any part of the Rule ceases to be in effect for any reason, then the information required to be provided under this resolution, insofar as the provisions of the Rule no longer in effect required the provision of such information, shall no longer be required to be provided.

(e) The Mayor and/or Chief Financial Officer shall determine, in consultation with Bond Counsel, the application of the Rule or the exemption from the Rule for each issue of obligations of the Borough prior to their offering. Such officer is hereby authorized to enter into additional written contracts or undertakings to implement the Rule and is further authorized to amend such contracts or undertakings or the undertakings set forth in this resolution, provided such amendment is, in the opinion of nationally recognized bond counsel, in compliance with the Rule.

(f) In the event that the Borough fails to comply with the Rule requirements or the written contracts or undertakings specified in this certificate, the Borough shall not be liable for monetary damages. The sole remedy is hereby specifically limited to specific performance of the Rule requirements or the written contracts or undertakings therefor.

Section 14. If all or any part of the Rule ceases to be in effect for any reason, then the information required to be provided under this resolution, insofar as the

provision of the Rule no longer in effect required the provision of such information, shall no longer be required to be provided.

Section 15. The Mayor and/or Chief Financial Officer shall determine, in consultation with bond counsel, the application of the Rule or the exemption from the Rule for each issue of obligations of the Borough prior to their offering. Such officer is hereby authorized to enter into additional written contracts or undertakings to implement the Rule and is further authorized to amend such contracts or undertakings or the undertakings set forth in this resolution, provided such amendment is, in the opinion of nationally recognized bond counsel, in compliance with the Rule.

Section 16. In the event that the Borough fails to comply with the Rule requirements or the written contracts or undertakings specified in this resolution, the Borough shall not be liable for any monetary damages, remedy of the beneficial owners of the Bonds being hereby specifically limited to specific performance of the Rule requirements or the written contracts or undertakings therefor.

Section 17. The undertaking may be amended by the Borough from time to time, without the consent of the Bondholders or the beneficial owners of the Bonds, in order to make modifications required in connection with a change in legal requirements or change in law, which in the opinion of nationally recognized bond counsel complies with the Rule.

Section 18. There can be no assurance that there will be a secondary market for the sale or purchase of the Bonds. Such factors as prevailing market conditions, financial condition or market position of firms who may make the secondary market and the financial condition of the Borough may affect the future liquidity of the Bonds.

Section 19. The Mayor, the Chief Financial Officer, the Clerk and other appropriate representatives of the Borough are hereby authorized to take all steps necessary to provide for the issuance of the Bonds and the refunding of the Refunded Bonds, including preparing and executing such agreements and documents on behalf of the Borough, satisfying in full the requirements of notice of redemption of the Refunded Bonds and taking all steps necessary or desirable to implement this resolution, such agreements and documents as may be necessary and appropriate and the transactions contemplated thereby.

Section 20. The Mayor and/or Chief Financial Officer are each hereby authorized and directed to pay all costs of issuance in connection with the sale of the

Bonds pursuant to a certificate of the Mayor and/or Chief Financial Officer to be executed upon delivery of the Bonds in an aggregate amount not to exceed the amount set forth in the application submitted to and approved by the Local Finance Board or, if any greater amount, only upon the prior approval of the Borough in accordance with the customary procedure for approval and payment of bills.

Section 21. This resolution shall take effect immediately.

APPROVED, this 12th day of March, 2012.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUCCO	X			
GALLUCCIO	X			
GENNARO	X			
LESNEWICH	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 12th day of March, 2012.

Wendi B. Barry, Borough Clerk