ORDINANCE NO. 2015- 11

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 74-35 (ARTICLE VI) OF THE TOWNSHIP CODE IN ORDER TO AUTHORIZE ACCEPTANCE AND EXECUTION OF THE FIRST AMENDMENT TO THE JUNE 5, 2006 WATER FACILITIES AGREEMENT ("FIRST AMENDMENT")

WHEREAS , the Owner and the Township are Parties to a June 5, 2006 Water Facilities Agreement (the "Agreement ");

WHEREAS , the Agreement generally provided that the Owner was required to construct certain improvements, referred to in the Agreement as the "Water Facilities," which Facilities included the construction of an additional well ("Well #9), the associated water treatment plant and an elevated water storage tank with a capacity of one million gallons (the "Water Tank");

WHEREAS , the Owner has constructed Well #9 and the associated water treatment plant at significant cost to Owner;

WHEREAS , upon the execution of the Agreement it was believed by the Parties that the construction of the Water Tank was necessary in order to provide sufficient water pressure and capacity within the Township Water System (the "Water System") to serve Owner's Projects (as such terms is defined in the Agreement) as well as other, future users of the Water System;

WHEREAS , since the execution of the Agreement, it is understood and agreed by the Parties that the Water Tank is not the preferred method of achieving additional water pressure within the Water System;

WHEREAS , in lieu of constructing the Water Tower as envisioned by the Agreement, the Parties agree that the construction of alternate improvements, hereinafter defined as the "Pressure Improvements" are the preferred means of upgrading the water pressures within the Water System;

WHEREAS, this First Amendment is intended to eliminate the construction of the Water Tower as a component of the Water Facilities as set forth in the Agreement and provide for the construction of the Pressure Improvements in lieu of the Water Tower;

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WHEREAS, the Pressure Improvements provide an overall improvement to the Water System as the draw of water supplies over time has had a negative impact to pressure levels within the Water System;

WHEREAS, the Agreement further provided a manner of reimbursement to the Owner for the costs of the Water Facilities that were in excess of the Owner's pro rata share of those Water Facilities;

WHEREAS, this First Amendment is intended to revise Owner's reimbursement entitlements to more accurately reflect Owner's actual pro rata share of the Water Facilities.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey as follow:

SECTION 1. The "First Amendment" to the Water Facilities Agreement is hereby adopted. A true copy of the Water Facilities Agreement is on file at the office of the Township Clerk and can be reviewed during normal business hours.

SECTION 2. The Township finds that the "First Amendment" to the Water Facilities Agreement is an appropriate and proper method by which Mark Madison, LLC will be reimbursed for off-site improvements referenced in the original Agreement and the First Amendment thereto.

SECTION 3. This Agreement, a true copy of which is on file at the Office of the Township Clerk and can be reviewed during normal business hours, is in accordance with the provisions of N.J.S.A. 40:55D-42.

SECTION 4. The Township authorizes and directs the Mayor, Township Clerk and Township Administrator to execute any and all necessary documents in order to implement the intent of this Ordinance.

SECTION 5. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 6. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. This Ordinance shall take effect upon publication in an official newspaper of the Township, as required by and in conformance with law.

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NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on the first reading by the Township Committee of Barnegat, County of Ocean, State of New Jersey on **August 17, 2015 at 6:30 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **September** 21, 2015 **at 6:30 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. At that time the public is invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.

Michele Rivers RMC

MICHELE RIVERS, RMC, Township Clerk

Prepared by:

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