

**February 21, 2012**  
**Regular Session #4 AMENDED (see Page 4)**  
**Mayor and Council**  
**Town of Ocean City**

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Mayor Richard W. Meehan  
Council President James S. Hall  
Council Secretary Lloyd Martin

Council Member Margaret Pillas  
Council Member Mary Knight  
Council Member Doug Cymek  
Council Member Joe Hall  
Council Member Brent Ashley

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### **ATTENDANCE**

Mayor/Interim City Manager Rick Meehan, Council President James S. Hall, Council Secretary Lloyd Martin, Council Members Margaret Pillas, Council Member Mary Knight, Doug Cymek, Brent Ashley and Joe Hall, City Solicitor Guy Ayres, City Clerk Kelly Allmond, Members of the Press and Interested Parties.

### **CALL TO ORDER**

Council President Jim Hall called this Regular Session to order at 5:00 PM, in the Council Chambers of City Hall, 301 Baltimore Avenue, Ocean City, Maryland 21842; then, **Council Secretary Lloyd Martin moved to convene into closed session to discuss (1) consult with counsel to obtain legal advice; (2) discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal if public discussion or disclosure adversely impacts the public body's ability to competitively bid or make proposals; and (3) discuss the appointment, employment, assignment, removal or resignation of appointees, employees or officials over whom it has jurisdiction, or, any other personnel matter that affects one or more specific individuals; seconded by Council Member Knight. The vote was 5-0 with Council Member Margaret Pillas and Doug Cymek absent.**

### **REPORT ON CLOSED SESSION**

Council President Hall reopened the meeting at 6:05 PM and reported that legal, personnel and contractual matters were discussed. Persons present were: Mayor & Interim City Manager Richard Meehan, Council President Jim Hall, Council Secretary Lloyd Martin, Council Members Doug Cymek, Joe Hall, Mary Knight, Margaret Pillas and Brent Ashley, City Solicitor Guy Ayres, Public Works Director Hal Adkins, Assistant Superintendent of Transportation Brian Connor, MGH Advertising President Andy Malis, and Executive Office Associate Diana Chavis. He reported that the vote was unanimous.

### **PRAYER AND PLEDGE**

First Presbyterian Church Pastor Alex Ayers led the prayer, and Council Secretary Lloyd Martin led the Pledge of Allegiance.

### **REPORT FROM CITY MANAGER ON UPCOMING WORK SESSION**

Mayor/Interim City Manager Rick Meehan reported that the following items are scheduled for discussion in the February 28, 2012 Work Session.

- (1.) Report on Closed Session – Tuesday, February 28, 2012 – 12:00 p.m. – Legal, Contractual and Personnel Matters
- (2.) Bid Opening – Cardboard Recycling
- (3.) Fire Department Quarterly Report, Presented by: Chief Chris Larmore
- (4.) Request for Critical Area Mitigation Funds for Tree Planting, Presented by: Gail Blazer, Environmental Engineer
- (5.) Request for Storm Water Mitigation Funds for Intern, Presented by: Gail Blazer, Environmental Engineer
- (6.) Request approval to review Policy and Procedure 800-10 - Accounting for Bonds – presented by Finance Director Martha Bennett

## APPROVAL OF MINUTES

The following Minutes were approved as presented:

- A. Work Session – dated January 31, 2012
- B. Regular Session #3 dated February 6, 2012

## ITEMS PRESENTED BY THE MAYOR AND CITY COUNCIL

Andy Malis of MGH Advertising presented the 2012 Summer of Thanks advertising campaign.

## PRIVATE EVENT PERMIT REQUESTS

Private Events Coordinator Lisa Mitchell presented the following for approval:

- A. Baltimore Ravens Beach Bash – Saturday, June 2, 2012 Present for questions was Gabrielle Dow, Baltimore Ravens Football Organization. [*This item was postponed.*]
- B. Jesus at the Beach Festival – Request Approval for 3-Year Continuation - Adding July 28-30, 2014.  
**Council Member Cymek moved to approve the event through 2014; seconded by Council Member Joe Hall. The vote was unanimous.**
- C. St. Patrick's Day Parade – Request Approval for 3-Year Continuation – Adding March 15, 2014  
**Council Secretary Lloyd Martin moved to approve the event through 2014; seconded by Council Member Joe Hall. The vote was unanimous.**

## PUBLIC HEARINGS

FY 2013 Annual Transportation Plan (see Attachment A)

**Council Secretary Martin moved to close the public hearing; seconded by Council Member Pillas. The vote was unanimous.**

## NEW BUSINESS

Request to Increase Taxi Cab Base Fare Rates and to Change the Taxi Indicator Roof Light to an Ad Carrier  
Presented by: Kevin Lyons, Community Cab

**Council Member Brent Ashley moved to raise the maximum fare to 26 cents per one tenth of a mile; seconded by Council Member Joe Hall. The vote was 3-4 with Council Members Martin, Pillas, Knight and Cymek opposed.** The motion failed.

**Council Member Cymek moved to allow medallion holders to impose a \$1.00 surcharge if gas prices exceed \$4.00 per gallon; seconded by Council Member Knight. The vote was unanimous.**

Lastly, Mr. Lyons asked the Council to consider allowing medallion holders to replace their taxi indicator roof light with a light provided by an advertisement carrier. Council President Hall asked that Mr. Lyon's return for more discussion about the scope of advertising and specifications.

## **REPORTS AND RECOMMENDATIONS FROM THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

Conditional Use Request – to permit water-related recreational activity with (1) parasail boat and (12) wave-runners for a period of ten (10) years. The site of the request is described as located on the west side of Philadelphia Avenue, and on Sinepuxent Bay at the Inlet, and known locally as Inlet Sea Doos, Inc., 710 S. Philadelphia Avenue, in the Town of Ocean City **Council Secretary Lloyd Martin moved to accept the Planning Commission's Finding of Fact (see Attachment B) with the Fire Marshall's written concurrence; seconded by Council Member Pillas. The vote was unanimous.**

## **ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY SOLICITOR**

City Solicitor Guy Ayres presented the following for approval:

- A. Second Reading – Ordinance 2012-5 to Establish Parking Rates for All Parking Spaces with Cale Machine Parking (increases rate from \$1.00 to \$1.50 per hour). **Council Member Mary Knight moved to ratify Ordinance 2012-5 establishing parking rates for all parking spaces with cale parking (increasing the rate from \$1.00 to \$1.50 per hour); seconded by Council Member Ashley. The vote was 5-2 with Council Members Pillas and Joe Hall opposed.**
- B. Second Reading – Ordinance 2012-6 to Authorize the Purchase of Real Property Located at 105 Dorchester Street **Council Member Mary Knight moved to ratify Ordinance 2012-6 authorizing the purchase of real property at 105 Dorchester Street; seconded by Council Secretary Lloyd Martin. The vote was 5-1 with Council Member Pillas opposed and Council Member Joe Hall abstained.**
- C. Second Reading – Ordinance 2012-7 to Amend Chapter 30 Entitled Environment (to require that a noise permit control number be displayed on the front door of rental property) **Council Member Brent Ashley moved to ratify Ordinance 2012-7 amending Chapter 30, entitled Environment (requiring the display of permit control numbers on the front door of rental properties; seconded by Council Secretary Lloyd Martin. The vote was unanimous.**
- D. Second Reading – Ordinance 2012-8 to Amend Chapter 14 Entitled Businesses (to change business license categories) **Council Member Mary Knight moved to ratify Ordinance 2012-8 amending Chapter 14, entitled Businesses (to change business license categories); seconded by Council Member Ashley. The vote was unanimous.**
- E. First Reading – Ordinance 2012-9 to Authorize and Empower Mayor and City Council of Ocean City to Issue and Sell General Obligation Municipal Purpose and Refunding Bonds not to Exceed Thirty Four Million Seven Hundred Thousand Dollars (\$34,700,000) Maximum Aggregate Principal Amount Fire Chief Chris Larmore asked the Council to consider his list of capital projects (see Attachment C) **Council Member Mary Knight moved to approve the First Reading of Ordinance 2012-9 authorizing and empowering the Mayor and City Council of Ocean City to issue and sell General Obligation Bonds not to exceed Thirty Eight Million Two Hundred Million Dollars (\$38,200,000.00) (increased to fund Fire Station Projects) maximum aggregate principal amount; seconded by Council Secretary Lloyd Martin. The vote was 6-1 with Council Member Brent Ashley opposed.**

- **Council Member Mary Knight moved to re-allocate ~~\$400,000.00~~ \$600,000.00 for the Art League Project from the bond issue to the unrestricted fund balance reducing the maximum allowed amount to \$37,600,000.00; seconded by Council Secretary Lloyd Martin. The vote was 5-2 with Council Members Pillas and Ashley opposed.**
- A. First Reading – Ordinance 2012-10 to Amend Budget for FY 2012  
**Council Member Brent Ashley moved to approve the First Reading of Ordinance 2012-10 to amend Budget for FY 2012; seconded by Council Member Knight. The vote was unanimous.**
- Council Member Joe Hall moved to ratify Resolution 2012-03 authorizing Mayor to file application with Maryland Transit Administration of Maryland Department of Transportation for grants under Federal Transit; seconded by Council Member Ashley. The vote was unanimous.**

## **ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY MANAGER**

Mayor/Interim City Manager Rick Meehan presented the following for approval:

- A. Recommendation of Bid Award for Beach Equipment Franchise  
**Council Member Mary Knight moved to award the mid-beach parcel bids to Patrick McLaughlin, Patrice Murrell, Charlotte Edmunds, Trudy Stock and Will Edmunds (see Attachment D); seconded by Council Member Ashley. The vote was unanimous.**
- B. **Council Member Mary Knight moved to approve the transfer of Taxi Medallion 157; seconded by Council Secretary Lloyd Martin. The vote was 6-0 with Council Member Pillas out of the room.**  
Council Member Joe Hall suggested that the Council consider the merits of allocating two (2) medallions for ADA compliant cabs.

## **COMMENTS FROM CITIZENS – 5 MINUTE TIME LIMIT**

Public Works Maintenance Employee James Moxley requested a charter amendment to allow general employees the right to collectively bargain. He also voiced opposition for the purchase of 105 Dorchester Street.

Thomas Hoffman suggested requiring rental license for each floor.

John Adkins read an article about keeping employees happy. He spoke in support of the unionization of general employees.

Ellie Diegelmann said she disagrees with unionizing.

Joe Groves recognized that Liz Dare was in attendance, and encouraged everyone to vote in the October election.

Herb Pawlukewicz asked for an ordinance prohibiting the petting of horses on the beach. He suggested that employees pursue collective bargaining and binding arbitration without unionizing.

## **COMMENTS FROM THE MAYOR AND CITY COUNCIL**

Council Member Brent Ashley said he is happy with the passage of the horseback riding ordinance.

Council Member Margaret Pillas said people are complaining about partially televised meetings. City Clerk Kelly Allmond acknowledged the problem as her mistake.

Regular Session dated 2/21/2012

Mayor Meehan acknowledged the passing of Junior Esham and Bob Melvin. He shared a recommendation to name the MEDTRN Service after Mr. Melvin. **Council Member Joe Hall moved to name the MEDTRN Service the “Bob Melvin MEDTRN Service”; seconded by Council Member Ashley. The vote was unanimous.**

Council Member Brent Ashley committed \$2,000.00 of his own money to the MEDTRN Service fund.

## **ADJOURNMENT**

**Council Secretary Lloyd Martin moved to adjourn at 8:02 PM; seconded by Council Member Pillas. The vote was unanimous.**



I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, the Mayor and Council reviewed and approved this document.

\_\_\_\_\_  
City Clerk Kelly L. Allmond  
Certified Municipal Clerk



**ATTACHMENT A**

**TOWN OF OCEAN CITY  
PUBLIC HEARING  
FY13 ANNUAL TRANSPORTATION PLAN  
FEBRUARY 21, 2012**

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Mayor Richard W. Meehan  
Council President James S. Hall  
Council Secretary Lloyd Martin

Council Member Margaret Pillas  
Council Member Mary Knight  
Council Member Doug Cymek  
Council Member Brent Ashley  
Council Member Joe Hall

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**Council President Jim Hall**

The next item is a public hearing, this is the FY 2013 Annual Transportation Plan. Hal?

**Public Works Director Hal Adkins**

Let me get started. This evening, with me is Martye Nolan, she will be assisting the Mayor and City Council on behalf of those in that may in attendance that are hearing impaired. This in fact is a public hearing for the FY13 Annual Transportation Plan so, all due respect to the Council, if you don't mind I will be directing most of my presentation towards those in attendance. For those in attendance, you have the right to come forward and speak, ask any questions you'd like. If you choose to do so, upon your departure from the podium, please stop at the Clerk's desk and sign-in. She will need your name and address for the record.

Martha will be helping me this evening with the power point presentation, and if we can get going here Martha. Go ahead for the next. Ok. The overall budget is proposed, effective July 1 was Five Million Forty Two Thousand Sixty Dollars. That budget is comprised of three separate components. Next please? First of which is a revenue. There are multiple revenue streams supporting the Transportation Department. You have your fare box revenues that we have projected Two Million Two Hundred and Thirty Five Thousand, in addition to that we have an Advertising Program, bus wraps and things to the sort that amounts to approximately Two Hundred and Forty Five Thousand. Additionally, we sell what are known senior bus passes that amounts to roughly Eighty Five Hundred and Three Dollars. Additionally, you sell coupon booklets, the discount booklets that bring in about a Hundred Eighty Two Thousand Three Hundred and Fifty Two Dollars per year. We have a Greyhound Service, running out of West Ocean City in our Park & Ride facility. We made revenues off of that operation in the amount of Twenty One Thousand One Hundred and Eighty Four Dollars. In addition to that, we are proposing the continuation of MEDTRN Service for the amount of Thirteen Thousand Five Hundred and Sixty Three Dollars. As I mentioned a moment ago, there are three components to the overall budget.

**Public Works Director Hal Adkins continues...**

The Second Component are our Operating Grants. On an annual basis, we receive both federal and state grants and an ADA grant. As noted the federal grant is Six Hundred Eighty Four Thousand Six Hundred and Fifty Seven Dollars, the State Grant amounts to Thirty One Thousand One Twenty Five, and then we have an ADA Grant to support the door-to-door service in the amount of One Hundred and Ten Thousand Dollars.

The last component, the third component, deals with what is called a general fund subsidy. If you take the overall operating budget, the revenue stream, plus the grants subtracting that from it, the residual is made up by the Mayor and City Council out of tax revenues, known as the General Fund Subsidy is projected in the coming year, the General Fund Subsidy will be One Million Five Hundred and Ten Thousand Six Hundred and Seventy Six Dollars. That picture right there represents the entire operating budget for the Transportation Department minus the trains on the boardwalk which is a separate and distinct budget.

In addition to the Operating Budget, we also have a Capital Budget. The Capital Budget is afforded with the assistance of both the federal and state government. Typically all the items that we're about to go through, Eighty Percent of the funding, Eighty Percent of that funding comes from the federal government. There's a 10% State of Maryland local match and a 10% local match.

**Public Works Director Hal Adkins**

A series of items that I need to scroll through at this point. Next Please. The first item deals with what is known as a bus barn design and engineering. I'm going to pause there for a moment. We have recently completed, and it is in a draft status, a master plan for the Department of Public Works Complex in the vicinity of Sixty-fourth through Sixty-sixth Street Bayside. The current Transportation Department was built in Nineteen Eighty Three when we were running a fleet of roughly thirteen buses and have very minimal staff. We now run a fleet in excess of sixty. We have severely outgrown the facility. So the assisted us in reviewing the entire land mass known as the Public Works Complex to do a campus study. As a result of that, we are now requesting the funding to move forward with the engineering and design of a new transportation administrative office, a bus complex and modifications of the fuel system. Next item please.

In addition to that, a large portion of our fleet is aging. It is not what is known as its 'useful life criteria.' If I recall the 'useful life criteria' is twelve years or two hundred and fifty thousand miles. We are requesting the replacement of nineteen of the transit buses in the coming year in the amount of Eight Million Three Hundred and Seventy Nine Thousand Dollars. Next item please.

We have what is known as preventative maintenance grant for our rolling stock to allow us to maintain the current fleet, the request is in the amount of Five Hundred Thousand. The two-way radio system that are currently in our fleet, if I recall, it is the same radio system that has been there for the last fifteen to seventeen years: Two Hundred and Twenty Five Thousand Dollar request a replacement. We have a number of facilities, one of which is the Park & Ride in West Ocean City, that we desire to maintain – Fifteen Thousand Dollar Grant. Same goes with the North end Transit Center that is located on 144<sup>th</sup> Street along Coastal Highway. We have a few vehicles that we are requesting to replace in the

**Public Works Director Hal Adkins continues...**

fleet with some hybrids – Sixty Three Thousand Dollars. A service truck and utility body – Twenty Two Thousand Three Hundred. A portion of the Park & Ride decking is starting to crack, check and curl, if you've been to the facility it's a rather expansive boardwalk with meanders along the bayside, it's a Hundred Thousand dollar replacement program. There's a fire suppression system in the Bus Barn located at Sixty fifth Street that needs to be upgraded-Fifteen Thousand. Overhead door maintenance at the same facility – Eight Thousand. Preventative maintenance program for the Money Room – Ninety Five Hundred. And last but not least, passenger shelters parts along the Coastal Highway corridor in the amount of Fifty Thousand. The total to that program has a local match if all items were approved. Next please – One Million Sixty Five Thousand One Hundred and Eighty Dollars.

That concludes the overall presentation for the FY13 Annual Transportation Plan, I would everyone in attendance that this entire budget as presented is subject not only to the approval of the Maryland Transit Administration, but more importantly to me, by the Mayor and City Council. And in the forthcoming budget meeting that we will be having with them during the month of March. If there's any questions of the Council or the Citizens, now would be the time.

**Council President Hall**

I see no [questions] from the Council. We'll ask the Citizens – anybody would like to speak, this is a public hearing, come up and give your name and address for the record please. Pull the mike to you, Frank please?

**John "Frank" Adkins**

My name is John Adkins, I live at 8802 Caribbean Drive. Just a couple questions. I know two of the Council Members live above Ninety-fourth Street. I do not that you do live there. I live at 88<sup>th</sup> Street Bayside and I've rode the bus frequently. I've also driven for seven years, so my expertise is probably more than some of the Council Members. One thing I'm going to tell you about the budget and about the buses, and you've had the advertising presented and I think it's good, okay. The only thing is, if you don't have a number of buses, and I'm talking thirty three, and you have to have them from 4:00 in the afternoon to Two in the morning. If you don't pick these people up frequently enough, and believe me I stood out on my street at Pacific Avenue and watched eight buses go by, all full. They can't stop. We understand that, because one thing you all have to realize is that probably more than half the population of Ocean City in the summertime is above Ninety-fourth Street because of the condos. Let's face that. Okay. One problem you have, and I talked to Hal last year, was hiring enough drivers. In the three states that he advertised last year, he had two applications. That's Maryland, Delaware and Virginia. So you have a problem recruiting because they have to have CDL's plus they have bus endorsement. Okay? When you start looking through budgets, you have to have enough on the road during peak hours, which going down to the boardwalk after Four and then coming back after Eleven. You have to increase that number so these people will not wait more than one or two buses to get on. If you do not do that, and you cut it, and you're in the budget, you may have to pay overtime because when, I was driving, the budget wasn't a concern so a lot of times we kept a second shift over to help the third shift, so we kept more buses on the road they were running full. And I know this from

**John “Frank” Adkins continues...**

experience and some people preferred to work the second shift because they got overtime, they knew they would. I just want you all to learn that I have experience at it and you want to have to bite the bullet if you want the people to ride. And that’s the only way to ease the traffic in Ocean City. Thank you.

**Council President Hall**

Thank you John. Anybody else? Raise your hand please, if you’d like to speak? Ellie?

**Ellie Diegelmann**

Ellie Diegelmann 106 120<sup>th</sup> Street, Ocean City, Maryland. I just have a couple of questions because as usual, I’m concerned about the reality of getting the money that we’re requesting and the whole plan working out as planned. So with that, I’m just wondering how does the plan usually play out as compared to the overall request? In other words, now that we’re asking for Ten Million Dollars, do we always get all that we’re asking for or not?

**Public Works Director Hal Adkins**

Nope. I was going to wait until you were done but [inaudible]. The request for capital that is before you this evening is similar to previous years. In reality they do not end up approving all of that. Some of those items have been on this list for two to three years now. I would say we would fortunate if we were to get even one third of that.

**Council President Hall**

Okay, what’s your next question, Ellie?

**Ellie Diegelmann**

Okay then how does that affect us financially insofar how well we’re going to operate for the next fiscal year?

**Public Works Director Hal Adkins**

Being it’s capital, the riskiest scenario, for example, would be the second bullet which deals with the transit buses. And if you don’t replace them, eventually the maintenance costs will drive you right up the ladder, let’s put it that way, cost-wise. Those items are, in fact, listed in priority on the actual request.

**Ellie Diegelmann**

Oh okay. And then also taking into consideration, Mr. Adkin’s concerns just now, having sufficient drivers and that sort of thing. I guess my next questions is, how is this relevant to Agenda Item “14G” below which is also transportation-related.

**Council Member Pillas**

It’s the application for the grant.

**Ellie Diegelmann**

Yeah the Resolution authorizing [inaudible] MTA [inaudible]. Is this agenda item related to that?

**Public Works Director Hal Adkins**

Yeah. The 14G is a follow-up to this. Its’ a certification that’s required on an annual basis.

**Ellie Diegelmann**

Okay. The reason I'm concerned about that is that if related to 14G then how can we realistically anticipate and rely on any capital projects and operating cost in this grueling economy especially involving the MDOT which is, not just to me but I'm sure there are a lot of people, the Governor's stated rating fund. I think he's rated the Department of Transportation pretty bone dry and is trying to replenish it now with a substantial [inaudible] raise in the gas tax. Also, under the federal transit act, which is most likely itself is a an unfunded mandate, please consider the unrealistic factors as well as any associated potential penalties. In other words, all the goodness is not good and I hope the [inaudible] because this [inaudible] when you lay down dogs you generally wake up with fleas. If you're going to get involved with MDOT and the Department of Transportation and promises of funds from the federal government I just don't think it's fair and realistic and it could wind up regarding it.

**Council President Hall**

Thank you Ellie. Is there anybody else who would like to speak, if you would please raise your hand.

**Council Member Pillas**

I just want to say to Ms. Diegelmann is your concern is that if the federal government and the state government doesn't have the funds in their department to be able to subsidize or give us grants, that these items on this capital list may not be purchased and therefore we could get behind our these items and not be able to have the money to have these buses.

**Ellie Diegelmann**

The capital projects and also any comparatively minor operating funds that we make to the extent that we're dependent on these funds to successfully operate throughout the next season or the next year.

**Council Member Pillas**

I guess my question then would be to Hal, if indeed this keeps rolling on and we only get a third of what we need and we eventually we can't get to some of these items that keep depreciating or, you know, that we need money for your plan is to ...

**Public Works Director Hal Adkins**

What you would be faced with obviously your operating costs will escalate, and unless you can come up with alternative revenues or choose to increase bus fare even further, your general fund subsidy will grow at that point.

**Ellie Diegelmann**

The only other comment I was going to make is if we're fortunate enough to even the third that we've been customarily getting, I mean with the recessionary times being what they are, I guess you'd have a crystal ball to accurately predict that.

**Council President Hall**

Thank you, Ellie. Joe Hall?

**Council Member Joe Hall**

Hal, I have one question. In the design and engineering of the transit yard, you said something about the fueling station, has the discussion of natural gas buses....

**Public Works Director Hal Adkins**

I can't get into the details but I would say I have an ongoing discussion over the last couple of years up until recently as a week ago. Natural gas issues. It would be feasible but most likely not until Year 2015 to 2016. But it's coming.

**Council Member Joe Hall**

I thought so, so that the thought process of implementing that has already started.

**Council President Hall**

That's a very good point about natural gas. I see no other lights. I need a motion to close the public hearing? Lloyd?

**Council Secretary Lloyd Martin**

So moved.

**Council President Hall**

I have a motion by Lloyd and a second by Margaret to close the public hearing. All those in favor? Let the record show the vote was unanimous. Thank you both very much. Thank you Hal.

FINDING OF FACT

RE: #12-12100001 – CONDITIONAL USE FOR WATER-RELATED RECREATIONAL  
ACTIVITY TO BE LOCATED AT

710 S. Philadelphia Avenue

February 7, 2012

Upon a motion made by Peck Miller, seconded by Joel Brous, and carried by a vote of four (4) to zero (0), Chairwoman Pam Buckley, Tom Singman, and Chris Shanahan absent, the Planning and Zoning Commission hereby gives a favorable recommendation for twelve (12) wave runners and one (1) parasail boat in the above referenced case for the following reasons:

**1. Population Change:**

The Commission found that there would be no population change as a result of the water-related recreational activity. Increased tourism in recent years does demand more water-related recreational facilities.

**2. Availability of Public Facilities:**

The watersport does not overburden the existing public facilities. There do exist on-site toilet facilities for the employees and patrons of the watersport.

**3. Present and Future Transportation Patterns:**

The watersport has direct access onto South 1<sup>st</sup> Street and Philadelphia Avenue, which is a part of the main arterial road system in the downtown area. The bus transfer terminal is located one block to the north for mass transit. The existing Bay channel for large boat traffic is some distance off shore allowing safety for the watersport.

**4. Compatibility with Existing and Proposed Development for the Area:**

The Oceanic Fishing Pier provides adequate separation between this operation and the Sea Rocket, located at 700 S. Philadelphia Avenue. That watersport is required to comply with the prescribed buffer of 50 yards north of the pier for compatibility of projects. This operation, Inlet Sea Doos, Inc., is further compatible with the surrounding neighborhood consisting of the Oceanic Motel, Sunset Park to the north of The Sea Rocket, and the U.S. Coast Guard station north of Sunset Park. There is a City Public Works facility and a public parking lot located within one block of this site. The use has been in operation for the past 17 years and has been found compatible with the existing

neighborhood. Training and instructions are provided within the boat basin prior to users entering Bay waters.

#### **5. Relationship to the Comprehensive Plan:**

The watersport is an allowed Conditional Use of the zoning district, which is I-1, Inlet District. The Comprehensive Plan promotes recreational facilities of this type and encourages public access on the bay front. The downtown area south of 3<sup>rd</sup> Street is a mixture of commercial districts promoting various types of services for the tourist industry.

Therefore, by virtue of the requirements of Section 110-122 of the Code of Ocean City, Maryland, the above findings require the Planning and Zoning Commission to recommend approval for the water-related recreational activity subject to the following conditions:

1. The approval shall be subject to the Planning and Zoning Commission's guidelines for water-related conditional use permits (copy attached).
2. The operation is required to provide safe access to parasail boat from its mooring on the north side of the Oceanic Fishing Pier.
3. The insurance required under Item 2(A) of the Conditional Use water-related guidelines must be issued from an insurance company recognized in the State of Maryland.
4. No stand-up personal watercraft shall be permitted.
5. There shall be one escort per four people riding or operating the personal watercraft.
6. The watersport operation shall comply with all State of Maryland personal watercraft regulations.
7. The approval shall be for one (1) parasail boat and twelve (12) wave runners.
8. The fuel handling and storage is to maintain approval by the Fire Marshal's office.

9. This approval shall be for a period of five (5) years.
10. The Mayor and City Council may revoke the Conditional Use permit should the applicant not comply with all of the above conditions and with federal, state, and local regulations pertaining to the watersport operation.
11. The screen enclosure shall be maintained around the fuel tank.
12. A low visibility trash receptacle shall be maintained on site.
13. The wave runners shall be restricted to the capacity specified by the manufacturer.
14. Landscape shall be maintained adjacent to South 1<sup>st</sup> Street and Philadelphia Avenue.
15. Applicant shall maintain signage in compliance with the Downtown Design Overlay Zone District.
16. This approval is for this applicant only. Any change in ownership would necessitate coming back to the Planning and Zoning Commission for review.

\_\_\_\_\_  
John Staley, Commission Secretary

\_\_\_\_\_  
Peck Miller

\_\_\_\_\_  
Lauren Taylor

\_\_\_\_\_  
Joel Brous

*Law Offices*

**AYRES, JENKINS, GORDY & ALMAND**

**ATTACHMENT C**

GUY R. AYRES III  
M. DEAN JENKINS  
JAMES W. ALMAND  
WILLIAM E. ESHAM, III  
MARK SPENCER CROPPER  
BRUCE F. BRIGHT  
HEATHER E. STANSBURY  
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February 16, 2012

Reply to Ocean City Office

OF COUNSEL  
HAROLD B. GORDY, JR.  
ARLETTE K. BRIGHT

Mayor and City Council of Ocean City  
City Hall  
3<sup>rd</sup> Street and Baltimore Avenue  
Ocean City, MD 21842

RE: 2012 Bond Ordinance

Dear Mayor and Council Members:

At next Tuesday's meeting the above referenced bond ordinance will be introduced for first reading. This bond ordinance will be for the refinance of existing indebtedness (prior bonds) and for capital improvements to be constructed from the list of potential capital projects reviewed and approved as a "wish list" this past Tuesday. My recollection of this vote on the list of potential capital projects was 4-3 in favor. If that same voting margin prevails there is a potential problem which I want to bring to your attention.

Generally, actions of the city council only require an affirmative vote of 4 members of the council. However, by the town's charter, there is an exception. The exception is for the supplemental appropriation of funds received by grants or general obligation bonds for expenditures on projects not anticipated or included in the normal budget. Thus, if the bond ordinance is passed on a 4-3 vote, the appropriation to expend the bond proceeds in this fiscal year will require a vote of not less than 5 affirmatives. If the bond ordinance passes and the bonds are sold, but not to be expended until the FY2013 budget, with the projects included, is passed and effective, the vote requirement will only be 4 affirmatives.

Very truly yours,

Guy R. Ayres III  
City Solicitor for Mayor and  
City Council of Ocean City

GRA:mh



## MEMORANDUM

TO: Mayor and City Council

FROM: Martha Bennett, Finance Administrator

DATE: February 16, 2012

RE: Projects for 2012 Bond Issue

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At the work session on February 14, 2012, Project List A (attached) for the General Fund were approved for inclusion in the bond ordinance scheduled for 1<sup>st</sup> reading on February 21. As the bond ordinance is an authorization to sell bonds up to a ceiling, the Council may add to the project list during 1<sup>st</sup> or 2<sup>nd</sup> reading or delete a project prior to the sale of the bonds.

I wish to advise you that in an e-mail to me, our bond counsel, Kristen Franceschi, had concerns about the inclusion of the Art League Building in the bond issue due to the lease to a non-profit organization:

*We will want to keep an eye on the Art League building. Even if the lease is \$1, it is still a private use asset so that the City will be obligated to monitor for payments between the two entities for the entire term of the bonds. Another alternative, if we could get documentation from the Art League on their use of the building and exempt status, is to publish a public hearing notice and treat that piece of the sale as a 501(c)(3) financing. We would have to work that notice into the schedule.*

Therefore, I have provided two alternate project lists, B and C, for your review, with the estimated annual debt service for each project. Alternative Project List B does not include the Art League Building. Alternative Project List C does not include the Art League Building, but does include the full funding of Fire Station 4 and Headquarters.

Also, a schedule of General Fund debt service to 2032 with Project List A indicates that, with the savings from the refunding of the 2005 bonds, annual debt service increases only in 2013, 2014, and 2017.

**Municipal Purpose and Refunding Bonds of 2012  
General Fund Proposed Projects**

@3-3.8% Interest

| <i><b>Project List A - 2/14/2012 work session</b></i> | Project Cost        | Issuance Cost     | Total               | Estimated Annual Debt Service |
|---|---------------------|-------------------|---------------------|-------------------------------|
| Boardwalk Reconstruction                              | 6,000,000           | 120,000           | \$ 6,120,000        | 442,381                       |
| Art League Building                                   | 600,000             | 12,000            | 612,000             | 44,238                        |
| St Louis Ave street improvements                      | 4,500,000           | 86,070            | 4,586,070           | 322,675                       |
| Land purchase   | 1,200,000           | 24,000            | 1,224,000           | 86,122                        |
| Allocation for fire station improvements              | 1,500,000           | 26,250            | 1,526,250           | 107,388                       |
| Total   | <u>\$13,800,000</u> | <u>\$ 268,320</u> | <u>\$14,068,320</u> | <u>\$1,002,804</u>            |

***Alternate Project List B - w/o Art League Building***

|  |                     |                   |                     |                   |
|--|---------------------|-------------------|---------------------|-------------------|
| Boardwalk Reconstruction                 | 6,000,000           | 120,000           | \$ 6,120,000        | 442,381           |
| St Louis Ave street improvements         | 4,500,000           | 86,070            | 4,586,070           | 322,675           |
| Land purchase                            | 1,200,000           | 24,000            | 1,224,000           | 86,122            |
| Allocation for fire station improvements | 1,500,000           | 26,250            | 1,526,250           | 107,388           |
| Total                                    | <u>\$13,200,000</u> | <u>\$ 256,320</u> | <u>\$13,456,320</u> | <u>\$ 958,566</u> |

***Alternate Project List C - w/o Art League Building & with Fire Stations***

|                                  |                     |                   |                     |                    |
|----------------------------------|---------------------|-------------------|---------------------|--------------------|
| Boardwalk Reconstruction         | 6,000,000           | 120,000           | \$ 6,120,000        | 442,381            |
| St Louis Ave street improvements | 4,500,000           | 86,070            | 4,586,070           | 322,675            |
| Land purchase                    | 1,200,000           | 24,000            | 1,224,000           | 86,122             |
| Fire station 4 and Headquarters  | 5,500,000           | 96,250            | 5,596,250           | 393,758            |
| Total                            | <u>\$17,200,000</u> | <u>\$ 326,320</u> | <u>\$17,526,320</u> | <u>\$1,244,936</u> |

## TOWN OF OCEAN CITY General Fund Debt Service 2012-2032

| FY   | Current Debt Service | Refunded Debt Service | Project List A Debt Service |                       | New Total Debt Service | Difference from FY12 Debt Service |
|------|----------------------|-----------------------|-----------------------------|-----------------------|------------------------|-----------------------------------|
|      |                      |                       | Boardwalk<br>\$ 6,120,000   | Other<br>\$ 7,948,320 |                        |                                   |
| 2012 | 4,450,031            | -                     | -                           | -                     | -                      | -                                 |
| 2013 | 4,064,536            | 3,890,497             | 442,381                     | 560,243               | 4,893,121              | 443,090                           |
| 2014 | 4,061,636            | 3,936,605             | 442,381                     | 560,243               | 4,939,229              | 489,198                           |
| 2015 | 3,516,204            | 3,391,173             | 442,381                     | 560,243               | 4,393,797              | (56,234)                          |
| 2016 | 3,537,657            | 2,995,594             | 442,381                     | 560,243               | 3,998,218              | (451,812)                         |
| 2017 | 3,527,154            | 3,525,448             | 442,381                     | 560,243               | 4,528,072              | 78,042                            |
| 2018 | 3,174,505            | 3,171,524             | 442,381                     | 560,243               | 4,174,148              | (275,883)                         |
| 2019 | 2,262,351            | 2,257,564             | 442,381                     | 560,243               | 3,260,188              | (1,189,843)                       |
| 2020 | 2,255,728            | 2,253,403             | 442,381                     | 560,243               | 3,256,027              | (1,194,004)                       |
| 2021 | 2,255,416            | 2,255,118             | 442,381                     | 560,243               | 3,257,742              | (1,192,289)                       |
| 2022 | 1,712,337            | 1,708,720             | 442,381                     | 560,243               | 2,711,344              | (1,738,687)                       |
| 2023 | 1,700,592            | 1,697,115             | 442,381                     | 560,243               | 2,699,739              | (1,750,292)                       |
| 2024 | 1,696,955            | 1,692,890             | 442,381                     | 560,243               | 2,695,514              | (1,754,517)                       |
| 2025 | 1,663,957            | 1,661,092             | 442,381                     | 560,243               | 2,663,716              | (1,786,315)                       |
| 2026 | 1,006,631            | 1,006,631             | 442,381                     | 560,243               | 2,009,255              | (2,440,776)                       |
| 2027 | 980,738              | 980,738               | 442,381                     | 560,243               | 1,983,362              | (2,466,669)                       |
| 2028 | 668,581              | 668,581               | 442,381                     | 560,243               | 1,671,205              | (2,778,826)                       |
| 2029 | 295,374              | 295,374               | 442,381                     | 560,243               | 1,297,998              | (3,152,033)                       |
| 2030 | 289,440              | 289,440               | 442,381                     | 560,243               | 1,292,064              | (3,157,967)                       |
| 2031 | 282,781              | 282,781               | 442,381                     | 560,243               | 1,285,405              | (3,164,626)                       |
| 2032 |                      |                       | 442,381                     | 560,243               | 1,002,624              | (3,447,407)                       |

**FIRST READING:**  
**SECOND READING:**

**MAYOR AND CITY COUNCIL OF OCEAN CITY  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE** to authorize and empower Mayor and City Council of Ocean City to issue and sell, upon its full faith and credit, not to exceed Thirty Four Million Seven Hundred Thousand Dollars (\$34,700,000) maximum aggregate principal amount of its serial maturity, general obligation, fully registered bonds, pursuant to the authority of Sections 31 through 37, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume), as amended, Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement), and Section C-719 of the Charter of Mayor and City Council of Ocean City, as amended, to be designated as “General Obligation Municipal Purpose and Refunding Bonds of 2012”, said bonds to be issued and sold for the public purposes of (i) financing or refinancing, in whole or in part, certain costs of acquisition, construction and/or improvements to the Projects (as defined below), (ii) and refunding all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Bonds of 2005 maturing on or after April 1, 2016 and (iii) paying the costs of issuance of said bonds, which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses; providing for the sale of said bonds by private sale or by solicitation of competitive bids; prescribing the form and tenor of said bonds; determining other matters relating to the issuance and sale of said bonds, including the form of a notice of sale to be published in connection with any public sale of said bonds; providing for the disbursement of the proceeds of said bonds; authorizing the preparation and distribution of a preliminary official statement and an official statement in connection with any public sale of said bonds; providing that the proceeds of said bonds, or any moneys which may be deemed to be proceeds, will not be used in a manner which would cause said bonds to be arbitrage bonds; providing for the appointment of a paying agent and bond registrar for said bonds; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bonds; and generally relating to the issuance, sale and delivery of all said bonds.

**RECITALS**

The authority for the powers herein exercised is contained in Section C-719 of the Charter (the “Charter”) of Mayor and City Council of Ocean City (the “City”) and in Sections 31 through 37, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume), as amended (the “Enabling Act”), and Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement) (the

“Refunding Act” and together with the Enabling Act and the Charter, the “Authorizing Legislation”).

The Authorizing Legislation authorizes and empowers the City to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds in accordance with the procedure prescribed by the Authorizing Legislation, subject to the limitation that no bonds shall be issued by the City pursuant to the authority of the Authorizing Legislation if, by the issuance thereof, the total bonded indebtedness of the City represented by its bonds payable from its general tax revenues then would exceed the amount permitted pursuant to the Authorizing Legislation.

The City proposes to spend the proceeds of the Bonds hereby authorized (i) to finance or refinance, in whole or in part, certain costs of acquisition, construction and/or improvements to the public projects described on Exhibit A attached hereto; (ii) to refund all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Bonds of 2005 maturing on or after April 1, 2016 (the “2005 Bonds”); and (iii) to pay the costs of issuing the Bonds (as defined below), which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses.

The Authorizing Legislation authorizes the City to issue bonds for the purpose of refunding outstanding bonds issued by the City in order to realize debt service savings or for other reasons set forth in the Authorizing Legislation. The City has determined that the City will realize savings in the effective cost of debt service on the 2005 Bonds on either a direct comparison or present value basis by advance refunding all or a portion of the 2005 Bonds.

The Charter contains no limitations upon the rate at which ad valorem taxes may be levied by the City for the payment of the principal of and interest on said bonded indebtedness.

Since the adoption of Article XI-E as an amendment of the Constitution of Maryland, the General Assembly has passed no law proposing a limitation upon the rate at which taxes

may be levied by the City, or a limitation upon the amount of bonded indebtedness which may be incurred by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF OCEAN CITY, that:

**Section 1.** Acting pursuant to the authority of the Authorizing Legislation, the City hereby determines that the net proceeds from the sale of its General Obligation Municipal Purpose and Refunding Bonds of 2012, authorized to be issued and sold by this Ordinance, shall be used and applied for one or more of the public purposes of (a) financing or refinancing, in whole or in part, certain costs of acquisition, construction and/or improvements to the public projects described on Exhibit A attached to this Ordinance (the “Projects”); (b) providing funds in order to refund all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Bonds of 2005 maturing on or after April 1, 2016 (the “2005 Bonds”) in order to realize savings to the City in the effective costs of debt service; and (c) paying the costs of issuing the Bonds (as defined below), which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses, all as stated in the Recitals to this Ordinance.

The costs of the Projects may include (without limitation) the costs of the planning, construction, reconstruction, demolition, improvement, refurbishing, renovation, restoration, extension, alteration, installation, repair, acquisition, conversion and modernization of structures; the acquisition of structures and sites for structures; the acquisition of rights of way for roads; architectural and engineering services, including preparation of plans, drawings and specifications; development and restoration of grounds; and all customary and necessary furnishings and fixed permanent equipment for structures.

**Section 2:** The City is hereby authorized to borrow money and incur indebtedness for the purposes set forth in the Recitals and Section 1 of this Ordinance. To evidence such

borrowing and indebtedness and acting pursuant to the authority of the Authorizing Legislation, the City shall issue and sell, upon its full faith and credit, not to exceed Thirty Four Million Seven Hundred Thousand Dollars (\$34,700,000) maximum aggregate principal amount of its serial maturity, general obligation, fully registered bonds, said issue of bonds to be known as “General Obligation Municipal Purpose and Refunding Bonds of 2012” (the “Bonds”), the net proceeds of such sale to be used and applied as provided in this Ordinance. The City shall levy and collect ad valorem taxes upon all taxable property within Ocean City in rate and amount sufficient to pay the principal of and interest on the Bonds.

**Section 3:** The Bonds may be used for all or less than all of the purposes set forth in the Recitals and Section 1 of this Ordinance, as determined by the Mayor of the City (the “Mayor”) to be in the best interests of the City at or prior to the time of sale of the Bonds, based on advice and recommendations from the Financial Advisor to the City (the “Financial Advisor”). Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance of the Bonds, the Bonds shall all be dated as of the date of delivery (or such other date as the Mayor may determine based upon the advice of the Financial Advisor), shall be in the denominations of \$5,000 or any integral multiple thereof, shall be numbered from one (1) consecutively upward in the order of their maturities and each such number shall be prefixed by the letter “R”. The Bond Registrar (as defined herein) may make such additional provision for numbering, including additional prefixes and suffixes, as he may deem appropriate. Based on the maximum aggregate principal amount of \$34,700,000, the Bonds shall mature, subject to the option of prior redemption according to the provisions of this Ordinance, on October 1 in each of the years 2012 through 2032, inclusive, as set forth below:

| <u>Maturing<br/>October 1</u> | <u>Preliminary<br/>Principal<br/>Amount</u> | <u>Maturing<br/>October 1</u> | <u>Preliminary<br/>Principal<br/>Amount</u> |
|-------------------------------|---|-------------------------------|---|
| 2012                          | \$1,125,000                                 | 2023                          | \$2,100,000                                 |
| 2013                          | 1,870,000                                   | 2024                          | 2,145,000                                   |
| 2014                          | 1,885,000                                   | 2025                          | 1,055,000                                   |

|      |           |      |           |
|------|-----------|------|-----------|
| 2015 | 1,900,000 | 2026 | 1,100,000 |
| 2016 | 1,920,000 | 2027 | 1,145,000 |
| 2017 | 1,940,000 | 2028 | 1,190,000 |
| 2018 | 1,960,000 | 2029 | 1,240,000 |
| 2019 | 1,985,000 | 2030 | 1,290,000 |
| 2020 | 2,005,000 | 2031 | 1,345,000 |
| 2021 | 2,035,000 | 2032 | 1,400,000 |
| 2022 | 2,065,000 |      |           |

In connection with any sale of the Bonds by solicitation of competitive bids at public sale as described in Section 6, the Mayor or his designee is authorized to establish (i) an aggregate principal amount of the Bonds less than the maximum aggregate principal amount authorized in Section 2 (including as a result of a decision by the Mayor not to issue Bonds for one or more of the purposes authorized by this Ordinance), and different annual maturing principal amounts from those set forth above, and to fix such amounts as the Preliminary Amounts to be set forth in the Notice of Sale authorized by this Ordinance, (ii) the Revised Amounts of the Bonds upon which bids will be received, as described in the Notice of Sale authorized by this Ordinance, and (iii) the Final Amounts of the Bonds, as described in the Notice of Sale authorized by this Ordinance, such Final Amounts to be the final aggregate principal amount and the final principal amount of each maturity of Bonds to be issued hereunder. The Mayor or his designee are authorized to give notice of such changes to bidders by TM3 as provided in the Notice of Sale authorized by this Ordinance.

The Mayor or his designee is further authorized to issue the Bonds as one series or as more than one series in order to accomplish the purposes set forth in Section 1 of this Ordinance, and each such series may be issued at such times and in such amounts as are necessary to accomplish the purposes for which each such series is issued, upon the advice of the City's Bond Counsel and the Financial Advisor. The designation of the Bonds of each series may be modified appropriately to differentiate each series. The provisions and covenants set forth in this Ordinance shall apply with equal force and effect to each series of Bonds. Without limiting the foregoing, each series may have a different dated date and principal and

interest payment dates, different interest rates, different redemption provisions and different principal payment schedules (so long as the aggregate principal amount of Bonds issued hereunder does not exceed the maximum authorized amount), and the covenants related to tax-exemption of the Bonds (if applicable) and the levy of taxes to pay the Bonds shall apply to each such series.

**Section 4:** Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance of the Bonds, Bonds maturing on or after October 1, 2023 are subject to redemption prior to their maturities at the option of the City on or after October 1, 2022 either as a whole or in any part at any time in any order of maturity at the option of the City, at par plus accrued interest thereon to the date fixed for redemption.

Notwithstanding the foregoing, the Mayor may, upon the advice of the City's Financial Advisor, determine to issue the Bonds, or any series thereof, (i) without provisions permitting such Bonds to be subject to redemption prior to their maturities or (ii) with different redemption dates and prices than those set forth above.

If less than all of the Bonds of any one series and maturity are called for redemption, the particular Bonds to be redeemed from such series and maturity shall be selected by lot by the Bond Registrar in such manner as the Bond Registrar in its sole discretion may determine, except that so long as The Depository Trust Company ("DTC") or its nominee is the sole registered owner of the Bonds, the particular Bond or portion to be redeemed shall be selected by lot by DTC, in such manner as DTC shall determine.

When less than all of a Bond in a denomination in excess of \$5,000 shall be so redeemed, then upon the surrender of such Bond, there shall be issued to the registered owner thereof, without charge, for the unredeemed balance of the principal amount of such Bond, at the option of such owner, Bonds in any of the authorized denominations, the aggregate face

amount of such Bonds not to exceed the unredeemed balance of the Bond so surrendered, and to bear the same interest rate and to mature on the same date as said unredeemed balance.

If, in accordance with the foregoing option, the City elects to redeem all or a portion of the Bonds outstanding, it shall give a redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption to each registered owner appearing on the books kept by the Bond Registrar; and the City may but shall not be obligated to publish such notice of redemption at least once not less than thirty (30) days prior to the date fixed for redemption in a financial journal or daily newspaper of general circulation in the Borough of Manhattan, New York, New York; provided, however, that the failure to mail the redemption notice or any defect in the notice so mailed or in the mailing thereof shall not affect the validity of any redemption proceedings. The redemption notice shall state (i) whether the Bonds are to be redeemed in whole or in part and, if in part, the maturities and numbers of the Bonds to be redeemed, (ii) the date fixed for redemption and the redemption price or prices, (iii) that the Bonds to be redeemed shall be presented for redemption at the principal office of the Paying Agent (as defined herein), and (iv) that interest on the Bonds called for redemption shall cease to accrue on the date fixed for redemption.

From and after the date fixed for redemption, if notice has been duly and properly given and if funds sufficient for the payment of the redemption price of the Bonds called for redemption plus accrued interest due thereon are available on such date, the Bonds so called for redemption shall become due and payable at the redemption price or prices provided for redemption of such Bonds on such date, interest on the Bonds shall cease to accrue and the registered owners of the Bonds so called for redemption shall have no rights in respect thereof except to receive payment of the redemption price plus accrued interest to the date fixed for redemption. Upon presentation and surrender of a Bond called for redemption in compliance with the redemption notice, the Paying Agent shall pay the redemption price of such Bond plus

accrued interest thereon to the date fixed for redemption. If Bonds so called for redemption are not paid upon presentation and surrender as described above, such Bonds shall continue to bear interest at the rates stated therein until paid.

The identity of the Bond Registrar and Paying Agent, the place of payment of the Bonds at maturity or redemption and the place of transfer or exchange of the Bonds may be changed by the City upon 30 days written notice to the registered owners of the Bonds at their addresses specified in the bond registration books maintained by the Bond Registrar and Paying Agent.

**Section 5:** All of the Bonds authorized by this Ordinance shall bear interest at the interest rate or rates fixed at the time of the awarding of the Bonds in accordance with the Notice of Sale and provisions of this Ordinance as hereinafter provided. Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated, unless authenticated upon an interest payment date, in which event it shall bear interest from such interest payment date, or unless authenticated prior to the first interest payment date, in which event it shall bear interest from the date of the Bonds; provided, however, that if at the time of authentication of any Bond interest is in default, such Bond shall bear interest from the date to which interest has been paid.

Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance of the Bonds, the interest on all Bonds shall be paid on October 1, 2012, and semi-annually thereafter on the first day of April and October of each year in which any Bonds may be outstanding.

The Bonds shall be executed in the name of the City and on its behalf by the Mayor. Such signature of the Mayor shall be manual or shall be imprinted on such Bonds by facsimile; an imprint of the corporate seal of the City (or a facsimile thereof) shall also be affixed thereon, attested by the manual or facsimile signature of the City Clerk of the City (the "City Clerk"); all in accordance with and pursuant to the authority of the Maryland Uniform Facsimile

Signature of Public Officials Act. In the event any official whose signature shall appear on the Bonds shall cease to be such official prior to the delivery of the Bonds, or in the event any such official whose signature shall appear on the Bonds shall have become such after the date of issue thereof, the Bonds shall nevertheless be valid and legally binding obligations of the City in accordance with their terms.

The Bonds shall be issued as fully registered bonds without coupons and shall be registered in the name or names of the owner or owners thereof, on books kept for such purpose at the principal office of the Bond Registrar. Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance and delivery of the Bonds, the Bonds initially will be issued in book-entry form without any physical distribution of certificates made to the public. DTC will act as securities depository for the Bonds and the Bonds will be registered in the name of DTC's partnership nominee, Cede & Co. The City reserves the right to terminate maintenance of the Bonds in a book-entry only system and to issue fully certificated bonds. The Mayor or his designee is hereby authorized to appoint a financial institution to act as bond registrar and as paying agent (the "Bond Registrar" and "Paying Agent") for the Bonds, unless the Mayor determines after consulting with the Financial Advisor to the City that the City shall act as the Bond Registrar or the Paying Agent or both. Payment of the principal of and interest on the Bonds shall be made to the person appearing on the registration books maintained by the Bond Registrar as the registered owner thereof, such principal to be payable at the principal office of the Paying Agent upon presentation and surrender of such Bonds as the same become due and payable, and such interest to be payable by electronic funds transfer or check mailed by the Paying Agent to the persons in whose names the Bonds are registered on the regular record date which shall be the fifteenth day of the month immediately preceding the month in which each regular interest payment date (the "Regular Record Date") occurs at the registered owner's address as shown

on the registration books maintained by the Bond Registrar; *provided, however*, that so long as the Bonds are registered in book-entry form, the principal of, redemption premium, if any, and interest on the Bonds shall be payable in accordance with DTC's payment procedures or the procedures of any successor depository for the Bonds.

The Bond Registrar and the Paying Agent shall be designated by the Mayor or by resolution of the City Council to be passed at a regular or special meeting.

Any interest on any Bond which is payable but is not punctually paid or provision for the payment of which has not been made ("Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant regular record date solely by virtue of such registered owner having been such registered owner; and such Defaulted Interest may be paid by the City, at its election in each case, as provided in paragraph (1) or paragraph (2) below:

(1) The City may elect to make payment of any Defaulted Interest on the Bonds to the persons in whose names such Bond is registered at the close of business on a record date for the payment of such Defaulted Interest (the "Special Record Date"), which shall be fixed in the following manner. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on the Bonds and the date of the proposed payment (which date shall be such as will enable the Paying Agent to comply with the next sentence hereof), and at the same time the City shall deposit or cause to be deposited with the Paying Agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as provided in this paragraph. Thereupon the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) nor less than ten (10) days prior to the date after the receipt by the Paying Agent of the notice of the proposed payment.

The Paying Agent shall promptly notify the City of such Special Record Date and, in the name of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each registered owner at his address as it appears in the registration books maintained by the Bond Registrar not less than ten (10) days prior to such Special Record Date. The Paying Agent may, in its discretion, in the name of the City, cause a similar notice to be published at least once in a newspaper of general circulation in each of Ocean City, Maryland and New York, New York but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the registered owners of the Bonds as of the close of business on such Special Record Date.

(2) The City may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Bonds may be listed, and upon such notice as may be required by such exchange, if, after notice given by the City to the Paying Agent of the proposed payment pursuant to this paragraph, such payment shall be deemed practicable, and approved in writing, by the Paying Agent.

Except as provided hereinafter or in resolutions or ordinances of the City adopted prior to the issuance and delivery of the Bonds, the Bonds shall be substantially in the following form. Appropriate variations and insertions may be made to provide dates, numbers and amounts, and modifications not altering its substance may be made by the Mayor to carry into effect the purposes of this Ordinance or to comply with the recommendations of legal counsel or the Financial Advisor. Such form and all of the covenants therein contained are hereby adopted by the City as and for the form of obligation to be incurred by the City, and such covenants are hereby made binding upon the City, including the promise to pay therein contained:

No. R--

\$ \_\_\_\_\_

**[Form of Bond]**

**UNITED STATES OF AMERICA**  
**STATE OF MARYLAND**  
**MAYOR AND CITY COUNCIL OF OCEAN CITY**  
**GENERAL OBLIGATION MUNICIPAL PURPOSE AND REFUNDING**  
**BONDS OF 2012**

**Interest Rate Per Annum                      Maturity Date                      Date of Original Issue                      CUSIP**

REGISTERED OWNER:

PRINCIPAL AMOUNT

DOLLARS

Mayor and City Council of Ocean City (the “City”), a municipal corporation created and existing under the laws of the State of Maryland, hereby acknowledges itself indebted, and, for value received, promises to pay to the Registered Owner shown above or registered assigns or legal representatives on the Maturity Date shown above (unless this bond shall be redeemable, shall have been called for prior redemption and payment of the redemption price made or provided for), the Principal Amount shown above or so much thereof as shall not have been paid upon prior redemption in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts upon presentation and surrender of this bond on the date such principal is payable or if such date is not a Business Day (hereinafter defined) then on the next succeeding Business Day at the principal office of the Paying Agent, and to pay to the registered owner hereof by check or draft, mailed to such registered owner at his address as it appears on said registration books (the “Bond Register”) maintained by the Bond Registrar, or by electronic funds transfer, interest on said principal amount at the Interest Rate shown above until payment of such principal amount, or until the prior redemption hereof, such interest being payable on October 1, 2012, and semi-annually thereafter on the first days of April and October in each year, in like coin or currency to the registered owner in whose name this bond is registered on the Bond Register as of the close of business on the regular record date, which shall be the fifteenth (15th) day of the month immediately preceding each regular interest payment date (the “Regular Record Date”), and shall be made by electronic funds transfer or check mailed by the Paying Agent to such person at such person’s address as it appears on the Bond Register; provided, however, that so long as the bonds are registered in book-entry form, the principal of,

redemption premium, if any, and interest on the bonds shall be payable in accordance with DTC’s (as defined below) payment procedures or the procedures of any successor depository for the bonds. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on the Regular Record Date, and may be paid to the person in whose name this bond is registered at the close of business on a date fixed by the Paying Agent for such defaulted interest payment (the “Special Record Date”), notice of which is given to the registered owner hereof not less than ten (10) days prior to such Special Record Date, or may be paid at any time in any other lawful manner not inconsistent with the requirement of any securities exchange on which the bonds of this series may be listed and upon such notice as may be required by such exchange.

“Business Day” means a day other than a Saturday, Sunday or day on which banking institutions under the laws of the State governing the Paying Agent are authorized or obligated by law or required by executive order to remain closed.

This bond shall not be valid or become obligatory for any purpose, until this bond shall have been authenticated by an authorized officer of the Bond Registrar.

This bond is one of a duly authorized issue of general obligation bonds of the City aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in principal amount, which are in denominations of \$5,000 or any integral multiple thereof, mature serially in installments on the first day of October in each of the years 20[12] to 20[32], inclusive, as follows:

| <u>Maturing</u><br><u>October 1</u> | <u>Principal</u><br><u>Amount</u> | <u>Maturing</u><br><u>October 1</u> | <u>Principal</u><br><u>Amount</u> |
|-------------------------------------|-----------------------------------|-------------------------------------|-----------------------------------|
| [2012]                              |                                   | 2023                                |                                   |
| 2013                                |                                   | 2024                                |                                   |
| 2014                                |                                   | 2025                                |                                   |
| 2015                                |                                   | 2026                                |                                   |
| 2016                                |                                   | 2027                                |                                   |
| 2017                                |                                   | 2028                                |                                   |
| 2018                                |                                   | 2029                                |                                   |
| 2019                                |                                   | 2030                                |                                   |
| 2020                                |                                   | 2031                                |                                   |
| 2021                                |                                   | 2032                                |                                   |
| 2022                                |                                   |                                     |                                   |

The bonds are numbered from one consecutively upwards prefixed by the letter “R” and are of like tenor and effect except as to maturity, number, interest rate, denomination and redemption provisions, and are issued pursuant to and in full conformity with the provisions of Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume), as amended, Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement), and Section C-719 of the Charter of the City, and by virtue of due proceedings had and taken by the Mayor and City Council of Ocean City particularly an Ordinance adopted on the \_\_\_\_ day of \_\_\_\_\_, 2012 (approved \_\_\_\_\_, 2012) (the “Ordinance”).

Bonds maturing on or after October 1, 20[23] are subject to redemption prior to their maturities at the option of the City on or after October 1, 20[22], either as a whole or in part at any time in any order of maturity at the option of the City, at par plus accrued interest thereon to the date fixed for redemption.

If less than all of the bonds of any one maturity of this issue shall be called for redemption, the bonds to be redeemed shall be selected by lot by the Bond Registrar in such manner as, in its discretion, it shall determine, except that so long as The Depository Trust Company (“DTC”) or its nominee is the sole registered owner of the bonds, the particular bond or portion to be redeemed shall be selected by lot by DTC, in such manner as DTC shall determine.

When less than all of a bond in a denomination in excess of \$5,000 shall be so redeemed, then, upon the surrender of such bond, there shall be issued to the registered owner thereof, without charge, for the unredeemed balance of the principal amount of such bond, at the option of such owner, bonds in any of the authorized denominations, the aggregate face amount of such bonds not to exceed the unredeemed balance of the bond so surrendered, and to bear the same interest rate and to mature on the same date as said unredeemed balance.

If, in accordance with the foregoing option, the City elects to redeem all or a portion of the bonds outstanding, it shall give a redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption to each registered owner appearing on the books kept by the Bond Registrar; and the City may but shall not be obligated to publish such notice of redemption at least once not less than thirty (30) days prior to the date fixed for redemption in a financial journal or daily newspaper of general circulation in the Borough of Manhattan, New York, New York; provided, however, that the failure to mail the redemption notice or any defect in the notice so mailed or in the mailing thereof shall not affect the validity of the redemption proceedings. The redemption notice shall state (i) whether the bonds are to be redeemed in whole or in part and, if in part, the maturities and numbers of the bonds to be redeemed, (ii) the date fixed for redemption and the redemption price or prices, (iii) that the bonds to be redeemed shall be presented for redemption at the principal office of the Paying Agent, and (iv) that interest on the bonds called for redemption shall cease to accrue on the date fixed for redemption.

From and after the date fixed for redemption, if notice has been duly and properly given and if funds sufficient for the payment of the redemption price of the bonds called for redemption plus accrued interest due thereon are available on such date, the bonds so called for redemption shall become due and payable at the redemption price or prices provided for redemption of such bonds on such date, interest on the bonds shall cease to accrue and the registered owners of the bonds so called for redemption shall have no rights in respect thereof except to receive payment of the redemption price plus accrued interest to the date fixed for redemption. Upon presentation and surrender of a bond called for redemption in compliance with the redemption notice, the Paying Agent shall pay the redemption price of such Bond plus accrued interest thereon to the date fixed for redemption. If bonds so called for redemption are not paid upon presentation and surrender as described above, such bonds shall continue to bear interest at the rates stated therein until paid.

[The City has appointed \_\_\_\_\_ to act as bond registrar and as paying agent (the “Bond Registrar” and “Paying Agent”) with respect to the bonds.] [The Finance Administrator of the City will act as bond registrar and as paying agent (the “Bond Registrar” and “Paying Agent”) with respect to the bonds.] The identity of the Bond Registrar and Paying Agent, the place of payment of the bonds at maturity or redemption and the place of transfer or exchange of the bonds may be changed by the City upon 30 days written notice to the Bondholders at their addresses specified in the bond registration books maintained by the Bond Registrar and Paying Agent.

This bond is transferable only upon the registration books kept at the principal office of the Bond Registrar, by the registered owner hereof in person, or by its attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer in the form attached hereto and satisfactory to the Bond Registrar duly executed by the registered owner or its duly authorized

attorney, and thereupon, within a reasonable time, the City shall issue in the name of the transferee a new registered bond or bonds of any authorized denominations in aggregate principal amount equal to the principal amount of this bond or the unredeemed portion hereof, and maturing on the same date and bearing interest at the same rate. Said new bond or bonds shall be delivered to the transferee only after payment of any tax or governmental charge required to be paid with respect to, and any shipping expenses or insurance relating to, such transfer and only after due authentication thereof by an authorized officer of the Bond Registrar. The City shall not be required to issue, transfer or exchange any bond during the period beginning fifteen days before any selection of bonds to be redeemed and ending on the day of publication and mailing of the notice of redemption or to transfer or exchange any bond called or being called for redemption in whole or in part. The City may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the prompt payment of the principal of and interest on this bond according to its terms, and the City does hereby covenant and agree to pay the principal of this bond and the interest thereon, at the dates and in the manner mentioned herein, according to the true intent and meaning thereof.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland, the Charter of the City and the Ordinance 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 City, is within every debt and other limit prescribed by said Constitution or statutes or Charter, and that due provision has been made for the levy and collection of an ad valorem tax or taxes, to the extent necessary, upon all legally assessable property within the corporate limits of the City in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on this bond.

This bond shall not be valid or become obligatory for any purpose until this bond shall have been authenticated by an authorized officer of the Bond Registrar.

IN WITNESS WHEREOF, this bond has been executed by the manual or facsimile signature of the Mayor of the City, which signature, if by facsimile, has been imprinted hereon, the corporate seal of the City (or a facsimile thereof) has been imprinted hereon, attested by the manual or facsimile signature of the City Clerk of the City as of the \_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

MAYOR AND CITY COUNCIL OF  
OCEAN CITY

\_\_\_\_\_  
City Clerk

By: (manual or facsimile signature)

\_\_\_\_\_, Mayor

**CERTIFICATE OF AUTHENTICATION**

The undersigned hereby certifies that this bond is one of the registered bonds without coupons of Mayor and City Council of Ocean City.

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[Authorized Officer of Bond Registrar]

**(Form of Assignment)**

**FOR VALUE RECEIVED** the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within bond and all rights thereunder, and does hereby constitute and appoint \_\_\_\_\_ to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guarantee:

\_\_\_\_\_  
Note: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Trustee, which requirements include membership or participation in STAMP or such other “signature guaranty program” as may be determined by the Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

The following abbreviations, when used in this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF TRANS MIN ACT -

TEN COM - as tenants in common  
TEN ENT - as tenants by the entireties  
JT Ten - as join tenants with right  
of survivorship and not as  
tenants in common

Additional abbreviations may also be used though not in the above list.

**Section 6:** Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance of the Bonds, the Mayor may offer the Bonds for sale by either of the following methods, as determined by the Mayor, after consultation with the Financial Advisor, to be in the best interests of the City under then-current market conditions:

1. The Bonds authorized by this Ordinance may be sold at private negotiated sale without advertisement or publication of notice of sale or solicitation of competitive bids. If the Bonds are sold in such a manner, the Mayor, after considering any recommendations of the Financial Advisor, is authorized to engage an underwriter or placement agent for the sale and any offering of the Bonds and may authorize the Finance Administrator of the City (the "Finance Administrator") to: (i) prepare a request for proposals or similar documents with the assistance of the Financial Advisor, (ii) solicit proposals from banks or investment banking firms recommended by the Financial Advisor for the purchase of such Bonds, (iii) make all necessary arrangements for the tabulation and comparison of the proposals received, including the employment of specially qualified personnel, if necessary, to determine the proposal which has the most advantageous terms for the City, and (iv) negotiate the terms of the sale of the Bonds with one or more banks or investment banking firms submitting proposals. The Mayor, after considering any recommendations of the Financial Advisor, may also approve the form of, and authorize the Finance Administrator to execute and deliver on behalf of the City, an underwriting or purchase agreement or agreements for the Bonds (or any portion thereof), to the extent required with respect to the Bonds. The award of the Bonds sold in such manner shall be made by resolution of the City Council at a meeting of the City Council held in accordance with the Charter, which resolution may include, without limitation, the identity of the selected purchaser of each Bond, the interest rate or rates to be borne by each Bond as specified by such successful purchaser, and the

dates and amounts of installment payments of principal and interest on the Bonds (which amounts may be revised from those set forth in Section 3, so long as the maximum aggregate principal amount of the Bonds does not exceed the amount authorized in Section 2). Each such Bond shall be prepared in definitive form, executed, and delivered to the applicable purchaser as soon as may be practicable after the award of such Bond, upon receipt of the purchase price. The Mayor is expressly authorized and empowered to take any and all action necessary to complete and close the award, sale and delivery of each Bond to the applicable purchaser, including the delivery of such other offering documents, bond purchase documents and other documents as may be reasonably required in connection with such issuance of Bonds.

2. The Bonds authorized by this Ordinance may also be sold by solicitation of competitive bids at public sale in accordance with the provisions of the Notice of Sale (hereinafter described) on May 1, 2012 or on such other date as may be selected by the Mayor for cash at no less than par, to the bidder therefor whose bid is deemed to be for the best interests of the City. Sealed bids shall be received until 11:00 a.m. local Ocean City, Maryland, time on said date of sale. Immediately after such sale, the interest rate or rates specified by the successful bidder shall be fixed by an award which shall be made by executive order of the Mayor to the winning bidder in accordance with the terms of the Notice of Sale. The Mayor is also granted the authority to reject all bids and establish an alternative sale date in accordance with the terms of the Notice of Sale, should the Mayor determine, based upon the advice of the Financial Advisor, that such action is in the best interests of the City. After such award is made, the Bonds shall thereafter be suitably prepared and delivered to the successful bidder upon payment of the balance of the purchase price thereof. Except as provided hereinafter or in an ordinance or resolution of the City adopted prior to the issuance of the Bonds, the

Notice of Sale shall be in substantially the form set forth as Exhibit B hereto, with the insertions therein indicated. The terms and conditions stated in such Notice of Sale are hereby adopted and approved as the terms and conditions under which and the manner in which such Bonds shall be sold, issued and delivered at public sale, subject to such insertions, alterations, additions or deletions as the Mayor may deem advisable due to financial or market conditions prevailing at the time, based upon the advice of the Financial Advisor. The complete text of the Notice of Sale shall be included in any such preliminary official statement and official statement. The City Clerk is authorized and directed to publish the Notice of Sale or a summary thereof at least twice in a daily or weekly newspaper having general circulation in Ocean City. The publication of such Notice of Sale shall be made once at least ten (10) days prior to the date of sale. The City Clerk may, but is not obligated to, give such other notice of the sale of such Bonds, within or without this State, by publication or otherwise, as the Mayor or the City Clerk may deem appropriate; such other notice may include, without limitation, publication of the Notice of Sale or a summary thereof in The Bond Buyer, a financial journal published in the City of New York, New York.

The Finance Administrator is hereby authorized and directed to make all necessary arrangements for the tabulation and comparison of the proposals or bids, as applicable, received from any private or public sale specified in this Section, including the employment of specially qualified personnel, if necessary, so that she will be able promptly to advise the Mayor as to the proposal or bid, as applicable, which provides the most advantageous terms to the City.

The Mayor and the Finance Administrator are expressly authorized to, as applicable: (i) prepare and distribute a preliminary official statement and an official statement in connection with the sale of the Bonds, (ii) approve the form of, and execute and deliver and on behalf of

the City a continuing disclosure agreement to assist bidders or bond purchasers, as appropriate, in complying with Securities and Exchange Commission Rule 15c2-12(b)(5), (iii) enter any agreement necessary to maintain the Bonds under a book-entry system, (iv) execute on behalf of the City an escrow deposit agreement (the "Escrow Deposit Agreement") with a bank or trust company (the "Escrow Agent"), and (v) approve the form of, and execute and deliver each other document or agreement that the Mayor or the Finance Administrator deem necessary or desirable in connection with the issuance of the Bonds

Without limiting the generality of the foregoing, the Mayor or the Finance Administrator is authorized to obtain a policy of municipal bond insurance with respect to the Bonds and, if a commitment for the issuance of such policy of insurance is acquired, an appropriate reference to such commitment may be inserted in any Notice of Sale and in the form of Bond set forth in Section 5 hereof.

**Section 7:** The proceeds of the sale of the Bonds, including any premium and accrued interest, if any, which may be received therefor, shall be paid directly to the Finance Administrator. At the option of the City, there shall be deducted from the gross proceeds received from the sale of the Bonds any amount paid as premium on the Bonds and any amount paid on account of accrued interest on the Bonds, which amounts, if applicable, shall be set apart in a separate fund and applied, respectively, on account of the first principal maturity and the first maturing interest payable on the Bonds. There may also be deducted from the gross proceeds received from the sale of the Bonds all costs of issuing the same, including costs of document production and reproduction, and financial advisory and counsel fees and expenses. To the extent required in connection with the refunding of the 2005 Bonds, a portion of the balance of the proceeds from the sale of the Bonds may be used by the City for the public purpose of purchasing, or depositing said balance with the Escrow Agent to purchase, direct obligations of, or obligations the timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America, the principal of and interest on which will be sufficient to redeem the 2005 Bonds on April 1, 2015 at a redemption price of 100% of the principal amount thereof and to pay interest thereon when due. The Finance Administrator shall use the balance of the proceeds from the sale of the Bonds for the public purposes described in Section 1 hereof. In the event that the amount of funds allocated to one or more Project identified on Exhibit A exceeds the amount needed for such Project, the excess may be allocated to other Projects identified on Exhibit A or may be allocated to additional projects which are authorized by the Mayor and City Council. Prior to expenditure of such proceeds, the same or any part thereof shall be invested by the Finance Administrator, with the approval of the Mayor, in any authorized investment of the City. Prior to the sale of the Bonds, the Mayor may determine not to issue Bonds for one or more of the purposes authorized by this Ordinance. In addition, if the funds derived from the sale of the Bonds (including amounts

remaining after redemption of the 2005 Bonds and payment of any expenses thereunder) shall exceed the amount needed to finance any of the Projects described in this Ordinance, the funds so borrowed and not expended as provided by this Ordinance shall be set apart in a separate fund by the Finance Administrator and applied in payment of the next principal maturity of the Bonds, unless the City Council of the City shall adopt an ordinance allocating such funds to some other public capital improvement project or projects of the City.

**Section 8:** In order to provide for the payment of the principal of and interest on the Bonds hereby authorized when due, there shall be appropriated in the next ensuing fiscal year of the City and in each fiscal year thereafter, so long as any of the Bonds hereby authorized are outstanding and unpaid, or until a sufficient fund has been accumulated and irrevocably set aside for the purpose, an amount sufficient to meet the debt service on the Bonds coming due in such fiscal year and there shall be levied ad valorem taxes upon all property within the corporate limits of the City subject to assessment for full City taxes, in rate and amount sufficient in each such year, together with other funds which the City has appropriated for such purposes, to fund such appropriations and to provide, to the extent necessary, for the payment when due of the principal of and interest on all Bonds maturing in each such fiscal year. In the event the proceeds from the taxes so levied in each such fiscal year shall prove inadequate for the above purposes, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency. Thereafter, prior to each principal and semi-annual interest payment date, the City shall deposit with the Paying Agent, from the tax proceeds above described and from any other funds then legally available for such purposes, the amounts needed to pay the principal of and interest on the Bonds hereby authorized coming due on each such payment date. All moneys so deposited with the Paying Agent shall be deemed and treated by the Paying Agent as trust funds for the use and benefit of the holders from time to time of the Bonds hereby authorized. Any such trust funds so held by the Paying Agent for the payment of particular

Bonds for periods of more than two (2) years respectively from the dates of such Bonds upon the expiration of any such two-year period, and the failure of the holders of said Bonds to present the same for payment within such period, shall be returned by the Paying Agent to the City and, thereafter, the holders of any such Bonds shall have claims only against the City for payment of the obligations held by them and the Paying Agent shall be relieved of the trust hereby imposed.

To assure the performance by the City of the provisions of this Section, the full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the payment to maturity of the principal of and interest on the Bonds hereby authorized as and when the same respectively mature and become payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Bonds hereby authorized to be issued; this pledge is made hereby for the benefit of the holders, from time to time, of the Bonds hereby authorized.

The City hereby solemnly covenants and agrees with each holder of any of the Bonds hereby authorized to levy and collect the taxes hereinabove described and to take any other action that may be appropriate from time to time during the period that any of such Bonds remain outstanding and unpaid to provide the funds necessary to make principal and interest payments thereon when due.

**Section 9:** CUSIP numbers may be printed on the Bonds; provided, however, that the printing of CUSIP numbers on the Bonds (even if incorrect) shall have no legal effect and shall not in any way affect the enforceability or validity of any Bond. Any expenses in relation to the printing of CUSIP numbers on the Bonds, including any CUSIP Service Bureau charge for the assignment of such numbers, in the discretion of the Finance Administrator, may be paid for by the City from the proceeds of the Bonds.

**Section 10:** In addition to the insertions and variations prescribed by Sections 5 and 6 of this Ordinance, the Mayor is hereby authorized to make such further modifications in such forms as will not alter the substance of such forms.

**Section 11:** The Mayor and the Finance Administrator shall be the officers of the City responsible for the issuance of the Bonds within the meaning of the Arbitrage Regulations (defined below). The Mayor and the Finance Administrator shall also be the officers of the City responsible for the execution and delivery (on the date of issuance of the Bonds) of a certificate of the City (the "Tax and Section 148 Certificate") which complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby authorized and directed to execute the Tax and Section 148 Certificate and to deliver the same to Bond Counsel on the date of the issuance of the Bonds.

The City shall set forth in the Tax and Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bonds, or of any monies, securities or other obligations on deposit to the credit of any account of the City which may be deemed to be proceeds of the Bonds pursuant to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The City covenants with each of the holders of any of the Bonds that the facts, estimates and circumstances set forth in the Tax and Section 148 Certificate will be based on the City's reasonable expectations on the date of issuance of the Bonds and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

In the event that Bonds are issued pursuant to this Ordinance with the expectation that interest on such Bonds be excludable from gross income for federal income tax purposes, the City covenants with each of the registered owners of any of the Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond

Proceeds which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 and the Arbitrage Regulations. The City further covenants that it will comply with Section 148 and the Arbitrage Regulations which are applicable to the Bonds on the date of issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds as long as the Bonds remain outstanding and unpaid. The Mayor and the Finance Administrator are hereby authorized and directed to prepare or cause to be prepared and to execute, respectively, any certification, opinion or other document, including, without limitation, the Tax and Section 148 Certificate, which may be required to assure that the Bonds will not be deemed to be “arbitrage bonds” within the meaning of Section 148 and the Arbitrage Regulations. All officers, employees and agents of the City are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds as may be necessary or appropriate from time to time to comply with, or to evidence the City’s compliance with, the covenants set forth in this Section.

The City further covenants with each of the registered owners of any of the Bonds that it shall make such use of the proceeds of the Bonds, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bonds.

The City further covenants with each of the registered owners of any of the Bonds (i) that it will not take any action or (to the extent that it exercises control or direction) permit any action to be taken that would cause the Bonds or a portion of the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended, and (ii) that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the proceeds of the Bonds or a portion of such proceeds that

would cause the Bonds or a portion of the Bonds to be “private loan bonds” within the meaning of Section 141(c) of the Internal Revenue Code of 1986, as amended.

In the event that the Bonds are being issued hereunder with the expectation that interest on such Bonds will be exempt from federal income taxation, the Mayor may make such covenants and agreements in connection with the issuance of such Bonds as he shall deem advisable in order to assure the registered owners of such Bonds that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants and agreements shall be binding on the City so long as the observance by the City of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on such Bonds from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the City regarding compliance with the provisions of the Internal Revenue Code of 1986, as amended, as the Mayor or the Finance Administrator shall deem advisable in order to assure the registered owners of the Bonds that the interest thereon is and shall remain excludable from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the investment of Bond Proceeds, the payment of certain earnings resulting from such investment to the United States, limitations on the times within which, and the purposes for which, Bond Proceeds may be expended, or the use of specified procedures for accounting for and segregating Bond Proceeds. Any covenant or agreement made by the Mayor or the Finance Administrator pursuant to this paragraph may be set forth in or authorized by the Tax and Section 148 Certificate or an order executed by the Mayor.

**Section 12:** The distribution of an Official Statement pertaining to the Bonds is hereby authorized, the final form of such Official Statement to be approved by the Mayor as evidenced by his signature thereon. The Official Statement shall be in substantially the form of the Preliminary Official Statement (which shall be in a form “deemed final” as of its date for

purposes of SEC Rule 15c2-12) with such changes, modifications, additions and deletions as the Mayor or the Finance Administrator may approve. The distribution of a Preliminary Official Statement is hereby approved.

**Section 13:** Pursuant to the authority of this Ordinance, all officers, employees and agents of the City may take such actions and execute and deliver such documents as are necessary or appropriate from time to time to provide for the issuance, sale and delivery of the Bonds.

**Section 14:** Prior to the delivery of the Bonds, the City shall have received a certificate of a firm of independent arbitrage agents, nationally recognized in the field of advance refunding of tax-exempt obligations, verifying that the maturing principal amounts of the obligations held by the Escrow Agent and interest earned thereon will be sufficient to redeem on April 1, 2015 at a redemption price of 100% of the principal amount thereof and to pay interest when due on the 2005 Bonds maturing on or after April 1, 2016.

**Section 15:** This Ordinance shall take effect from the date of its approval by the Mayor, on or following the date of its final passage.

[ *signatures appears on next page* ]

**THIS ORDINANCE** was introduced and read at a meeting of the Mayor and City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2012, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Mayor and City Council on the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
James S. Hall, President of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Kelly L. Allmond, City Clerk

\_\_\_\_\_  
Richard W. Meehan, Mayor

Approved as to form by:

\_\_\_\_\_  
Guy R. Ayres, III, Town Attorney

\_\_\_\_\_  
Lloyd Martin, Secretary of the City Council

**Exhibit A**  
**Public Projects**

| <b>Project<br/>Description</b>       | <b>Total<br/>Cost</b> |
|--------------------------------------|-----------------------|
| Boardwalk Reconstruction             | \$6,120,000           |
| Art League Building                  | 612,000               |
| Caroline Street Comfort Station      | 1,020,000             |
| Caine Woods Pumping Station          | 918,000               |
| Old Landing Pumping Station          | 918,000               |
| 28th Street Pumping Station          | 918,000               |
| Clarigester Upgrade                  | 1,377,000             |
| Winter Influent Pump Upgrades        | 408,000               |
| St. Louis Avenue Sewer Main          | 442,680               |
| St. Louis Avenue Street Improvements | 4,586,070             |
| Land Purchase                        | 1,224,000             |
| Fire Station Improvements            | 1,526,250             |
|                                      |                       |
| <b>Total</b>                         | <b>\$20,070,000</b>   |

**Exhibit B**

**NOTICE OF SALE**

**MAYOR AND CITY COUNCIL OF OCEAN CITY**

**GENERAL OBLIGATION MUNICIPAL PURPOSE AND REFUNDING**

**BONDS OF 2012**

Dated \_\_\_\_\_, 2012

Electronic bids via PARITY will be received until 11:00 a.m., local Ocean City, Maryland time on Tuesday, May 1, 2012, by the Mayor of the Mayor and City Council of Ocean City (the “City”) or his designee at the offices of the Finance Administrator of the City, located at City Hall, 3rd Street and Baltimore Avenue, Ocean City, Maryland 21842, for the purchase of the above-described bonds of the City (the “Bonds”), aggregating \$34,700,000\*, all dated \_\_\_\_\_, 2012, and maturing, subject to prior redemption, as herein stated, on the first day of October as follows:

| <u>Maturing<br/>October 1</u> | <u>Preliminary<br/>Principal<br/>Amount</u> | <u>Maturing<br/>October 1</u> | <u>Preliminary<br/>Principal<br/>Amount</u> |
|-------------------------------|---|-------------------------------|---|
| [2012]                        |   | 2023                          |   |
| 2013                          |   | 2024                          |   |
| 2014                          |   | 2025                          |   |
| 2015                          |   | 2026                          |   |
| 2016                          |   | 2027                          |   |
| 2017                          |   | 2028                          |   |
| 2018                          |   | 2029                          |   |
| 2019                          |   | 2030                          |   |
| 2020                          |   | 2031                          |   |
| 2021                          |   | 2032                          |   |
| 2022                          |   |                               |   |

The City will not consider and will reject any bid for the purchase of less than all of the Bonds for which a bid is made.

The Bonds shall be issued only in fully registered form without coupons. One Bond representing each maturity of will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), as registered owner of the Bonds and each such Bond shall be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers

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\* Preliminary, subject to adjustment as described herein.

will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the bond certificates representing each maturity with DTC. The Bonds will bear interest payable semiannually on the first days of April and October, commencing October 1, 2012, until maturity or redemption. Interest will be paid to the persons in whose names the Bonds are registered on the registration books maintained by the Bond Registrar on the Regular Record Date, which is the fifteenth (15th) day of the month immediately preceding the month in which each such interest payment date occurs, by electronic funds transfer or check mailed to each such person's address as it appears on such bond registration books; provided, however, that so long as the Bonds are registered in book-entry form, the principal of, redemption premium, if any, and interest on the bonds shall be payable in accordance with DTC's payment procedures or the procedures of any successor depository for the bonds.

Bonds maturing on or after October 1, 2023 are subject to redemption prior to their maturities at the option of the City on or after October 1, 2022, either as a whole or in any part at any time in any order of maturity at the option of the City, at par plus accrued interest thereon to the date fixed for redemption. If less than all of the Bonds of any maturity shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by lot by the Bond Registrar and Paying Agent in such manner as in its discretion it shall determine, except that so long as DTC or its nominee is the sole registered owner of the Bonds, the particular Bonds or portion to be redeemed shall be selected by lot by DTC, in such manner as DTC shall determine.]

The Bonds are authorized by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume), as amended, Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement), and Section C-719 of the Charter of the City, and by virtue of due proceedings had and taken by the Mayor and City Council of Ocean City particularly an Ordinance adopted on the \_\_\_\_ day of \_\_\_\_\_, 2012 (approved \_\_\_\_\_, 2012) (the "Ordinance").

The proceeds of the Bonds for which bids are solicited herein will be expended for the public purposes of (i) financing or refinancing, in whole or in part, certain costs of acquisition, construction and/or improvements to the boardwalk, the art league building, the water system, the wastewater system, solid waste disposal facilities and certain other governmental projects, (ii) and refunding all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Bonds of 2005 maturing on or after April 1, 2016 and (iii) paying the costs of issuance of the Bonds, which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses.

The full faith and credit and unlimited taxing power of the City are unconditionally pledged to the payment of the Bonds and of the interest to accrue thereon. The Bonds are payable from the proceeds of ad valorem taxes which the City is empowered to levy upon all property within the corporate limits of the City subject to assessment for unlimited City taxation.

### **Electronic Bids**

Electronic bids will be received via **PARITY**, in the manner described below, until 11:00 a.m. local Ocean City, Maryland time, on Tuesday, May 1, 2012.

Bids may be submitted electronically via **PARITY** pursuant to this Notice of Sale until 11:00 a.m., local Ocean City, Maryland time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in **PARITY** conflict with this notice, the terms of this Notice of Sale shall control. For further information about **PARITY**, potential bidders may contact **PARITY** at Dalcomp (800) 730-9393 or (212) 806-8304.

### **Disclaimer**

Each prospective electronic bidder shall be solely responsible to register to bid via **PARITY** as described above. Each qualified prospective electronic bidder shall be solely responsible to make necessary arrangements to access **PARITY** for the purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the City nor **PARITY** shall have any duty or obligation to provide or assure access to **PARITY** to any prospective bidder, and neither the City nor **PARITY** shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, **PARITY**. The City is using **PARITY** as a communication mechanism, and not as the City's agent, to conduct the electronic bidding for the Bonds. The City is not bound by any advice and determination of **PARITY** to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via **PARITY** are the sole responsibility of the bidders; and the City is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in submitting, modifying or withdrawing a bid for the Bonds, he should telephone **PARITY** at Dalcomp (800) 730-9393 or (212) 806-8304 and notify the City's Financial Advisor, A. Samuel Ketterman, at Davenport & Company LLC by facsimile at 866-932-6660.

### **Electronic Bidding Procedures**

Electronic bids must be submitted for the purchase of the Bonds (all or none) via **PARITY**. Bids will be communicated electronically to the City at 11:00 a.m., local Ocean City, Maryland time, on Tuesday, May 1, 2012. Prior to that time, a prospective bidder may (1) submit the proposed terms of its bid via **PARITY**, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for the Bonds, or (3) withdraw its proposed bid. Once the bids are communicated electronically via **PARITY** to the City, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on **PARITY** shall constitute the official time.

## **Bid Specifications**

**ANY BIDS FOR LESS THAN ALL OF THE BONDS SHALL BE REJECTED BY THE CITY. THE CITY RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS.**

Each bid must specify the amount bid for the Bonds, which shall not be less than 100% of par or more than 112% of par[, plus accrued interest from \_\_\_\_\_, 2012 to the date of delivery of the Bonds]. Bidders shall state in their bids the rate or rates of interest to be paid on the Bonds in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%), and each bid shall be based and submitted on the rate or rates stated therein. Bidders may specify more than one rate of interest to be borne by the Bonds, but the difference between the highest and lowest rates named may not be greater than three percent (3%). Bidders may not specify more than one rate of interest for the Bonds of any single maturity. A zero rate may not be named for any maturity. The maximum rate permitted for any maturity is 5.50%. The Bonds will be awarded to the bidder naming the lowest true interest cost for all Bonds in any legally acceptable bid and offering to pay not less than par and not more than 112% of the aggregate Revised Amount of the Bonds[, and accrued interest]. The lowest true interest cost will be determined by doubling the semiannual interest rate, compounded semiannually, necessary to discount the debt service payments from the payment dates to the date of the Bonds and to the amount bid, not including interest accrued to the date of delivery. Where the bids of two or more bidders result in the same lowest true interest cost, the Bonds may be apportioned between such bidders, but if this shall not be acceptable, the City shall have the right to award all of the Bonds to one bidder. The right is reserved to the City to reject any or all bids and to waive any irregularity or informality in any bid. The City's judgment shall be final and binding upon all bidders with respect to the form and adequacy of any bid received and as to its conformity to the terms of this Notice of Sale. Any award of the Bonds may be made as late as 4:00 p.m. on the sale date. All bids remain firm until an award is made.

*Good Faith Deposit.* The successful bidder is required to submit a good faith deposit of [\$347,000.00] (the "Deposit") to the City upon initial notification of the award of the Bonds to the successful bidder. The Deposit will be in the form of a wire transfer and must be received by the City prior to 3:00 p.m. (local time) on the date of the receipt of the bids. Such payment will be security for compliance with the terms of the rule. The City will provide wire instructions to the successful bidder during the initial notification of the award of the Bonds.

As an alternative to the foregoing, a bidder may deliver to the City, at the address set forth above, prior to 11:00 a.m. (local time) on the date of sale a certified check upon, or a cashier's or treasurer's or official check of, a responsible banking institution, or a financial surety bond as described below in this paragraph, payable to the order of "Mayor and City Council of Ocean City" for the amount of the Deposit. If a check is submitted by the successful bidder, such check will be deposited and collected. If a bidder elects to submit a financial surety bond, such bond must be issued by an insurance company licensed to issue such a bond in the State

of Maryland and must be submitted to the City at the address set forth above prior to 11:00 a.m. (local time) on the date of sale.

The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then the successful bidder for such issue is required to submit its good faith deposit to the Finance Administrator of the City not later than 12:00 Noon (local time) on the next business day following the award either in the form of a check of the type described in the preceding paragraph or by wire transfer (payable in federal funds) to the City in accordance with the City's instructions to such successful bidder. If such good faith deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the good faith deposit requirement.

The good faith deposit of the successful bidder will be retained by the City to be applied in part payment for the Bonds, and no interest will be allowed upon the amount thereof. IN THE EVENT THAT THE SUCCESSFUL BIDDER SHALL FAIL TO COMPLY WITH THE TERMS OF THE BID, THE PROCEEDS OF DEPOSIT AND ANY INVESTMENT INCOME THEREON WILL BE RETAINED AS AND FOR FULL LIQUIDATED DAMAGES. The checks, if any, of the unsuccessful bidders will be returned promptly after the Bonds are awarded.

*Procedures for Sale and Principal Amount Changes:* The preliminary aggregate principal amount of the Bonds and the preliminary principal amount of each maturity of the Bonds as set forth in this Notice of Sale (collectively, the "Preliminary Amounts") are expected to be revised before the receipt and opening of sealed bids for their purchase. The revised aggregate principal amount of the Bonds and the revised principal amount of each maturity (collectively, the "Revised Amounts") will be published on TM3 News Service ("TM3") not later than 9:30 a.m., local Ocean City, Maryland time on the date of sale or as soon thereafter as is reasonably practicable. In the event that no revisions are made or that such revisions are not published on TM3 before 9:30 a.m., local Ocean City, Maryland time on the date of sale, the Preliminary Amounts will constitute the Revised Amounts. Bidders shall submit bids based on the Revised Amounts and the Revised Amounts will be used to compare bids and select a winning bidder.

As promptly as reasonably practicable after the bids are opened, the City will notify the bidder to whom the Bonds will be awarded, if and when such award is made, and such bidder, upon such notice, shall advise the City of the initial reoffering prices to the public of each maturity of the Bonds (the "Initial Reoffering Prices"). The Initial Reoffering Prices, among other things, will be used by the City to calculate the final aggregate principal amount of Bonds and the final principal amount of each maturity (collectively, the "Final Amounts"). THE CITY EXPECTS THAT THE REVISED AMOUNTS OF THE BONDS WILL BE CHANGED AS NECESSARY TO EFFECT THE GREATEST ECONOMIC ADVANTAGE, BUT WILL NOT DECREASE OR INCREASE THE AGGREGATE PRINCIPAL AMOUNT

OF BONDS BY MORE THAN 12% FROM THE AMOUNT BID UPON. THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID AS A RESULT OF ANY CHANGES MADE TO THE REVISED AMOUNTS WITHIN THESE LIMITS. The Final Amounts of the Bonds will be communicated to the successful bidder by 5:00 P.M., local Ocean City, Maryland time on the date of sale. The dollar amount of the discount or premium, if any, specified in the bid of the successful bidder will be adjusted proportionately to reflect any reduction or increase in the aggregate principal amount of the Bonds. The successful bidder shall pay the aggregate Final Amount of the Bonds less the discount or plus the premium (as the amount of such discount or premium may be adjusted as described above), if any, set forth in its electronic bid[, plus accrued interest to the date of delivery]. The interest rates specified by the successful bidder for each maturity of the Bonds in its electronic bid will not change. ALL BIDS REMAIN FIRM UNTIL 5:00 P.M., LOCAL OCEAN CITY, MARYLAND TIME ON THE DATE OF SALE. An award of the Bonds pursuant to this Notice of Sale, if made, will be made by the City within such period of time.

It is noted that the City has the right to award the Bonds by private negotiation at any time and may determine to exercise such right either before bids are submitted in response to this Notice of Sale or in the event that all bids are rejected. The City may so negotiate with, and make such award to, any person, including bidders hereunder.

All Bonds herein described will constitute an irrevocable pledge of the full faith and credit and unlimited taxing power of the City.

The Bonds will be issued and sold subject to (i) approval as to legality by DLA Piper LLP (US), Bond Counsel, and (ii) examination by \_The Arbitrage Group of the arithmetical accuracy of certain computations related to escrow deposits, arbitrage yield compliance and satisfaction of savings requirements. Copies of the legal opinion, substantially in the form included in the Preliminary Official Statement will be delivered, upon request, to the purchaser or purchasers of the Bonds, without charge.

In order to assist bidders in complying with SEC Rule 15c2-12(b)(5), the City will execute and deliver a continuing disclosure agreement on or before the date of issuance of the Bonds pursuant to which it will undertake to provide certain information annually and notices of certain events. A description of this agreement is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

When delivered, the Bonds shall be duly executed and authenticated and registered in the name of Cede & Co., as nominee of DTC, as registered owner of the Bonds.

It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such number on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with the terms of this Notice of Sale.

Not later than seven (7) business days after the award of the Bonds to the successful bidder on the day of sale, the City will authorize an Official Statement, which is expected to be substantially in the form of the Preliminary Official Statement referred to below. If so requested by the purchaser or purchasers at or before the close of business on the date of the sale, the City will include in the Official Statement such pricing and other information with respect to the terms of the reoffering of the Bonds by the successful bidder (“Reoffering Information”), if any, as may be specified and furnished in writing by such bidder. If no Reoffering Information is specified and furnished by the successful bidder, the Official Statement will include the interest rates on the Bonds resulting from the bid of the successful bidder and the other statements with respect to reoffering contained in the Preliminary Official Statement. The successful bidder shall be responsible to the City and its officials for the Reoffering Information, and for all decisions made by such bidder with respect to the use or omission of the Reoffering Information in any reoffering of the Bonds, including the presentation or exclusion of any Reoffering Information in any documents, including the Official Statement. The successful bidder will also be furnished, without cost, with up to 100 copies of the Official Statement (and any amendments or supplements thereto).

Delivery of the Bonds, without expense, will be made by the City to the purchaser or purchasers on or about May 17, 2012, or as soon as practicable thereafter, in New York, New York or at such other location as shall be mutually acceptable to the City and the purchasers, and, thereupon, said purchaser or purchasers will be required to accept delivery of the Bonds purchased and pay, in Federal funds, the balance of the purchase price due. The Bonds will be accompanied by the customary closing documents, including a no-litigation certificate, effective as of the date of delivery, stating that there is no litigation pending affecting the validity of any of the Bonds. It shall be a condition to the obligation of said purchaser or purchasers to accept delivery of and pay for the Bonds that, simultaneously with or before delivery and payment for the Bonds, said purchaser or purchasers shall be furnished a certificate or certificates of the Mayor of the City or the Finance Administrator of the City to the effect that, to the best of their knowledge and belief, the Official Statement (and any amendment or supplement thereto) (except for the Reoffering Information provided by the purchaser and information regarding DTC and DTC’s book-entry system provided by DTC, as to which no view will be expressed) as of the date of sale and as of the date of delivery of the Bonds does not contain any untrue statement of a material fact and does not omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and that between the date of sale and the date of delivery of the Bonds there has been no material adverse change in the financial position or revenues of the City, except as reflected or contemplated in the Official Statement (and any amendment or supplement thereto).

**SIMULTANEOUS WITH OR BEFORE DELIVERY OF THE BONDS, THE SUCCESSFUL BIDDER SHALL FURNISH TO THE CITY A CERTIFICATE ACCEPTABLE TO BOND COUNSEL TO THE EFFECT THAT (i) SUCH SUCCESSFUL BIDDER HAS MADE A BONA FIDE PUBLIC OFFERING OF EACH MATURITY OF THE**

BONDS AT THE INITIAL REOFFERING PRICES; AND (ii) A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS WAS SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT SUCH INITIAL REOFFERING PRICES.

Bond Counsel advises that (i) such certificate must be made on the best knowledge, information and belief of the successful bidder; (ii) the sale to the public of 10% or more in par amount of the Bonds of each maturity at the Initial Reoffering Prices would be sufficient to certify as to the sale of a substantial amount of the Bonds; and (iii) reliance on other facts as a basis for such certification would require evaluation by Bond Counsel to assure compliance with the statutory requirement to avoid the establishment of an artificial price for the Bonds.

NOTE: The City may revise this Notice of Sale by written notice available to prospective bidders at the place of sale at the time for submission of bids or by publishing notice of any revisions on TM3 at or before the time for submission of bids. Any bid submitted shall be in accordance with, and incorporate by reference, this Notice of Sale including any revisions made pursuant to this paragraph.

The City reserves the right to postpone, from time to time, the date established for the receipt of bids. Any such postponement will be announced by TM3 by notice given not later than 1:00 p.m., local Ocean City, Maryland time, on the last business day prior to any announced date for receipt of bids. If any date fixed for the receipt of bids and the sale of the Bonds is postponed, any Alternative Sale Date will be announced via TM3 at least 48 hours prior to such Alternative Sale Date. In addition, the City reserves the right, on the date established for the receipt of bids, to reject all bids and establish a subsequent Alternative Sale Date. If all bids are rejected and an Alternative Sale Date for receipt of bids established, notice of the Alternative Sale Date will be announced via TM3 e not less than 48 hours prior to such Alternative Sale Date. On any such Alternative Sale Date, any bidder may submit a bid for the purchase of the Bonds in conformity in all respects with the provisions of this Notice of Sale except for the date of sale and except for the changes announced by TM3 at the time the sale date and time are announced.

In the event that all or any part of the Bonds are initially reoffered with bond insurance secured by the successful bidder, the successful bidder shall be required to notify promptly the Finance Administrator at the time of sale and shall provide the Finance Administrator with any information he reasonably requests regarding such bond insurance including the amounts paid for such insurance. The City will, at the request and expense of the successful bidder, include customary language in the Official Statement and the form of bond regarding the insurance policy upon receipt of such opinions or certificates as the City reasonably may request regarding the accuracy of any information to be included in the Official Statement and the binding nature of the obligations contained in the insurance policy with respect to the Bonds. The City shall have no obligation to provide the successful bidder or the bond insurance company with any other documents or opinions relating to the Bonds.

The Preliminary Official Statement, together with this Notice of Sale, may be obtained from the Finance Administrator of the City, City Hall, 3rd Street and Baltimore Avenue, Ocean City, Maryland 21842, (410) 289-8941 or from the City's Financial Advisor, A. Samuel Ketterman, at Davenport & Company LLC, Suite 324, 8600 LaSalle Road, Towson, Maryland 21286, 410-296-9426. Such Preliminary Official Statement is deemed final by the City as of its date for purposes of SEC Rule 15c2-12 but is subject to revision, amendment and completion in the Official Statement referred to above.



# 2012 MEMORAN

**ATTACHMENT D**

CITY CLERK'S OFFICE, TOWN OF OCEAN CITY, MARYLAND

**TO:** Mayor and Council

**DATE:** Thursday, February 16, 2012

**FROM:** Kelly L. Allmond, City Clerk

**SUBJECT:** Mid-beach Equipment Auction

Herewith, I present results of the mid beach equipment parcel auction held on December 6, 2011. The successful bidders met all financial qualifications; therefore, I recommend bid awards to Patrick McLaughlin, Charlotte Edmund, Patrice Murrell, Will Edmunds and Trudy Stock as indicated below.

| Bidder     | Parcel                       | Annual Amount      |
|------------|------------------------------|--------------------|
| McLaughlin | 28th,29th,30th Streets       | <b>\$43,800.00</b> |
| C. Edmunds | 31st,32nd,33rd Streets       | <b>\$65,100.00</b> |
| Murrell    | 34th,35th,36th Streets       | <b>\$3,600.00</b>  |
| McLaughlin | 38th,39th,40th,41st Streets  | <b>\$10,000.00</b> |
| Murrell    | 42nd,43rd,44th Streets       | <b>\$500.00</b>    |
| Murrell    | 45th, 46th & 47th Streets    | <b>\$5,900.00</b>  |
| C. Edmunds | 48th,49th,50th Streets       | <b>\$23,000.00</b> |
| McLaughlin | 51st,52nd,53rd Streets       | <b>\$600.00</b>    |
| McLaughlin | 54th,55th,56th Streets       | <b>\$10,800.00</b> |
| McLaughlin | 57th,58th,59th Streets       | <b>\$10,500.00</b> |
| McLaughlin | 60th,61st,62nd Streets       | <b>\$6,400.00</b>  |
| W. Edmunds | 63rd,64th,65th Streets       | <b>\$450.00</b>    |
| McLaughlin | 66th,67th,68th Streets       | <b>\$30,000.00</b> |
| McLaughlin | 72nd,73rd,74th Streets       | <b>\$100.00</b>    |
| Stock      | 75th,76th,77th, 78th Streets | <b>\$150.00</b>    |