

## RESOLUTION 2009-375

### RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF GENERAL OBLIGATION REFUNDING BONDS AND PROVIDING FOR THE SALE AND THE DELIVERY OF SUCH GENERAL OBLIGATION REFUNDING BONDS TO NW CAPITAL MARKETS INC.

BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, IN THE COUNTY OF OCEAN, NEW JERSEY (**not less than two-thirds of all members thereof affirmatively concurring**) AS FOLLOWS:

Section 1. (a) General Obligation Refunding Bonds, Series 2009, in an amount not exceeding \$3,500,000, which shall be issued in two separate series of bonds, consisting of General Improvement Refunding Bonds (the "General Improvement Refunding Bonds") and Water/Sewer Utility Refunding Bonds (the "Water/Sewer Utility Refunding Bonds", and together with the General Improvement Refunding Bonds, the "Refunding Bonds") of the Township of Barnegat, in the County of Ocean, New Jersey (the "Township"), are hereby authorized to be issued and sold as "Refunding Bonds" (or sometimes referred to herein as the "Bonds").

(b) In order to effectuate the Refunding Plan (defined herein), the Mayor or Chief Financial Officer shall determine the actual aggregate principal amount of the Refunding Bonds (including the principal amount of each of the General Improvement Refunding Bonds and the Water/Sewer Utility Refunding Bonds) to be issued; provided that such determination shall be consistent with the refunding provisions of the Internal Revenue Code as described in the refunding bond ordinance finally adopted by the Township Committee on April 20, 2009 entitled, "REFUNDING BOND ORDINANCE OF THE TOWNSHIP OF BARNEGAT, IN THE COUNTY OF OCEAN, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF THE TOWNSHIP'S GENERAL OBLIGATION BONDS, SERIES 1999,

HERETOFORE ISSUED TO FINANCE CAPITAL IMPROVEMENTS, APPROPRIATING AN AMOUNT NOT EXCEEDING \$3,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF BARNEGAT FOR FINANCING THE COST THEREOF" and be within the parameters set forth in Section 2 of this resolution. The signature of the Mayor or Chief Financial Officer on the Purchase Contract (defined herein) authorized in Section 2 hereof shall constitute evidence of the approval of such actual principal amounts.

Section 2. The Refunding Bonds are hereby authorized to be sold to NW Capital Markets Inc. (the "Underwriter") in accordance with a purchase contract to be entered into by and between the Underwriter and the Township. The Mayor or the Chief Financial Officer, are hereby authorized to execute and, on behalf of the Township, negotiate a purchase contract substantially in the form attached hereto as Exhibit A (the "Purchase Contract") with the Underwriter in the form satisfactory to bond counsel and upon terms satisfactory to the Mayor or the Chief Financial Officer for the sale of the Refunding Bonds to the Underwriter in accordance with the provisions of this resolution, provided that (i) the sale of the Refunding Bonds results in a net present value savings to the Township of at least 3% of the aggregate par amounts of the Refunded Bonds (hereinafter defined), (ii) the underwriter's discount shall not exceed \$6.00 per bond, and (iii) the terms of the sale of the Refunding Bonds are otherwise in accordance with the terms provided in the approval of the Local Finance Board of the Department of Community Affairs of the State of New Jersey (the "Local Finance Board") granted on April 8, 2009. The signature of the Mayor or the Chief Financial Officer on the Purchase Contract shall be conclusively presumed to evidence any necessary approvals.

Section 3. (a) The Refunding Bonds shall be issued in the par amounts determined by the Mayor or the Chief Financial Officer to be necessary to (collectively, the

“Refunding Plan”) pay costs of issuance and to provide a deposit to an escrow fund that, when invested, will be sufficient to:

(i) advance refund all or a portion of the remaining outstanding principal amount of the originally issued \$4,724,000 General Improvement Bonds, Series 1999 of the Township dated December 1, 1999 (the “General Improvement Bonds”) and maturing on December 1 2010 through and including December 1, 2015 (the “Refunded General Improvement Bonds”) on December 1, 2009 (the “General Improvement Redemption Date”) at the option of the Township at a redemption price of 100% of the principal amount of the General Improvement Bonds to be redeemed, plus interest accrued to the General Improvement Redemption Date;

(ii) advance refund all or a portion of the remaining outstanding principal amount of the originally issued \$1,322,000 Water-Sewer Utility Bonds, Series 1999 of the Township dated December 1, 1999 (the “Water-Sewer Utility Bonds”) and maturing on December 1 2010 through and including December 1, 2015 (the “Refunded Water-Sewer Bonds”, and collectively with the Refunded General Improvement Bonds, the “Refunded Bonds”) on December 1, 2009 (the “Water-Sewer Utility Redemption Date”) at the option of the Township at a redemption price of 100% of the principal amount of the Water-Sewer Utility Bonds to be redeemed, plus interest accrued to the Water-Sewer Utility Redemption Date;

(b) The Refunding Bonds shall bear interest at rates agreed to by the Mayor or Chief Financial Officer as provided in the Purchase Contract, such rates to be set to assure that the Township achieves at least a 3% net present value debt service savings measured against the Refunded Bonds.

(c) The Refunding Bonds are not subject to redemption prior to maturity.

(d) The Bonds shall be dated their date of delivery or such other date consistent with the date of sale and shall bear interest at the rates per annum as the Mayor or Chief Financial Officer shall determine.

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

(f) The Refunding Bonds shall mature on December 1 within a year of the date of sale and thereafter in the principal amounts as may be determined by the Mayor or Chief

Financial Officer and shall bear interest payable semiannually on June 1 and December 1 in each year until maturity commencing December 1, 2009 (or such other dates as shall be determined by the Mayor or Chief Financial Officer and set forth in the Purchase Contract), at the rates per annum as may be determined by the Mayor or Chief Financial Officer and as set forth in the Purchase Contract.

(g) The Refunding Bonds will be issued in fully registered form. One certificate shall be issued for the aggregate principal amount of each series of Refunding Bonds maturing in each year. Both principal of and interest on the Refunding Bonds will be payable in lawful money of the United States of America. Each certificate will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York, which will act as securities depository (the "Securities Depository"). The certificates will be on deposit with The Depository Trust Company. The Depository Trust Company will be responsible for maintaining a book-entry system for recording the interests of its participants or the transfers of the interests among its participants. The participants will be responsible for maintaining records recording the beneficial ownership interests in the Bonds on behalf of individual purchasers. Individual purchases may be made in the principal amount of \$1,000 or any integral multiple thereof through book-entries made on the books and the records of The Depository Trust Company and its participants except that an amount maturing in any one year in excess of the largest principal amount thereof equaling a multiple of \$1,000 or any integral multiple thereof. The principal of and the interest on the Bonds will be paid to the Securities Depository by the Township on the respective maturity dates and due dates and will be credited on the respective maturity dates and due dates to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company as may be determined by the Mayor or Chief Financial Officer (the "Record Dates" for the Bonds). The Refunding Bonds shall be executed by the manual or

facsimile signatures of the Mayor and the Chief Financial Officer under the official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Township Clerk.

(i) The following matters are hereby determined with respect to the Refunding Bonds:

- |                         |  |
|-------------------------|--|
| Designation:            | General Improvement Refunding Bonds and Water/Sewer Utility Refunding Bond.  |
| Qualification:          | The Refunding Bonds <u>will be</u> designated as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986. |
| Date of Bonds:          | Date of Delivery.  |
| Principal Payment Date: | On dates to be determined by the Mayor or the Chief Financial Officer.   |
| Interest Payment Dates: | On each December 1 and June 1, commencing December 1, 2009 (or such other dates as are determined by the Mayor or Chief Financial Officer).                            |
| Redemption              | As may be determined by the Mayor or Chief Financial Officer.  |
| Place of Payment:       | Cede & Company, New York, New York, and the Township will pay Cede & Company directly.   |

Section 4. The Refunding Bonds shall be substantially in the following form with such additions, deletions and omissions as may be necessary for the Township to market the Refunding Bonds:

REGISTERED  
NUMBER A. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF NEW JERSEY  
COUNTY OF OCEAN

TOWNSHIP OF BARNEGAT,

B. \_\_\_\_\_ REFUNDING BOND

DATE OF ORIGINAL ISSUE:	MATURITY DATE:	RATE OF INTEREST PER ANNUM:	CUSIP:
___/___/___	___/___/___	_____ %	_____

TOWNSHIP OF BARNEGAT, in the County of Ocean, New Jersey (the "Township") hereby acknowledges itself indebted and for value received promises to pay to CEDE & CO., as nominee of The Depository Trust Company, which will act as Securities Depository, on the Maturity Date specified above, the principal sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), and to pay interest on such sum from the Date of Original Issue of this bond until it matures at the Rate of Interest Per Annum specified above semiannually on the first days of December and June in each year until maturity, commencing on \_\_\_\_\_, 20\_\_\_. Interest on this bond will be paid to the Securities Depository by the Township and will be credited to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company as of the 15<sup>th</sup> day of May and November next preceding the date of such payments (the "Record Dates" for such payments). Principal of this bond, upon presentation and surrender to the Township will be paid to the Securities Depository by the Township and will be credited to the participants of The Depository Trust Company.

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

C. \_\_\_\_\_

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

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

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

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

TOWNSHIP OF BARNEGAT, IN THE  
COUNTY OF OCEAN, NEW JERSEY

By: \_\_\_\_\_ (Facsimile) \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Clerk

By: \_\_\_\_\_ (Facsimile) \_\_\_\_\_  
Chief Financial Officer

Section 5. In each of the General Improvement Refunding Bonds the following language should be inserted in the places indicated by the corresponding letter in the form of the Bonds:

A. GIR-\_\_.

B. General Improvement.

C. This bond is one of an authorized issue of bonds issued pursuant to the Local Bond Law of the State of New Jersey, a bond ordinance of the Township finally adopted April 20, 2009 entitled, "REFUNDING BOND ORDINANCE OF THE TOWNSHIP OF BARNEGAT, IN THE COUNTY OF OCEAN, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF THE TOWNSHIP'S GENERAL OBLIGATION BONDS, SERIES 1999, HERETOFORE ISSUED TO FINANCE CAPITAL IMPROVEMENTS, APPROPRIATING AN AMOUNT NOT EXCEEDING \$3,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF BARNEGAT FOR FINANCING THE COST THEREOF" in all respects duly approved and published as required by law (the "Authorization Proceedings").

Section 6. In each of the Water/Sewer Utility Refunding Bonds the following language should be inserted in the places indicated by the corresponding letter in the form of the Bonds:

A. WSUR-\_\_.

B. Water/Sewer Utility.

C. This bond is one of an authorized issue of bonds issued pursuant to the Local Bond Law of the State of New Jersey, a bond ordinance of the Township finally adopted April 20, 2009 entitled, "REFUNDING BOND ORDINANCE OF THE TOWNSHIP OF



BARNEGAT, IN THE COUNTY OF OCEAN, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF THE TOWNSHIP'S GENERAL OBLIGATION BONDS, SERIES 1999, HERETOFORE ISSUED TO FINANCE CAPITAL IMPROVEMENTS, APPROPRIATING AN AMOUNT NOT EXCEEDING \$3,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF BARNEGAT FOR FINANCING THE COST THEREOF" in all respects duly approved and published as required by law (the "Authorization Proceedings").

Section 7. The law firm of GluckWalrath LLP is authorized to arrange for the printing of the Refunding Bonds. The proper officials of the Township are hereby authorized and directed to execute the Refunding Bonds and to deliver them to or upon the order of the Underwriter upon receipt of payment therefor.

Section 8. By purchasing the Refunding Bonds pursuant to the Purchase Contract, the Underwriter shall agree to the following:

- (a) Payment shall be in immediately available funds.
- (b) The Underwriter shall inform the Township in writing of the yield at which a substantial amount of the Bonds are sold to the public, such amount being sufficient to satisfy the requirements of bond counsel.

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

Section 10. The distribution by the Township of a Preliminary Official Statement, (the “Preliminary Official Statement”) is hereby authorized and/or ratified, and the use of the information contained therein concerning the Township in connection with the sale of the Refunding Bonds is hereby approved and authorized. The Mayor or the Chief Financial Officer of the Township is hereby authorized and directed to execute and deliver to the Underwriter the final Official Statement with such changes from the Preliminary Official Statement as counsel may advise and the officer executing the same may approve, such approval to be evidenced by such officer’s execution thereof. The Mayor or the Chief Financial Officer is hereby authorized to deem the Preliminary Official Statement final for purposes of Rule 15c2-12 of the Securities and Exchange Commission.

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

Section 12. In the event that The Depository Trust Company may determine to discontinue providing its service with respect to the Refunding Bonds or is removed by the Township and if no successor Securities Depository is appointed, the Refunding Bonds which were previously issued in book-entry form shall be converted to Registered Bonds (the “Registered Bonds”) in denominations of \$1,000 or any integral multiple thereof. The beneficial owner under the book-entry system, upon registration of the Refunding Bonds held in the beneficial owner’s name, will become the registered owner of such Registered Bonds. The Township shall be obligated to provide for the execution and delivery of the Registered Bonds in certificate form.

Section 13. A Continuing Disclosure Certificate in substantially the form attached hereto as Exhibit B is hereby approved, and the Mayor or Chief Financial Officer is hereby authorized and directed to execute and deliver a Continuing Disclosure Certificate on behalf of the Township in substantially such form, with such insertions and changes therein as the Mayor or Chief Financial Officer may approve, such approval to be evidenced by his execution thereof.

Section 14. The Refunding Bonds are being issued to effectuate the Refunding Plan.

Section 15. TD Bank, National Association, Cherry Hill, New Jersey is hereby appointed as Escrow Agent for the Refunded Bonds.

Section 16. To effectuate the Refunding Plan, the Township hereby approves the preparation and the execution of an escrow agreement by and between the Township and the Escrow Agent, said escrow agreement to be in substantially the form attached hereto as Exhibit C (the "Escrow Agreement"), which is hereby approved, and the Mayor or Chief Financial Officer is hereby authorized and directed to execute and deliver the Escrow Agreement on behalf of the Township in substantially such form, with such insertions and changes therein as the Mayor or Chief Financial Officer may approve, such approval to be evidenced by his execution thereof. The Escrow Agreement shall also provide for the payment of costs of issuance of the Refunding Bonds. The Mayor or Chief Financial Officer is hereby authorized to direct the Escrow Agent to pay the costs incurred in connection with the sale and the issuance of the Refunding Bonds from the proceeds derived from the sale of the Refunding Bonds in accordance with the terms of a certificate of the Mayor or Chief Financial Officer to be executed upon delivery of the Refunding Bonds. If necessary, the Escrow Agent is hereby authorized to purchase United States Treasury Securities - State and Local Government Series with the proceeds of the Refunding Bonds in accordance with the Escrow Deposit Agreement.

Section 17. The Mayor or Chief Financial Officer is hereby authorized and directed to

appoint a Verification Agent who shall verify the mathematical computations performed initially by the Underwriter and related to the Refunding Bonds, the Refunded Bonds and the investment of certain funds in accordance with the terms of the Escrow Agreement.

Section 18. The Mayor and/or the Chief Financial Officer are hereby authorized and directed to accept the commitment for bond insurance, dated May 28, 2009, submitted by Financial Security Assurance Inc. in respect of the Refunding Bonds, a copy of which is attached hereto as Exhibit D and which by this reference is made a part hereof as if set forth in full herein. Such officers are further authorized and directed to execute such additional documents and certificates as may be necessary in connection with the purchase of such bond insurance.

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

Section 20. This resolution shall take effect immediately.

**CERTIFICATE**

I, Clerk of the Township of Barnegat, in the County of Ocean, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the Township duly called and held on \_\_\_\_\_, 2009 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Township this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Township Clerk

[SEAL]

**EXHIBIT A**

**Form of Purchase Contract**

**EXHIBIT B**

**Form of Continuing Disclosure Certificate**

**EXHIBIT C**

**Form of Escrow Deposit Agreement**



**EXHIBIT D**

**Commitment Letter of Bond Insurer**