



BOROUGH OF OCEANPORT

MAYOR & COUNCIL

AGENDA • DECEMBER 5, 2019

Workshop

Maple Place School

7:00 PM

2 Maple Place, Oceanport, NJ 07757

I. Meeting Called to Order

II. Statement of Compliance with Open Public Meetings Act: *This meeting complies with the Open Public Meetings Act by notification on January 9, 2019 of this location, date and time to the Asbury Park Press and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site.*

III. Flag Salute

IV. Invocation

V. Roll Call

VI. RESOLUTIONS:

#2019-215 Resolution authorizing payment of BILL LIST 12-05-2019

#2019-216 Resolution authorizing sale of bonds to the MCIA

#2019-217 Resolution authorizing correction to Change Order #1 of Benjamin Harvey Co. Contract

VII. Administrator's Report

1. Fire Prevention/Fire Marshal Services
2. Sports Wagering Tax Revenue Application

VIII. Clerk's Report

1. Title 39 Request from RPM for Police Enforcement of Private Roadways

Regular Meeting Items - December 17, 2019

2. Resolution authorizing Refund for Overpayment, Block 79, Lot 10
3. Resolution authorizing Refund for Overpayment, Block 142, Lot 6
4. Resolution authorizing Refund for Overpayment, Block 130, Lot 4
5. Resolution authorizing Tax Sale Redemption #19-00005
6. Resolution authorizing Tax Sale Redemption #19-00004
7. Resolution authorizing Tax Sale Redemption #19-00010
8. Resolution authorizing Tax Sale Redemption #17-00018
9. Resolution to amend 2019 budget for Drunk Driving Enforcement Grant
10. Resolution authorizing Evergreen Park Improvements Contract Change Order #1
11. Resolution adopting USDOT Controlled Substance & Alcohol Use and Testing Policies
12. Receipt & Acceptance of Minutes, Historical Committee, Oct. 10, 2019
13. Workshop Minutes, November 7, 2019
14. Regular Meeting Minutes, November 7, 2019

IX. Discussion Items

1. Single Use Plastic Ordinance, Councilman O'Brien

2. Expedited Inspection Program, Mayor Coffey
3. Solid Waste & Recycling Collection Contract

X. Mayor's Report

XI. Petitions from the Public

XII. Adjournment

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING PAYMENT OF BILL LIST FOR
DECEMBER 05, 2019**

**Resolution #2019-215
12/5/19**

WHEREAS, the Governing Body has considered the payment of said bills as set forth on the bill list at its public meeting of December 5, 2019.

BE IT RESOLVED, by the Mayor and Council that the bills be paid as on the attached bill list dated December 5, 2019 totaling \$1,551,221.73.

CERTIFICATION OF FUNDS

I, Catherine D. LaPorta, Chief Financial Officer, of the Borough of Oceanport, do hereby certify that funds are available for the purpose stated herein.



Catherine D. LaPorta, CFO

I certify that the foregoing Resolution #2019-215 was adopted by the Oceanport Governing Body at the Regular Meeting held December 5, 2019

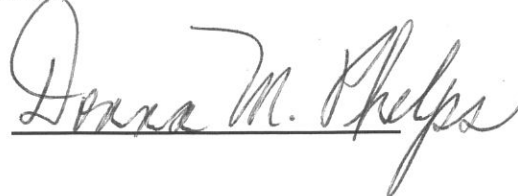
JEANNE SMITH, RMC
BOROUGH CLERK

BOROUGH OF OCEANPORT BILL LIST

5-Dec-19

PAYEE	AMOUNT
PAYROLL ACCOUNT	\$118,941.94 23RD PAY
PAYROLL ACCOUNT	\$112,693.15 24TH PAY
PAYROLL ACCOUNT	\$ 260.82 DCRP
 CAPITAL TRUST TOTAL	 \$11,588.94
GRANT FUND	\$0.00
DOG REGISTRY TOTAL	\$2.40
OPEN SPACE TRUST TOTAL	\$6,921.48
SUI TRUST	\$0.00
TRUST OTHER TOTAL	\$1,127.00
ESCROW TRUST TOTAL	\$5,394.60
UCC TRUST	\$253.42
 2018 VOUCHERS PAID THIS MEETING	 \$0.00
2019 VOUCHERS PAID THIS MEETING	\$1,294,037.98
 TOTAL	 \$1,551,221.73

I CERTIFY THAT THE ABOVE ITEMS ARE TRUE AND CORRECT AS PRESENTED
TO THE MAYOR AND COUNCIL FOR PAYMENT



List of Bills - (All Funds)

6.1.a

Vendor	Description	Payment	Check Total
Current Fund			
1532 - A & K EQUIPMENT	PO 4508 DUMP TARPS	281.49	281.49
1001 - A.R. COMMUNICATIONS	PO 4235 RADIO EQUIPMENT	445.50	445.50
1004 - ACME LOCKSMITH SERVICE	PO 4581 UTILITY ROOM KEY FOR 901	75.00	75.00
1009 - ADP, INC	PO 4684 PAYROLL SERVICES - OCT 2019	444.45	444.45
1010 - AHERN BLUEPRINTING, INC	PO 4580 LARGE SCALE DOCUMENTS - OPRA REQUES	35.36	35.36
1644 - AJ'S TRUCK AND TRAILER CENTER INC	PO 4458 6X10 enclosed trailer for traffic s	2,795.00	2,795.00
1012 - ALL HANDS FIRE EQUIPMENT, LLC	PO 4500 SUPPLIES	110.89	110.89
1658 - AMAZON CAPITAL SERVICES, INC	PO 4574 MICROPHONE FOR BBB	53.66	53.66
1016 - AMERICAN UNIFORM & SUPPLY	PO 4620 Uniform purchase Fagliarone	122.99	122.99
1017 - AMERICAN WEAR, INC	PO 4631 UNIFORMS - OCTOBER 2019	357.00	357.00
1116 - ASBURY PARK PRESS	PO 4730 Legal Notices	92.60	92.60
1023 - ATLANTIC PRINTING&GRAPHICS LLC	PO 4661 2019 BULLETIN - SEPT/OCTOBER 2019	980.00	
	PO 4743 2019 BULLETIN - NOV/DECEMBER 2019	980.00	1,960.00
1469 - BLAZE EMERGENCY, LLC	PO 4453 LADDER MAINTENANCE - VEHICLE #38-90	3,533.07	
	PO 4747 38-75 - MINI LIGHT BAR REPAIR	249.75	
	PO 4746 38-75 - AIR LEAK BEHIND PUMP PANEL	2,435.50	6,218.32
1033 - BOB'S UNIFORM SHOP, INC	PO 4621 Uniform Purchase Petrillo	33.00	
	PO 4645 Uniform Purchase for SLE0 1 Pullaro	29.95	62.95
1034 - BORO PRINTING, INC	PO 4642 ENVELOPES FOR TAX & FINANCE	157.00	
	PO 4691 Envelopes for Record keeping	350.00	507.00
1038 - BOROUGH OF SHREWSBURY	PO 4660 SHARED COURTROOM FACILITIES - OCT/N	9,000.00	9,000.00
1042 - C&S ELECTRICAL CONTRACTOR, INC	PO 4606 JOCKEY CLUB LIGHT REPAIRS - HASKELL	309.75	
	PO 4679 REPAIR TO BALLAST IN LIBRARY	205.00	514.75
1054 - CITY OF LONG BRANCH	PO 4588 GASOLINE & DIESEL - SEPT 2019	4,170.77	4,170.77
1055 - CLARKE CATON HINTZ CORP	PO 4579 FT MONMOUTH REDEVELOPMENT 10/11/19	174.40	
	PO 4578 HOUSING PLAN ELEMENT/FAIR SHARE PLA	3,838.25	4,012.65
1057 - COMCAST (MODEM @ 222 MONMOUTH)	PO 4768 CALL FORWARDING 11/20-12/19/19	82.91	82.91
1058 - COMCAST * DPW	PO 4771 DPW INTERNET/PHONE - 11/08-12/07/19	251.83	251.83
1060 - COMCAST BUSINESS COMMUNICATION	PO 4716 BORO HALL INTERNET/TELEPHONE 11/14	562.03	562.03
1548 - CONNELL CONSULTING, LLC	PO 4713 OPRA Seminar Mazzarella	119.00	119.00
1069 - CRYSTAL SPRINGS	PO 4637 WATER SERVICE - 10/04/19	93.93	93.93
1070 - CULMAC CAPITAL	PO 4688 LIEN 17-00018 REDEMPTION	47,723.91	47,723.91
1446 - DIRECT ENERGY BUSINES	PO 4767 2 PEMBERTON AVE 10/16-11/13/19	93.52	93.52
1081 - DRAGER SAFETY DIAGNOSTICS INC	PO 4200 Annual Calibration and certificatio	179.00	179.00
1084 - DYNAMIC TESTING SERVICE LLC	PO 4635 BREATH & URINE SCREENING - 10/22/19	160.00	160.00
1089 - EDWARDS TIRE CO, INC	PO 4675 PURCHASE TIRES FOR 2 TRUCKS	642.68	642.68
1099 - EUROFINS QC INC	PO 4569 WATER WATCH COMMITTEE TESTING - OCT	422.00	422.00
1464 - EVIDENT	PO 4284 Equip for Detective Bureau	704.48	
	PO 4457 Blood Kits	47.96	752.44
1102 - F. J. FOGGIA FLORIST	PO 4769 VETERANS DAY WREATH - FAS	116.00	116.00
1121 - GARY GRIMES	PO 4741 Reimbursement for Uniforms Gary Gri	60.00	60.00
1124 - GEORGE WALL	PO 4573 Repairs for Unit 4	1,284.64	1,284.64
1652 - GOLD TYPE BUSINESS MACHINE	PO 4563 Computer mounts for 3 patrol vehicl	1,903.95	1,903.95
1635 - GRANT WRITING USA	PO 4266 Grant Writing Class Lt. Fagliarone	455.00	455.00
1518 - IDEMIA IDENTITY & SECURITY	PO 3745 IDEMIA LiveScan System RESOLUTION #	23,953.00	23,953.00
1656 - INTERWORLD HIGHWAY	PO 4499 THERMAL IMAGING CAMERA/ IN TRUCK CH	2,843.38	2,843.38
1152 - JEANNE SMITH	PO 4775 Conventions/Seminars	118.96	118.96
1428 - JERSEY AUTO SPA CAR WASH	PO 4659 CAR WASH - 2ND, 3RD & 4TH QUARTER S	1,350.00	1,350.00
1153 - JERSEY CENTRAL POWER & LIGHT	PO 4662 JCPL #007 - 09/19-10/18/19	4,863.42	
	PO 4759 JCPL #015 - 09/27-10/29/19	1,224.04	
	PO 4758 JCPL #009 - 09/28-10/31/19	1,152.15	7,239.61
1158 - JOHN'S AUTO & TRUCK REPAIR LLC	PO 4545 COMPUTER SCAN - TRUCK 132	100.00	100.00
1159 - JOSEPH FAZZIO - WALL LLC	PO 4676 WIRE TWISTERS FOR SNOW FENCE	10.77	10.77
1672 - Kyle + McManus Associates LLC	PO 4651 Professional Services - Conflict Pl	284.00	284.00
1181 - LANIGAN ASSOCIATES, INC	PO 2908 Duty Belt for SLE0 II Mannino	59.00	
	PO 4644 Uniform Purchase for Fagliarone	79.90	
	PO 4665 Uniform Purchase for Tucci	216.95	355.85

List of Bills - (All Funds)

6.1.a

Vendor	Description	Payment	Check Total
1185 - LAWES COAL CO INC	PO 4551 WEED WHACKER PARTS	118.20	118.20
1195 - MASER CONSULTING, P.A.	PO 4709 BID SPECS SOLID WASTE	847.50	
	PO 4700 MONTHLY ENGINEERING - OCTOBER 2019	5,100.00	5,947.50
1200 - McMANIMON*SCOTLAND*BAUMANN LLC	PO 4585 REDEVELOPMENT SERIVICES	623.50	623.50
1204 - MGL PRINTING SOLUTIONS	PO 4348 2019 TAX FORMS	105.00	
	PO 4450 Supplies - Stamps	192.00	297.00
1206 - MICHAEL KELLY	PO 4740 Reimbursement to Chief Kelly	70.93	70.93
1218 - MONMOUTH COUNTY POLICE ACADEMY	PO 4664 Training for Weir	25.00	25.00
1231 - MONMOUTH HOSE & HYDRAULICS	PO 4609 REPAIR PISTON ON TRUCK #130	603.00	603.00
1241 - NAPA AUTO PARTS (#15456)	PO 4623 HYDRAULIC FLUID & DEP FLUID	168.94	168.94
1245 - NJ AMERICAN WATER CO	PO 4670 136 HYDTS - 09/25-10/23/19	6,256.00	
	PO 4725 LIBRARY WATER - 10/11-11/12/19	24.90	
	PO 4724 OLD WHARF PARK #2 10/11-12/12/19	18.29	
	PO 4723 OLD WHARF PARK 10/11-11/12/19	52.32	
	PO 4715 OLD WHARF PARK #1 10/11-12/12/19	596.16	
	PO 4756 262 ARNOLD - 10/11-11/12/19	463.25	7,410.92
1248 - NJ LEAGUE OF MUNICIPALITIES	PO 4690 ADA SEMINAR	180.00	180.00
1251 - NJ NATURAL GAS CO	PO 4693 TOHICON - LIBRARY - 10/11-11/12/19	62.27	
	PO 4766 315 E MAIN - OLD WHARF - 10/15-11/1	94.01	
	PO 4765 282 HILDRETH - 10/17-11/14/19	405.98	
	PO 4764 900 MURPHY DRIVE (DPW) 10/17-11/14/	254.25	
	PO 4763 901 MURPHY - 10/17-11/14/19	145.77	
	PO 4762 977 MURPHY (NEW PD) 10/17-11/14/19	26.67	
	PO 4761 433 MYRTLE AVE - 10/15-11/13/19	112.37	
	PO 4760 2 PEMBERTON AVE - 10/15-11/13/19	116.95	1,218.27
1261 - OCEANPORT BOARD OF EDUCATION	PO 4774 DECEMBER TAX REMITTANCE	813,165.67	813,165.67
1543 - ORIENTAL TRADING CO, INC	PO 4428 ASSORTED GIVEAWAYS & DECORATIONS FO	499.32	499.32
1520 - PASHMAN STEIN WALDER HAYDEN, PC	PO 4699 AFFORDABLE HOUSING COUNCIL	481.00	481.00
1674 - PHILADELPHIA INSURANCE COMPANIES	PO 4668 POLICY FOR LIBRARY VOLUNTEERS	300.00	300.00
1275 - PITNEY BOWES GLOBAL FINANCIAL	PO 4649 LEASE OF DIGITAL MAILING SYSTEM	423.99	423.99
1286 - PRO JANITORIAL SERVICES, LLC	PO 4672 JANITORIAL SERVICES - OCTOBER 2019	1,735.00	1,735.00
1406 - SAFE-T	PO 4641 2019 TURN OUT GEAR	13,270.65	13,270.65
1315 - SEABOARD WELDING SUPPLY, INC.	PO 4678 OXYGEN & CYLINDER - 10/31/19	20.75	20.75
1318 - SEMCORE RENTAL CENTER II	PO 4550 EXCAVATOR RENTAL	500.00	500.00
1323 - SHORE REGIONAL HIGH SCHOOL	PO 4773 DECEMBER 2019 TAX REMITTANCE	268,537.00	268,537.00
1326 - SIP'S PAINT	PO 4624 NUTS BOLTS FOR TRUCK 133	15.57	
	PO 4682 DRILL BITS	18.58	
	PO 4683 TAPE MEASURE & UTILITY BLADE & UTIL	33.15	
	PO 4681 UTILITY KNIFE	2.00	69.30
1337 - SUBURBAN DISPOSAL	PO 4655 COLLECTION FEES CERTIFICATION - NOV	17,400.00	
	PO 4654 DISPOSAL FEE & RECYCLING & CONTAIN	23,450.29	40,850.29
1349 - THE LINK NEWS, INC	PO 4591 Notice of Contract Award	12.83	
	PO 4640 Legal Notices	79.06	
	PO 4732 Legal Notices	49.17	
	PO 4731 Legal Notices	38.92	179.98
1670 - THOMAS COX	PO 4628 EXTENSION POLE	26.12	26.12
1671 - US BANK CUST/PRO CAP8/PRO CAITAL MGT II	PO 4652 LIEN REDEMPTION FOR 19-00004 & 19-0	11,707.82	11,707.82
1383 - V&B AUTO REPAIR LLC	PO 3406 SERVICED OEM PICKUP	101.31	
	PO 4602 New Battery for Unit 10	182.94	284.25
1387 - VERIZON	PO 4728 LIBRARY TELEPHONE 11/07-12/06/19	261.97	
	PO 4727 FIRE ALARM - OLD WHARF - 11/08-12/0	46.55	
	PO 4719 POLICE - 11/13-12/12/19	825.19	1,133.71
1388 - VERIZON WIRELESS	PO 4650 POLICE AIR CARDS - 10/27-11/26/19	367.96	367.96
1389 - VERIZON WIRELESS (OEM)	PO 4735 OEM AIR CARDS - 10/02-11/01/19	38.01	38.01
1392 - W.B. MASON CO, INC	PO 4476 SUPPLIES FOR VARIOUS DEPT.	952.04	
	PO 4555 SUPPLIES FOR POLICE & FINANCE	174.55	1,126.59
1659 - WARSHAUER ELECTRIC	PO 4536 PARTS FOR GENERATOR	238.52	238.52

Capital Fund

1138 - HALE TRAILER BRAKE & WHEEL INC	PO 4648 TRAILER 900 MURPHY DR - DPW NOV 201	340.00	340.00
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List of Bills - (All Funds)

6.1.a

Vendor	Description	Payment	Check Total
1673 - LEW CORPORATION	PO 4643 TWO BLDGS AT FT MONMOUTH - MOLD INV	2,060.00	2,060.00
1195 - MASER CONSULTING, P.A.	PO 4658 DEMO OBSERVATION - MUNICIPAL COMPLE	2,058.75	
	PO 4710 2019 ROAD PROGRAM	3,005.00	
	PO 4701 MYRTLE AVE DRAINAGE & SIDEWALK IMP	2,186.25	7,250.00
1200 - McMANIMON*SCOTLAND*BAUMANN LLC	PO 4629 MUNICIPAL BLDG REDEV - 9/30/19	1,569.50	1,569.50
1617 - MR. JOHN	PO 4646 900 MURPHY DRIVE - 10/30-11/26/19	369.44	369.44
DOG TRUST FUND			
1367 - TREASURER:STATE OF NJ HEALTH	PO 4669 Monthly State Dog Report (October 2	2.40	2.40
OPEN SPACE TRUST			
1665 - ATLANTIC PLUMBING SUPPLY COPR	PO 4616 FOUR SECTIONS OF PIPE	78.00	78.00
1077 - DEW DROP LAWN SPRINKLERS	PO 4694 WINTERIZING PARKS - CHARLES, OLD WH	770.00	770.00
1106 - FIORE PAVING COMPANY, INC	PO 4689 EVERGREEN PARK IMPROVEMENT PROJECT	5,315.26	5,315.26
1617 - MR. JOHN	PO 4647 MARIA GATTA PARK - 10/30-11/26/19	311.20	311.20
1310 - RYSER'S LANDSCAPE SUPPLY INC	PO 4549 GRAVEL FOR SHORE DRIVE	330.00	
	PO 4618 TOPSOIL FOR SHORE DRIVE	81.62	411.62
1348 - THE HOME DEPOT	PO 4677 COLD PATCH FOR REPAIR	35.40	35.40
UCC Trust			
1657 - NEW JERSEY PHCC	PO 4537 PLUMBING CODE BOOK	97.00	97.00
1559 - Verizon Wireless	PO 4657 UCC AIR CARD 11/02-12/01/19	148.12	148.12
1392 - W.B. MASON CO, INC	PO 4476 SUPPLIES FOR VARIOUS DEPT.	8.30	8.30
OTHER TRUST			
1576 - SKIP'S SPORTS	PO 4639 CENTENNIAL CELEBRATION T-SHIRTS	119.00	
	PO 4638 CENTENNIAL CELEBRATION HOODIES	1,008.00	1,127.00
DEVELOPERS ESCROW TRUST			
1499 - KEVIN E KENNEDY, ESQ	PO 3620 Planning Board Legal Services	1,500.00	1,500.00
1195 - MASER CONSULTING, P.A.	PO 3334 222 MONMOUTH BLVD, MARTELLI	3,795.00	
	PO 4702 FT MONMOUTH FITNESS CTR -CATALOG #	82.50	3,877.50
1349 - THE LINK NEWS, INC	PO 4567 PB Notice of Decision, OPGardens, C	8.55	
	PO 4566 PB Notice of Decision, Fiore, Catal	8.55	17.10
TOTAL			1,319,325.82

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
01-101-01-000-011	CASH OPERATING			0.00	1,294,037.98
01-113-04-000-026	TAX SALE PREMIUMS			33,100.00	
01-201-20-100-200	ADMINISTRATIVE & EXECUTIVE OE	3,308.46			
01-201-20-130-200	FINANCIAL ADMINISTRATION OE	597.61			
01-201-20-145-200	COLLECTION OF TAXES OE	157.00			
01-201-20-155-200	LEGAL SERVICES OE	1,104.50			
01-201-20-165-200	BOROUGH ENGINEER OE	5,100.00			
01-201-21-180-200	PLANNING BOARD OE	4,314.25			
01-201-21-181-205	PLANNER SERVICES & FEES	174.40			
01-201-23-210-200	INSURANCE PREMIUMS OTHER	300.00			
01-201-25-240-200	POLICE OE	11,235.02			
01-201-25-240-300	POLICE EQUIPMENT	23,953.00			
01-201-25-252-200	EMERGENCY MANAGEMENT OE	377.84			
01-201-25-255-200	FIRE HYDRANT SERVICE OE	6,256.00			
01-201-25-260-200	FIRST AID ORGANIZATION OE	771.97			
01-201-25-265-200	FIRE DEPARTMENT OE	16,224.92			
01-201-25-265-209	REPAIRS & MAINTENANCE	6,218.32			
01-201-26-300-200	STREETS & ROADS OTHER EXPENSES	520.75			

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ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	6.1.a
01-201-26-300-271	REPAIRS	984.49			
01-201-26-300-273	SUPPLIES	367.21			
01-201-26-300-281	UNIFORM RENTAL	357.00			
01-201-26-305-200	SANITATION-TRASH REMOVAL OE	15,414.17			
01-201-26-306-200	RECYCLING OE	2,833.33			
01-201-26-310-200	PUBLIC BUILDINGS & GROUNDS OE	1,810.00			
01-201-26-310-252	REPAIRS & EQUIPMENT	1,211.09			
01-201-27-335-200	WATERWAYS COMMITTEE OE	448.12			
01-201-28-371-200	PARKS AND PLAYGROUNDS OE	499.32			
01-201-31-430-201	ELECTRICITY	1,190.80			
01-201-31-430-203	TELEPHONE/INTERNET	2,030.48			
01-201-31-430-204	WATER/SEWER	1,154.92			
01-201-31-430-205	NATURAL GAS	1,101.32			
01-201-31-430-207	STREET LIGHTING	6,048.81			
01-201-31-430-208	GASOLINE & OIL	4,170.77			
01-201-31-465-200	SANITATION DUMPING FEES	23,450.29			
01-201-43-490-200	MUNICIPAL COURT OE	9,217.42			
01-206-55-000-046	REGIONAL SCHOOL TAX			268,537.00	
01-207-55-000-045	LOCAL SCHOOL TAX			813,165.67	
01-214-55-000-003	DUE 3RD PARTY LIEN HOLDERS			26,331.73	
TOTALS FOR	Current Fund	152,903.58	0.00	1,141,134.40	1,294,037.98
0410101100011	CAPITAL CASH - TD			0.00	11,588.94
0421555474000	MUNICIPAL COMPLEX ORD #970			6,397.69	
0421555988A00	ROADS, DRAINAGE, TRAFFIC SIGNAL, BULKHEA			2,186.25	
0421555989A00	2019 #1001 VARIOUS ROAD/DRAINAGE			3,005.00	
TOTALS FOR	Capital Fund	0.00	0.00	11,588.94	11,588.94
0510100100011	CASH - TD			0.00	2.40
0516100500040	DUE TO STATE OF NJ			2.40	
TOTALS FOR	DOG TRUST FUND	0.00	0.00	2.40	2.40
0610101100011	OPEN SPACE CASH - TD			0.00	6,921.48
0627000500020	RESERVE FOR OPEN SPACE			6,921.48	
TOTALS FOR	OPEN SPACE TRUST	0.00	0.00	6,921.48	6,921.48
1810101100101	CASH UCC TRUST			0.00	253.42
1827055600	RESERVE FOR UCC TRUST			253.42	
TOTALS FOR	UCC Trust	0.00	0.00	253.42	253.42
6010101100101	CASH-OTHER TRUST - TD			0.00	1,127.00
6027055600136	RES FOR CENTENNIAL CELEBRATION			1,127.00	
TOTALS FOR	OTHER TRUST	0.00	0.00	1,127.00	1,127.00
6110101100101	CASH-DEV.ESCROW/TD			0.00	5,394.60
6127055600205	RES.FOR DEV.ESCROW			5,394.60	
TOTALS FOR	DEVELOPERS ESCROW TRUST	0.00	0.00	5,394.60	5,394.60

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY

Total to be paid from Fund 01 Current Fund		1,294,037.98		
Total to be paid from Fund 04 Capital Fund		11,588.94		
Total to be paid from Fund 05 DOG TRUST FUND		2.40		
Total to be paid from Fund 06 OPEN SPACE TRUST		6,921.48		
Total to be paid from Fund 18 UCC Trust		253.42		
Total to be paid from Fund 60 OTHER TRUST		1,127.00		
Total to be paid from Fund 61 DEVELOPERS ESCROW TRUST		5,394.60		

		1,319,325.82		

6.1.a

6.1.a

Pending Payments (*Not Finalized*) - (.) ALL FUNDS

From 11/01/2019 to 12/31/2019 With a Line Amount > 10000

DATE	ENTRY #	PO#	CHECK #	ACCOUNT	VENDOR/EXPLANATION	DEBIT	CREDIT	ACCOUNT
11/19/2019	4655			01-201-26-305-201 01-201-26-306-201	SOLID WASTE COLLECTION RECYCLING COLLECTION SUBURBAN DISPOSAL	14,566.67 2,833.33	17,400.00	01-101-01-000-011
11/19/2019	4654			01-201-31-465-201 01-201-31-465-201	DISPOSAL, RECYCLING & ROLL-OFF CONTAINER NJ Recycling Enhancement Act Fee SUBURBAN DISPOSAL	22,723.12 727.17	23,450.29	01-101-01-000-011
11/19/2019	4652			01-214-55-000-003 01-113-04-000-026 01-214-55-000-003 01-113-04-000-026	B58 L6 PREMIUM B58 L7 PREMIUM US BANK CUST/PRO CAP8/PRO CAITAL MGT II	303.91 10,000.00 303.91 1,100.00	11,707.82	01-101-01-000-011
11/26/2019	3745			01-201-25-240-300 01-201-25-240-300	Item #7 204-96-083963 Live Scan System Desk Item #38 204-96-083970 Duplex Black & White IDEMIA USA	22,532.00 1,421.00	23,953.00	01-101-01-000-011
11/30/2019	4773			01-206-55-000-046	DECEMBER 2019 SHORE REGIONAL HIGH SCHOOL	268,537.00	268,537.00	01-101-01-000-011
11/30/2019	4774			01-207-55-000-045	DECEMBER TAX REMITTANCE OCEANPORT BOARD OF EDUCATION	813,165.67	813,165.67	01-101-01-000-011

NOVEMBER SUMMARY BY ACCOUNT:

ACCOUNT	ACCOUNT DESCRIPTION	APR RESERVE	CURRENT	NON-BUDGETARY	PENDING CR
01-101-01-000-011	CASH OPERATING				1,158,213.78
01-113-04-000-026	TAX SALE PREMIUMS			11,100.00	
01-201-25-240-300	POLICE EQUIPMENT		23,953.00		
01-201-26-305-201	SANITATION-TRASH REMOVAL		14,566.67		
01-201-26-306-201	OTHER EXPENSES		2,833.33		
01-201-31-465-201	SANITATION DUMPING FEES		23,450.29		
01-206-55-000-046	REGIONAL SCHOOL TAX			268,537.00	
01-207-55-000-045	LOCAL SCHOOL TAX			813,165.67	
01-214-55-000-003	DUE 3RD PARTY LIEN HOLDERS			607.82	
NOVEMBER TOTALS (FOR RANGE):			64,803.29	1,093,410.49	1,158,213.78
		=====	=====	=====	=====

Pending Payments (*Not Finalized*) - (..) ALL FUNDS

6.1.a

From 11/01/2019 to 12/31/2019 With a Line Amount > 10000

DATE	ENTRY #	PO#	CHECK #	ACCOUNT	VENDOR/EXPLANATION	DEBIT	CREDIT	ACCOUNT
12/03/2019		4688		01-214-55-000-003 01-113-04-000-026	LIEN PREMIUM CULMAC CAPITAL	25,723.91 22,000.00	47,723.91	01-101-01-000-011
12/03/2019		4641		01-201-25-265-205 01-201-25-265-205 01-201-25-265-205	TAIL BLACK PANTS BLACK SAFE- T	3,532.54 3,546.16 6,191.95	13,270.65	01-101-01-000-011

DECEMBER SUMMARY BY ACCOUNT:

ACCOUNT	ACCOUNT DESCRIPTION	APR RESERVE	CURRENT	NON-BUDGETARY	PENDING CR
01-101-01-000-011	CASH OPERATING				60,994.56
01-113-04-000-026	TAX SALE PREMIUMS			22,000.00	
01-201-25-265-205	TURNOUT GEAR		13,270.65		
01-214-55-000-003	DUE 3RD PARTY LIEN HOLDERS			25,723.91	
DECEMBER TOTALS (FOR RANGE):			13,270.65	47,723.91	60,994.56
			=====	=====	=====

SUMMARY BY ACCOUNT FOR RANGE:

ACCOUNT	ACCOUNT DESCRIPTION	APR RESERVE	CURRENT	NON-BUDGETARY	DISBURSED
01-101-01-000-011	CASH OPERATING				1,219,208.34
01-113-04-000-026	TAX SALE PREMIUMS			33,100.00	
01-201-25-240-300	POLICE EQUIPMENT		23,953.00		
01-201-25-265-205	TURNOUT GEAR		13,270.65		
01-201-26-305-201	SANITATION-TRASH REMOVAL		14,566.67		
01-201-26-306-201	OTHER EXPENSES		2,833.33		
01-201-31-465-201	SANITATION DUMPING FEES		23,450.29		
01-206-55-000-046	REGIONAL SCHOOL TAX			268,537.00	
01-207-55-000-045	LOCAL SCHOOL TAX			813,165.67	
01-214-55-000-003	DUE 3RD PARTY LIEN HOLDERS			26,331.73	
TOTALS (FOR RANGE):			78,073.94	1,141,134.40	1,219,208.34
			=====	=====	=====

**RESOLUTION OF THE BOROUGH OF OCEANPORT
RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES
OF \$3,607,669 GENERAL OBLIGATION BONDS, SERIES 2019 OF THE
BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF SUCH
BONDS AND APPROVING A BOND PURCHASE AGREEMENT WHICH
PROVIDES FOR THE SALE OF SUCH BONDS TO THE MONMOUTH
COUNTY IMPROVEMENT AUTHORITY PURSUANT TO THE 2019 POOLED
GOVERNMENTAL LOAN PROGRAM**

**Resolution #2019-216
12/5/19**

WHEREAS, the Borough of Oceanport (the "Borough"), in the County of Monmouth, State of New Jersey, has determined that there exists a need within the Borough to finance the costs of various capital improvements throughout the Borough (the "Project"); and

WHEREAS, the Borough Council has duly adopted various bond ordinances heretofore described in Section 2 hereof (the "Ordinances") to appropriate monies and authorize the issuance of bonds or bond anticipation notes to undertake the Project; and

WHEREAS, the Borough has determined to finance the Project with the proceeds of a loan (the "Loan") to be made to the Borough by the Monmouth County Improvement Authority (the "MCIA") in connection with the 2019 Pooled Governmental Loan Program (the "Program"); and

WHEREAS, in order for the Borough to receive the Loan from the MCIA, it is necessary to combine the bonds authorized under said Ordinances into one consolidated issue of general obligation bonds in the aggregate principal amount of \$3,607,669 (to be issued in one or more separate series aggregating said amount), pursuant to the provisions of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law");

WHEREAS, to evidence the Loan, the MCIA also requires the Borough to authorize, execute, attest and deliver the Borough's \$3,607,669 General Obligation Bonds, Series 2019 (to be issued in one or more series separate series aggregating said amount) (the "Bonds") in accordance with the provisions hereof and pursuant to the terms of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law") and other applicable law; and

WHEREAS, section 27(a)(2) of the Local Bond Law allows for the sale of the Bonds to the MCIA without any public offering, all under the terms and conditions set forth herein and in a Bond Purchase Agreement by and between the Borough and the MCIA and dated as of the date hereof.

NOW THEREFORE, BE IT RESOLVED BY A TWO-THIRDS VOTE OF THE FULL MEMBERSHIP OF THE BOROUGH COUNCIL OF THE BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, as follows:

Section 1. Pursuant to the provisions of N.J.S.A. 40A:2-26(f), the bonds of the Borough, authorized pursuant to the bond ordinances of the Borough heretofore adopted and described in Section 2 hereof, shall be combined into a single issue of General Obligation, Series 2019 in the aggregate principal amount of \$3,607,669 to be issued in one series or more separate series aggregating said amount.

Section 2. The principal amount of bonds authorized by each ordinance to be combined into a single issue as above provided, the bond ordinances authorizing the Bonds described by reference to the ordinance number, description and date of final adoption, amount of issue and average period of usefulness determined in each of the bond ordinances are respectively as follows:

<u>Ordinance Number</u>	<u>Description and Date of Final Adoption</u>	<u>Amount of Issue</u>	<u>Useful Life</u>
950	<u>General Capital Bonds</u> Various Capital Improvements, Finally Adopted 5/21/15	716,530	10.55517 years
965	Various Capital Improvements and Related Expenses, Finally Adopted 6/16/16	1,377,139	10.19771 years
973	Various 2017 General Capital Improvements, Finally Adopted 5/18/17	1,514,000	12.29 years
	TOTAL BONDS	\$3,607,669	

Section 3. The following matters are hereby determined with respect to the combined issue of Bonds:

(a) The average period of usefulness, computed on the basis of the respective amounts of Bonds presently authorized to be issued pursuant to each of the bond ordinances and the respective periods or average periods of usefulness therein determined, is not more than 11.14 years.

(b) The Bonds of the combined issue shall be designated "General Obligation Bonds, Series 2019" (or such other designation if such Bonds are issued in one or more separate series) and shall mature within the average period of usefulness hereinabove determined.

(c) The Bonds of the combined issue shall be sold and issued in accordance with the provisions of the Local Bond Law that are applicable to the sale and issuance of bonds authorized by a single bond ordinance and accordingly may be sold with other issues of bonds.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) None of the Bonds described in Section 2 hereof have been sold or issued heretofore, and the several bond ordinances described in Section 2 have not been rescinded heretofore and now remain in full force and effect as authorizations for the respective amounts of bonds set opposite the descriptions of the bond ordinances set forth in Section 2 hereof.

(b) The several purposes or improvements authorized by the respective bond ordinances described in Section 2 hereof are purposes for which bonds may be issued lawfully pursuant to the Local Bond Law and some of such improvements or purposes, if applicable and permitted by law, a deduction may be taken in any annual or supplemental debt statement.

Section 5. In accordance with the provisions of N.J.S.A. 40A:2-27(a)(2), the Borough hereby sells and awards the Borough's \$3,607,669 General Obligation Bonds, Series 2019 (collectively, the "Bonds") to the MCIA in accordance with the provisions hereof and in accordance with the terms of the Bond Purchase Agreement by and between the Borough and the MCIA (the "Bond Purchase Agreement"), which Bond Purchase Agreement is attached hereto as Exhibit B and is hereby approved, along with such changes to any information set forth therein as Bond Counsel shall advise. The Bonds have been referred to and described in the Ordinances being finally adopted at duly called and held meetings of the Borough Council and published as required by law and which Ordinances were combined for purposes of sale

pursuant to this resolution, all pursuant to terms of the Local Bond Law and other applicable law.

Section 6. The Chief Financial Officer of the Borough (the "Chief Financial Officer") is hereby authorized and directed to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the MCIA and the terms and conditions hereof and set forth in the Bond Purchase Agreement, the following items with respect to the Bonds, except those terms and conditions which are set forth in the Bond Purchase Agreement:

- (a) The aggregate principal amount of the Bonds to be issued, provided that the total amount of Bonds issued shall not exceed the aggregate principal amount of \$3,607,669 (which may be issued in one or more separate series aggregating said amount;
- (b) The maturity and principal installments of the Bonds, which maturity shall not exceed 11.14 years;
- (c) The date of the Bonds;
- (d) The interest rates of the Bonds;
- (e) The purchase price of the Bonds; and
- (f) The terms and conditions under which the Bonds shall be subject to redemption prior to their stated maturities.

Section 7. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Bonds by the parties authorized under Section 8(c) hereof.

Section 8. The Borough Council hereby determines that certain terms of the Bonds shall be as follows:

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

Section 9. The Bonds shall be substantially in the forms set forth in Exhibit A attached hereto with such additions, deletions and omissions as may be necessary for the Borough to comply with the requirements of the Program, upon the advice of Bond Counsel to the Borough (as defined herein);

Section 10. The law firm of Archer & Greiner P.C., Red Bank, New Jersey, Bond Counsel to the Borough ("Bond Counsel"), the Borough Engineer, the Borough Attorney and the Borough Auditor are each hereby authorized and directed to perform all actions necessary to consummate the issuance of the Bonds and the Project for which the Bonds are issued, including but not limited to, drafting and arranging for the printing and execution of the Bonds and all applicable documentation necessary to

memorialize and consummate the issuance of the Bonds and the undertaking of the Project, preparing all necessary financial information, all engineering and design work, preparation of plans and specifications and conducting all necessary studies, searches and analysis in connection with the issuance of the Bonds and the undertaking of the Project. The Mayor, the Chief Financial Officer, the Borough Clerk, the Borough Attorney and any other Borough representative (including Bond Counsel or the Borough Auditor) are each hereby authorized and directed to execute and deliver any certificates necessary or desirable in connection with the financial and other information.

Section 11. The Mayor, Chief Financial Officer, the Borough Clerk and any other Borough representative, are each hereby authorized and directed to (i) execute any certificates or documents necessary or desirable in connection with the sale of the Bonds, including the Bond Purchase Agreement, or the undertaking of the Project and each are hereby further authorized and directed to deliver same to the MCIA upon delivery of the Bonds and the receipt of payment therefor or in accordance with the Program and (ii) perform such other actions as they deem necessary, desirable or convenient, in consultation with Bond Counsel, in relation to the execution and delivery thereof.

Section 12. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this resolution: (a) via facsimile, to (i) Marion Masnick of the MCIA at facsimile number 732-409-4821, and (ii) John M. Cantalupo, Esq., of Archer & Greiner P.C., Red Bank, New Jersey, Bond Counsel to the Borough, at facsimile number 732-345-8420; and (b) via certified first class mail, to (i) Marion Masnick of the MCIA at The Monmouth County Improvement Authority, Hall of Records, Main Street, Freehold, New Jersey 07728, and (ii) John M. Cantalupo, Esq., of Archer & Greiner P.C., Bond Counsel to the Borough at Riverview Plaza, 10 Highway 35, Red Bank, New Jersey 07701.

Section 13. This resolution shall take effect immediately.

I certify that the foregoing Resolution #2019-216 was adopted
by the Oceanport Governing Body at the Regular Meeting held
December 5, 2019

JEANNE SMITH, RMC
BOROUGH CLERK

EXHIBIT A

**UNITED STATES OF AMERICA
BOROUGH OF OCEANPORT
IN THE COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

GENERAL OBLIGATION BOND, SERIES 2019**NUMBER GO-1****DATE OF ORIGINAL ISSUE:** December __, 2019**REGISTERED OWNER:** Monmouth County Improvement Authority

PRINCIPAL SUM: Three Million Six Hundred Seven Thousand Six Hundred Sixty-Nine Dollars
(\$3,607,669)

THE BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, a body politic and corporate of the State of New Jersey (the "Borough"), hereby acknowledges itself indebted and for value received promises to pay to the order of the Monmouth County Improvement Authority (the "Authority"), c/o _____, _____ (the "Trustee"), Account Number _____, the Principal Sum specified above payable in the amounts and on the dates specified and set forth on Schedule A attached hereto and by this reference made a part hereof, and to pay interest on such sum from the Date of Original Issue of this Bond until payment in full at the interest rates per annum and in the amounts and dates specified and set forth on Schedule A attached hereto and by this reference made a part hereof. Interest is payable to the Authority at the corporate trust office of the Trustee five Business Days prior to each June 1 and December 1, commencing June 1, 2020, in an amount equal to the interest accruing to each such June 1 and December 1. This Bond as to principal will be payable five Business Days prior to the due date therefor at the corporate trust office

of the Trustee. Upon the occurrence of an event of default by the Authority under the bond resolution adopted by the Authority on _____, 2019 (as the same may be supplemented and amended, the "Resolution") which event of default is directly attributable to a default hereunder or to a default by the Borough under its Bond Purchase Agreement with the Authority relating to the Authority's purchase of this Bond, or in the event of default in any payments of principal of or interest on this Bond, the Trustee may by notice to the Chief Financial Officer of the Borough at 315 East Main Street, Oceanport, New Jersey 07757, accelerate the principal amount of this Bond all as provided in the Resolution. Amounts not paid when due hereunder shall bear interest at the Late Payment Rate until paid. This Bond shall be prepayable as set forth in Section 1303 of the Resolution.

Both principal of and interest on this Bond is payable in lawful money of the United States of America and in immediately available funds.

As used herein, "Business Day" shall mean any day that is not a Saturday, a Sunday or a legal holiday in the State of New Jersey or the State of New York or a day on which the Trustee is legally authorized to close. "Late Payment Rate" shall mean a rate per annum equal to the lower of (i) the greater of (a) three percent above the interest rate that JPMorgan Chase publicly announces from time to time as its prime lending rate, such interest rate to change on the effective date of each announced change in such rate, and (b) the rate then payable on this bond, and (ii) the maximum interest rate allowed by law.

This Bond is one of an authorized issue of bonds and is issued pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local

Bond Law"), and is one of the General Obligation Bonds referred to in and issued pursuant to a resolution duly adopted by the Borough Council on December 5, 2019 entitled, "Resolution Providing For The Combination Of Certain Issues Of \$3,607,669 General Obligation Bonds, Series 2019 Of The Borough of Oceanport, In The County Of Monmouth, State Of New Jersey, Determining The Form And Other Details Of Such Bonds And Providing For The Sale Of Such Bonds To The Monmouth County Improvement Authority Pursuant To The 2019 Pooled Governmental Loan Program" and the various bond ordinances referred to therein, all finally adopted, approved and published as required by law.

The full faith and credit of the Borough are hereby irrevocably pledged for the punctual payment of the principal of and the interest on, and all other amounts due under, this Bond according to its terms.

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

The Borough agrees to pay (i) all costs and expenses, including legal fees, in connection with the administration and enforcement of this Bond, and (ii) its share of the amounts payable pursuant to Section [9(vi)(c)] of the Bond Purchase Agreement between the Borough and the Authority.

IN WITNESS WHEREOF, the Borough of Oceanport, in the County of Monmouth, State of New Jersey 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 to by the manual signature of the its Clerk, and this Bond to be dated the Date of Original Issue as specified above.

BOROUGH OF OCEANPORT,
IN THE COUNTY OF MONMOUTH,
STATE OF NEW JERSEY

ATTEST:

(SEAL)

[_____] ,
Mayor

[_____] ,
Clerk

[_____] ,
Chief Financial Officer

ASSIGNMENT

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto _____ (Please Print or Type Name and Address of Assignee) the within Bond and irrevocably appoints _____ as Attorney to transfer this Bond on the registration books of the _____ with full power of substitution and revocation.

NOTICE

The signature of this assignment must correspond with the name as it appears on the face of the within Bond in every particular.

Dated:

Signature of Guarantee:

SCHEDULE A

BOROUGH OF OCEANPORT
IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY

GENERAL OBLIGATION BOND, SERIES 2019

Schedule of Principal and Interest Payments

Maturity Date	Principal Amount	Coupon	Interest
---------------	------------------	--------	----------

EXHIBIT B
BOND PURCHASE AGREEMENT

CERTIFICATION

I, JEANNE SMITH, Clerk of the Borough of Oceanport, in the County of Monmouth, State of New Jersey (the "Borough"), DO HEREBY CERTIFY that the annexed resolution entitled, "RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF \$3,607,669 GENERAL OBLIGATION BONDS, SERIES 2019 OF THE BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF SUCH BONDS AND APPROVING A BOND PURCHASE AGREEMENT WHICH PROVIDES FOR THE SALE OF SUCH BONDS TO THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY PURSUANT TO THE 2019 POOLED GOVERNMENTAL LOAN PROGRAM", is a copy of a resolution which was duly adopted by the Borough Council at a meeting duly called and held on December 5, 2019 in full compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., at which meeting a quorum was present and acting throughout and which resolution has been compared by me with the original thereof as contained in the minutes as officially recorded in my office in the Minute Book of such 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 within and aforesaid resolution has not been repealed, amended or rescinded but remains in full force and effect on and as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Borough this ____ day of _____, 2019.

(SEAL)

JEANNE SMITH,
Clerk of the Borough of Oceanport

From: [Cantalupo, John](#)
To: [Jeanne Smith](#)
Cc: [Donna Phelps](#); [Katie LaPorta](#); [Jennifer Edwards](#); [Cunningham, Timothy J.](#); [Beyer, Scout](#)
Subject: DRAFT Bond Resolution - Oceanport
Date: Friday, November 29, 2019 11:59:06 AM
Attachments: [\(217626236 - 1\) - Form & Details Resolution and Approving BPA - 12 19 MCIA Pooled Loan - Oceanport-c.DOC](#)

Ms. Smith:

I hope you had a Happy Thanksgiving! Pursuant to my email below, attached please find the **DRAFT** bond resolution for Thursday's meeting and for placement in your agenda packages. Please note that this resolution cannot be finalized until the Monmouth County Improvement Authority sells its bonds early next week. Once the MCIA bond sale happens, the MCIA will send us the final numbers, interest rates and bond purchase agreement which will get attached the resolution as Exhibit B. Once that occurs, we will send you the final version of the resolution incorporating all terms of the bond sale to the MCIA. The final amount of bonds may change from the \$3,607,669 due to market conditions; however, the amount of bond proceeds you will receive will be enough to fund the \$3,607,669 in project costs. Please let me know if you would like me to attend Thursday's meeting. If you have any questions, please give us a call and enjoy the rest of the holiday weekend!

John M. Cantalupo, Esq.

Archer & Greiner P.C.
Riverview Plaza

10 Highway 35
Red Bank, NJ 07701-5902
732-268-8009
jcantalupo@archerlaw.com
www.archerlaw.com



From: Cantalupo, John
Sent: Friday, November 29, 2019 10:47 AM
To: Jeanne Smith <JSmith@oceanportboro.com>
Cc: Donna Phelps <dphelps@oceanportboro.com>;
Katie LaPorta <KLaPorta@oceanportboro.com>;
Jennifer Edwards <JEdwards@acaciafin.com>;
Cunningham, Timothy J.
<tcunningham@archerlaw.com>; Beyer, Scout
<sbeyer@archerlaw.com>
Subject: Bond Resolution Title - Oceanport

Ms. Smith:

Below please find the title to the resolution for Thursday night's meeting. We will send you the full resolution prior to noon. Let us know if you have any questions and thanks!

“RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF \$3,607,669 GENERAL OBLIGATION BONDS, SERIES 2019 OF THE BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF SUCH BONDS AND APPROVING A BOND PURCHASE

AGREEMENT WHICH PROVIDES FOR THE SALE
OF SUCH BONDS TO THE MONMOUTH COUNTY
IMPROVEMENT AUTHORITY PURSUANT TO THE
2019 POOLED GOVERNMENTAL LOAN
PROGRAM”

John M. Cantalupo, Esq.

Archer & Greiner P.C.
Riverview Plaza
10 Highway 35
Red Bank, NJ 07701-5902
732-268-8009
jcantalupo@archerlaw.com
www.archerlaw.com



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NOTIFY THE SENDER BY TELEPHONE OR
EMAIL REPLY.

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THE INTENDED RECIPIENT OF THIS EMAIL, DO NOT READ, DISTRIBUTE OR REPRODUCE THIS TRANSMISSION
(INCLUDING ANY ATTACHMENTS). IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE IMMEDIATELY
NOTIFY THE SENDER BY TELEPHONE OR EMAIL REPLY.

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING CORRECTION TO CHANGE ORDER #1 TO THE BENJAMIN
R. HARVEY CO. CONTRACT FOR THE GENERAL CONTRACT FOR THE
RENOVATION OF EXISTING BUILDINGS FOR THE BOROUGH'S NEW
MUNICIPAL COMPLEX**

**Resolution #2019-217
12/5/19**

WHEREAS, Change Order #1 to the Contract with Benjamin R. Harvey Co., Inc. was approved pursuant with adoption of Resolution #2019-214 increasing the contract amount; and

WHEREAS, the Change Order Request dated November 5, 2019 by Benjamin R. Harvey Co., Inc. correctly delineated the additional expense but incorrectly totaled the individual items; and

WHEREAS, in order to avoid additional delays, the Borough Administrator approved the corrected Change Order Request on November 15, 2019 providing for Change Order #1 in the amount of Thirty One Thousand Eight Hundred Seventy Four dollars and sixty-six cents (\$31,874.66) for a total contract in the amount of Six Million Six Hundred Five Thousand Eight hundred seventy-four dollars and sixty six cents (\$6,605,874.66); and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Oceanport that the correction to Change Order #1 and the approval of the Borough Administrator for the corrected Change Order #1 is hereby approved and affirmed

BE IT FURTHER RESOLVED, that the within Resolution shall be subject to the Borough CFO confirming that funds are available for the stated purpose.

CERTIFICATION OF FUNDS

As required by N.J.A.C. 5:34-5.1 et. seq., and any other applicable requirement, I, Catherine D. LaPorta, Chief Financial Officer of the Borough of Oceanport, have ascertained that there are sufficient uncommitted funds in Account #04-215-55-474-007 not to exceed \$31,874.66 for the above referenced contract change order.



Catherine D. LaPorta, CFO

I certify that the foregoing Resolution #2019-217 was adopted by the Oceanport Governing Body at the Regular Meeting held December 5, 2019

JEANNE SMITH, RMC
BOROUGH CLERK



BEN HARVEY

CONSTRUCTION

CHANGE ORDER REQUEST

PROJECT: OCEANPORT
NEW MUNICIPAL COMPLEX

DATE: 11/5/2019
COR #: 1Revised

DESCRIPTION OF WORK: CONCRETE SIDEWALK AND CURB REPLACEMENT

CONTRACTOR : BENJAMIN R. HARVEY CO., INC.

SUB -CONTRACTOR : THOMAS FARRELL CONTRACTING

AMOUNT

Item #1	
COST BREAKDOWNS:	REMOVE, DISPOSE & REPLACE 4" THICK UNREINFORCED CONCRETE
1439	SF @ \$12.00 PSF = \$17,268.00
	\$17,268.00
Item #2	
COST BREAKDOWNS:	REMOVE, DISPOSE & RESTORE GRASS AREA
57	SF @ \$6.00 PSF = \$342.00
	\$342.00
Item #3	
COST BREAKDOWNS:	REMOVE, DISPOSE & REPLACE CONCRETE CURB
0	LF @ \$30.00 PSF = \$0.00
	\$0.00
Item #4	
COST BREAKDOWNS:	REMOVE, DISPOSE & REPLACE 8" THICK REINFORCED CONCRETE APRON
265	SF @ \$22.00 PSF = \$5,830.00
	\$5,830.00
Item #5	
COST BREAKDOWNS:	MILL PAVEMENT TO 2" DEPTH, REPLACE WITH NEW PAVEMENT 2" THICK
1261	SF @ \$4.00 PSF = \$5,044.00
	\$5,044.00

(Please see attached Backup from THOMAS FARRELL CONTRACTING INC.)

WORK SUBTOTAL	\$28,484.00
BRH PROFIT 5%	\$1,424.20
SUB TOTAL	\$29,908.20
BRH OVERHEAD 5%	\$1,495.41
SUB TOTAL	\$31,403.61
BOND 1.5%	\$471.05
SUB TOTAL	\$31,874.66

TOTAL CHANGE ORDER REQUEST: \$31,404.00

UPON MUTUAL ACCEPTANCE OF THIS CHANGE ORDER REQUEST THE ARCHITECT WILL ISSUE A FORMAL SUPPLEMENT/SUPPLEMENTARY AGREEMENT

SIGNATURE FOR APPROVAL:

Donna M. Phelps

DATE:

11-15-19

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REFUND FOR OVERPAYMENT OF PROPERTY TAXES
BLOCK 79, LOT 10 ALSO KNOWN AS 135 EAST MAIN STREET**

Resolution

WHEREAS, the following property is due a refund due to an overpayment from the property owner during the course of a sale; and

WHEREAS, the Tax Collector is recommending that the amount of overpayment due be refunded

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oceanport that the Tax Collector is hereby authorized to refund overpayment due to the property owner erroneously making payment:

Block 79 Lot 10

Michele J & Lisann Perrulli
135 E Main St
Oceanport NJ 07757

\$3,306.57

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REFUND FOR OVERPAYMENT OF PROPERTY TAXES
BLOCK 110.03, LOT 1 ALSO KNOWN AS 24 RUSSEL AVE**

Resolution

WHEREAS, the following property is due a refund due to an overpayment from the property owner due to veteran exemption; and

WHEREAS, the Tax Collector is recommending that the amount of overpayment due be refunded

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oceanport that the Tax Collector is hereby authorized to refund overpayment due to the property owner erroneously making payment:

Block 142 Lot 6	Joseph W & Patricia I Van Sant	
	135 S Pemberton Ave	
	Oceanport NJ 07757	\$1,211.00

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REFUND FOR OVERPAYMENT OF PROPERTY TAXES
BLOCK 130, LOT 4 ALSO KNOWN AS 1202 TURF DRIVE**

Resolution

WHEREAS, the following property is due a refund due to the homestead benefit credit to the property owner who is veteran exempt; and

WHEREAS, the Tax Collector is recommending that the amount of overpayment due be refunded

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oceanport that the Tax Collector is hereby authorized to refund overpayment due to the property owner being exempt from taxes:

Block 130 Lot 4	James A & Janis R Palumbo	
	1202 Turf Dr	
	Oceanport NJ 07757	\$606.13

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE #19-00005 FOR
BLOCK 58, LOT 7 KNOWN AS 42 COMANCHE DRIVE**

Resolution

WHEREAS, at the Borough Tax Sale held on October 24, 2019, a lien was sold on Block 58 Lot 7 otherwise known as 42 Comanche Dr; and

WHEREAS, this lien, known as Tax Sale Certificate 19-00005 was sold to US Bank Cust/Pro Cap 8/Pro Capital MGT II at an interest rate of 0% and;

WHEREAS, the owner has redeemed certificate 19-00005 in the amount of \$ 303.91.

NOW, THEREFORE, BE IT RESOLVED that the CFO be authorized to issue a check in the amount of \$303.91 payable to US Bank Cust/Pro Cap 8/Pro Capital MGT II, 50 South 16th St Suite 2050, Philadelphia PA 19102 for the redemption of Tax Sale Certificate 19-00005.

BE IT FURTHER RESOLVED, that the CFO be authorized to issue a check in the amount of \$1,100 (Premium) to the aforementioned lienholder.

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE #19-00004 FOR
BLOCK 58, LOT 6 KNOWN AS 38 COMANCHE DRIVE**

Resolution

WHEREAS, at the Borough Tax Sale held on October 24, 2019, a lien was sold on Block 58 Lot 6 otherwise known as 38 Comanche Dr; and

WHEREAS, this lien, known as Tax Sale Certificate 19-00004 was sold to US Bank Cust/Pro Cap 8/Pro Capital MGT II at an interest rate of 0% and;

WHEREAS, the owner has redeemed certificate 19-00004 in the amount of \$ 303.91.

NOW, THEREFORE, BE IT RESOLVED that the CFO be authorized to issue a check in the amount of \$303.91 payable to US Bank Cust/Pro Cap 8/Pro Capital MGT II, 50 South 16th St Suite 2050, Philadelphia PA 19102 for the redemption of Tax Sale Certificate 19-00004.

BE IT FURTHER RESOLVED, that the CFO be authorized to issue a check in the amount of \$10,000 (Premium) to the aforementioned lienholder.

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE #19-00010 FOR
BLOCK 110, LOT 15 KNOWN AS 41 MAIN STREET**

Resolution

WHEREAS, at the Borough Tax Sale held on October 24, 2019, a lien was sold on Block 110 Lot 15 otherwise known as 41 Main St; and

WHEREAS, this lien, known as Tax Sale Certificate 19-00010 was sold to Culmac Investors Inc at an interest rate of 0% and;

WHEREAS, the owner has redeemed certificate 19-00010 in the amount of \$ 2,149.39.

NOW, THEREFORE, BE IT RESOLVED that the CFO be authorized to issue a check in the amount of \$2,149.39 payable to Culmac Investors Inc, Box 251, Monmouth Beach NJ 07750 for the redemption of Tax Sale Certificate 19-00010.

BE IT FURTHER RESOLVED, that the CFO be authorized to issue a check in the amount of \$16,100 (Premium) to the aforementioned lienholder.

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE #17-00018 FOR
BLOCK 110, LOT 17 KNOWN AS 37 MAIN STREET**

Resolution

WHEREAS, at the Borough Tax Sale held on September 14, 2017, a lien was sold on Block 110 Lot 17 otherwise known as 37 Main St; and

WHEREAS, this lien, known as Tax Sale Certificate 17-00018 was sold to Culmac Capital I LLC at an interest rate of 0% and;

WHEREAS, the owner has redeemed certificate 17-00018 in the amount of \$ 25,723.91.

NOW, THEREFORE, BE IT RESOLVED that the CFO be authorized to issue a check in the amount of \$25,723.91 payable to Culmac Capital I LLC, Box 251, Monmouth Beach NJ 07750 for the redemption of Tax Sale Certificate 17-00018.

BE IT FURTHER RESOLVED, that the CFO be authorized to issue a check in the amount of \$22,000 (Premium) to the aforementioned lienholder.

**RESOLUTION OF THE BOROUGH OF OCEANPORT
REQUESTING APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL
GOVERNMENT SERVICES AMENDING THE 2019 MUNICIPAL BUDGET PER
N.J.S.A. 40A:4-87 FOR DRUNK DRIVING ENFORCEMENT FUND**

Resolution

WHEREAS, N.J.S.40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount,

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Oceanport hereby request the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2019 in the sum of \$3,000.00 which item is now available as a revenue from Drunk Driving Enforcement Fund pursuant to the provisions of statute; and

BE IT FURTHER RESOLVED, that a like sum of \$3,000.00 be and the same is hereby appropriated under the caption of Drunk Driving Enforcement Fund, \$3,000.00.

BE IT FURTHER RESOLVED, that the Chief Financial Officer file this resolution electronically with the Division of Local Government Services.

From: [Katie LaPorta](#)
To: [Jeanne Smith](#)
Cc: [Michael Kelly-OPPD](#); [Michael Chenoweth-OPPD](#)
Subject: DDEF
Date: Monday, November 18, 2019 3:46:51 PM
Attachments: [DDEF.pdf](#)

Jeanne,

We received the attached check today in the amount of \$3000. Please put a chapter 159 resolution on the agenda for the workshop meeting in December.

Thanks

Katie LaPorta, CMFO, QPA
Borough Of Oceanport
315 E. Main Street
Oceanport, NJ 07757
Phone - 732-222-8179
Fax - 732-222-0904

ORGANIZATION NAME PAYMENT FOR	CONTACT INFORMATION	DOCUMENT NUMBER ACCOUNT NUMBER	AMOUNT
DIVISION OF MOTOR VEHICLES DDEF - OCEANPORT POLICE	609-341-5765	0786400DE10782 6400-100-078-6400- -YYYY-	300000

9.a

QUESTIONS SHOULD BE DIRECTED TO APPROPRIATE STATE ORGANIZATION LISTED ABOVE.

TOTAL

300000

CHECK
NUMBER 0A0013745018 DATE 11/12/19 PAY OCEANPORT POLICE DEPARTMENT

OMB021 (Rev. 08/2019)

DETACH BEFORE CASHING CHECK AND RETAIN AS EVIDENCE OF PAYMENT

REMOVE DOCUMENT ALONG THIS PERFORATION



Department Of The Treasury
STATE OF NEW JERSEY
Trenton, New Jersey 08625-0221
GENERAL STATE FUND

64-1278
611

CHECK NUMBER

A 0013745018

DATE: NOVEMBER 12, 2019
VOID 180 Days After This Date

PAY Three Thousand and 00/100 Dollars

PAY TO THE ORDER OF: OCEANPORT POLICE DEPARTMENT
P.O. BOX 370
OCEANPORT, NJ 07757

BANK OF AMERICA
003359875641

\$*****3,000.00
Audited, Allowed and Payment Warranted

[Signature]
Acting Director
Payment Directed
[Signature]
State Treasurer

⑈0013745018⑈ ⑆061112788⑆ 003359875641⑈

**RESOLUTION OF THE BOROUGH OF OCEANPORT
AUTHORIZING CHANGE ORDER #1 - EVERGREEN PARK IMPROVEMENTS
PROJECT**

Resolution

WHEREAS, change orders are regulated by Local Finance Board Regulations (N.J.A.C. 5:30-14.4); and

WHEREAS, there is a need to amend the contract with Fiore Paving Company as stated in a letter from the Borough Engineer dated November 14, 2019 to adjust for as-built quantities; and

WHEREAS, the original contract of \$54,520.40 will be decreased by \$850.08; and

WHEREAS, the Borough Council is satisfied that the requested change was necessary and that it will actually be carried out.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Oceanport as follows,

1. Change Order #1 to the contract between the Borough of Oceanport and Fiore Paving Company for the Evergreen Park Improvements Contract is hereby approved.
2. The Mayor or Borough Clerk are hereby authorized to sign the change order on behalf of the Borough.



Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists

10.a

Corporate Headquarters
331 Newman Springs Road, Suite 203
Red Bank, NJ 07701
T: 732.383.1950
F: 732.383.1984
www.maserconsulting.com

November 14, 2019

VIA EMAIL

Honorable Mayor and Council
Borough of Oceanport
315 East Main Street
Oceanport, NJ 07757

Re: Partial Payment No. 2 & Final
Evergreen Park Improvements
Borough of Oceanport, Monmouth County, New Jersey
MC Project No. OPB-163

Dear Mayor and Council:

We are writing this letter to certify that Fiore Paving Company, 4 Fiore Court, Oceanport, NJ 07757, contractor for the above-referenced project, has completed the work as listed on the enclosed Partial Payment Certificate No. 2 & Final, and is entitled to payment in the amount of \$5,314.26, upon submission of an acceptable two year Maintenance Bond in the amount of \$8,050.54.

Also enclosed with this Payment are three copies of Change Order No. 1 & Final. This adjusts some items to their as-built quantities and closes out the project. The original contract amount was \$54,520.40. Change Order #1 decreases the contract amount to \$53,670.32 resulting in a total decrease of \$ 850.08. Please retain one copy for your files and return two (2) copies of the executed Change Order to our office.

Should you have any questions or require additional information, please do not hesitate to contact me directly.

Very truly yours,

MASER CONSULTING P.A.

William H.R. White, III, P.E., P.P., C.M.E.
Oceanport Borough Engineer

WHW/nb
Enclosure

cc: Jeanne Smith, RMC, Borough Clerk
Fiore Paving Inc, (via email fiorepaving@aol.com)
\\Hqfas1\general\Projects\Opb\OPB-163\Correspondence\OUT\191114_ whw _smith.docx

35
YEARS OF
Customer Loyalty
through

Packet Pg. 40

BOROUGH OF OCEANPORT

PAYMENT APPLICATION NO. 2

DATE: 10/11/2019

Contractor: Fiore Paving Co., Inc.
4 Fiore Court
Oceanport, NJ 07757

Project No. OPB-163

ESTIMATE OF THE AMOUNT AND VALUE OF WORK COMPLETED UNDER CONTRACT FOR:
EVERGREEN PARK IMPROVEMENTS

Period to 10/10/19

Item	Description	Contract Quantity	Unit	Unit or Lump Sum Price	Contract Totals	Amended Quantity	Previous Quantity	Current Period		Total To Date																																	
								Quantity	Amount	Quantity	Amount																																
BASE BID ITEMS																																											
1	CLEARING SITE	1	LS	\$13,000.00	\$13,000.00		1.00		\$0.00	1.00	13,000.00																																
2	TACK COAT	40	GAL	\$0.01	\$0.40		32.00		\$0.00	32.00	0.32																																
3	HOT MIX ASPHALT 9.5M64 SURFACE COURSE, 2" THICK	65	TON	\$200.00	\$13,000.00		58.85		\$0.00	58.85	11,770.00																																
4	PAVING FABRIC, 24" WIDE	50	S.Y.	\$50.00	\$2,500.00		45.00		\$0.00	45.00	2,250.00																																
5	CONCRETE SIDEWALK, 4" THICK	100	S.Y.	\$90.00	\$9,000.00		107.00		\$0.00	107.00	9,630.00																																
6	BASKETBALL HOOP COMPLETE	2	UNIT	\$6,000.00	\$12,000.00		2.00		\$0.00	2.00	12,000.00																																
7	STRIPING BASKETBALL COURT	1	LS	\$2,000.00	\$2,000.00		0.00	1.00	\$2,000.00	1.00	2,000.00																																
8	TOPSOILING, 4" THICK (IF & WHERE DIRECTED)	1,000	S.Y.	\$3.00	\$3,000.00		229.00	771.00	\$2,313.00	1000.00	3,000.00																																
9	FERTILIZING AND SEEDING, TYPE F (IF & WHERE DIRECTED)	1,000	S.Y.	\$0.01	\$10.00		229.00	771.00	\$7.71	1000.00	10.00																																
10	STRAW MULCHING (IF & WHERE DIRECTED)	1,000	S.Y.	\$0.01	\$10.00		229.00	771.00	\$7.71	1000.00	10.00																																
CERTIFICATE OF CONTRACTOR																																											
I certify that all items, units, quantities and prices of work and material shown in this progress estimate are correct; that all work has been performed and materials supplied in full accordance with the terms of the contract documents and all authorized changes thereto; that the foregoing is a true and correct statement of the contract account up to and including the last day of the period covered by this estimate, and that no part of the stated amount due this estimate has been received.																																											
BY:  11/13/19																																											
Fiore Paving Co., Inc.																																											
APPROVED: 11/14/19																																											
Maser Consulting P.A.																																											
<table><tr><td>Total This Estimate</td><td>\$4,328.42</td><td>Total To Date</td><td>\$53,670.32</td></tr><tr><td>Less 2.0% Retained</td><td></td><td></td><td></td></tr><tr><td>Net Amount</td><td></td><td>\$</td><td>53,670.32</td></tr><tr><td>Less Previous Estimates</td><td></td><td>\$</td><td>48,355.06</td></tr><tr><td>AMOUNT DUE</td><td></td><td>\$</td><td>5,315.26</td></tr><tr><td>Original Contract Value</td><td></td><td>\$</td><td>54,520.40</td></tr><tr><td>Change Orders to Date</td><td></td><td>\$</td><td>(850.08)</td></tr><tr><td>Adjusted Contract Value</td><td></td><td>\$</td><td>53,670.32</td></tr></table>												Total This Estimate	\$4,328.42	Total To Date	\$53,670.32	Less 2.0% Retained				Net Amount		\$	53,670.32	Less Previous Estimates		\$	48,355.06	AMOUNT DUE		\$	5,315.26	Original Contract Value		\$	54,520.40	Change Orders to Date		\$	(850.08)	Adjusted Contract Value		\$	53,670.32
Total This Estimate	\$4,328.42	Total To Date	\$53,670.32																																								
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Original Contract Value		\$	54,520.40																																								
Change Orders to Date		\$	(850.08)																																								
Adjusted Contract Value		\$	53,670.32																																								

CHANGE ORDER NUMBER - 1 Final

Project	Evergreen Park Improvements
Municipality	Borough of Oceanport
County	Monmouth
Contractor	Fiore Paving Co., Inc.

In accordance with the project Supplementary Specification, the following are changes in the contract.

Location and Reason for Change (Attach additional sheets if required) -

- Final As-Built Quantities

Increased Items -

<u>Item No.</u>	<u>Description</u>	<u>Quantity (+/-)</u>	<u>Unit Price</u>	<u>Amount</u>
5	Concrete Sidewalk, 4" thick	7 SY	\$ 90.00	\$ 630.00
Total Increase:				\$ 630.00

Decreased Items -

<u>Item No.</u>	<u>Description</u>	<u>Quantity (+/-)</u>	<u>Unit Price</u>	<u>Amount</u>
2	Tack Coat	-8 Gal.	\$ 0.01	\$ (0.08)
3	HMA 9.5M64 Surface Course 2" thick	-6.15 Tons	\$ 200.00	\$ (1,230.00)
4	Paving Fabric, 24" wide	-5 SY	\$ 50.00	\$ (250.00)
Total Decrease:				\$ (1,480.08)

Amount of Original Contract \$ 54,520.40

Change Order #1 Amount \$ -850.08

Adjusted Amount Based on Change
Order No. 1 Final \$ 53,670.32

% Change in Contract -1.56%

[(+) Increase or (-) Decrease]

Extra	\$ 630.00
Supplemental	\$ 0.00
Reduction	\$ -1,480.08
Total Change	\$ -850.08



(Maser Consulting P.A.)
(Engineer)

11/14/19
(Date)

Approved:



Fiore Paving Co., Inc.
(Contractor)

11/13/19
(Date)

Borough of Oceanport
(Presiding Officer)

(Date)

**RESOLUTION OF THE BOROUGH OF OCEANPORT
ADOPTING THE CONTROLLED SUBSTANCES AND ALCOHOL USE AND
TESTING POLICIES FOR NEW JERSEY MUNICIPALITIES, U.S.
DEPARTMENT OF TRANSPORTATION (USDOT) AND FEDERAL MOTOR
CARRIER SAFETY ADMINISTRATION (FMCSA) PURSUANT WITH 49 CFR
PART 382**

Resolution

WHEREAS, the Borough of Oceanport is a municipality that employs individuals required to maintain a commercial driver's license in order to perform various work duties; and

WHEREAS, Federal and State regulations require mandatory testing for controlled substances and alcohol use for those employees with a commercial driver's licenses; and

WHEREAS, in order to comply with said Federal and State regulations, the Borough wishes to adopt the NJDOT Controlled Substances and Alcohol Policies for New Jersey Municipalities dated January 1, 2019

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oceanport as follows:

1. The *NJDOT Controlled Substances and Alcohol Policies for New Jersey Municipalities dated January 1, 2019* is hereby adopted.
2. The Borough Clerk shall provide a certified copy of the foregoing resolution to the Borough Administrator, the Borough Attorney and the Monmouth County Municipal Joint Insurance Fund.
3. The Borough Administrator shall provide a copy of the adopted policy to each driver subject to this policy prior to the start of alcohol and controlled substances testing under this policy.
4. The Borough Administrator shall provide written notice of the availability of these materials to any representatives of employee organizations.



March 2019

Drug and Alcohol Policy for N.J. Public Employees Template

Medicinal marijuana. Recreational use of marijuana. Fentanyl. The opioid epidemic. Misuse of prescription pain-killers.

The ever changing landscape makes it necessary for public employers to review and update their drug and alcohol policies regarding drivers who operate public agency vehicles or private vehicles on agency business. To assist our members, the MEL Safety Director staff worked with a law firm that specializes in drug and alcohol policies to develop two New Jersey Public Entity Drug & Alcohol policy templates. The following documents are now available on the MEL website <https://njmel.org/mel-safety-institute/model-policies/driver-policies/>:

1. Final NJDOT CDL policy
2. NON-CDL policy for New Jersey Public Entity
3. NON-CDL policy Forms Toolkit

It is important to note the following:

- These are **model policy templates**, not final policies. Each member must review the templates, discuss the options with your municipal attorney, and finalize the policies that are best suited to your needs. These sample policies and procedures are not intended to be all-encompassing and are believed to conform to current law and practice at the time of preparation. However, municipalities and authorities are cautioned to seek legal advice from a qualified employment attorney before adopting any employment policies and procedures.
- **All bold and italicized print in the Final NJDOT CDL policy is mandatory under federal law.** Provisions that are not shown in bold and italicized print are optional.
- **The entire NON-CDL policy is optional.** If you decide to adopt a policy of this type, there are many options available to you including the establishment of a “zero tolerance” policy with respect to marijuana (medical or recreational). Please make sure you discuss the options with your municipal attorney and your governing body prior to adoption of any policy.
- One of the essential elements of the policies is the requirement to name a **Designated Employer Representative (DER)**. An alternate DER should also be named in the event the primary DER is unavailable.
- Joint Insurance Funds throughout the State will be scheduling informational webinars and training sessions on the templates and DER Training classes. They will be announced in future communications from each Joint Insurance Fund’s Safety Director. It is critical that you send the identified DER and alternate DER to DER Training.

This bulletin is intended for general information purposes only. It should not be construed as legal advice or legal opinion regarding any specific or factual situation. Always follow your organization's policies and procedures as presented by your manager or supervisor. For further information regarding this bulletin, contact your Safety Director at 877.398.3046.

**Controlled Substances and Alcohol Use
and Testing Policies for New Jersey
Municipalities**

As Of 1/1/2019

U.S. Department of Transportation (USDOT)

Federal Motor Carrier Safety Administration (FMCSA)

49 CFR PART 382



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SECTION A - GENERAL

This policy and 49 CFR Part 40 Regulations of the U. S. Department of Transportation Procedures for Transportation Workplace Drug and Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered employees. They may be viewed at <http://www.dot.gov/odapc> Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40.

Oceanport shall test, in accordance with Federal regulations, employees required to have a Commercial Driver's License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol.

PURPOSE 382.101

The purpose of this policy, in addition to meeting Federal regulations, is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

APPLICABILITY 382.103

(a) This policy applies to every person of Oceanport who operates a commercial motor vehicle in commerce in any State, and is subject to:

- (1) The commercial driver's license requirements of part 383;
- (2) All Drivers Operating Commercial Motor Vehicles for Oceanport; or
- (3) The commercial driver's license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to employers and the requirements in this policy that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

The COVERED EMPLOYEE CERTIFICATE OF RECEIPT contains the name, address, and phone number of the responsible individual(s). The CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY complies with requirements of the Department of Transportation regulations as set forth in 49 CFR § 382 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.); maintaining a locked file system on all test results; and overseeing the referral of employees for evaluation and treatment. Oceanport shall ensure that all covered employees are aware of the provisions and coverage of Oceanport's CONTROLLED

SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

OCEANPORT SERVICE AGENT CONTACT INFORMATION

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: John Johnson

TITLE: Construction Official

ADDRESS: 315 E. Main Street, Oceanport, NJ 07757

PHONE: 732-222-0641

E-MAIL: Constructionofficial@oceanportboro.com

HOURS WHEN AVAILABLE: Monday through Wednesday 8:30 am to 4:30 pm
Thursdays 8:30 am to 7:30 pm
Fridays 8:30 am to 12:30 pm

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Donna M. Phelps

MEDICAL REVIEW OFFICER (MRO)

NAME: Steven Crawford, MD

ADDRESS: 230 Main Street, Suite C, Toms River, NJ 08753

PHONE: 732-349-0848

FAX: 732-914-8950

LABORATORY

NAME: Medtox

ADDRESS: 402 County Rd D, St. Paul, MN 55112

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: Tracy Kaplan

ADDRESS: 591 Lakehurst Road, Toms River NJ 08753

PHONE: 800-542-0184

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: Dynamic Testing Services

ADDRESS: 230 Main Street, Suite C, Toms River, NJ 08753

PHONE: 732-349-0848

OCEANPORT'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect Oceanport's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent Oceanport's state specific non-DOT Oceanport Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, Oceanport's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions* (See *Definitions*).

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that Oceanport as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). Oceanport shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. Oceanport shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES 382.105

Oceanport shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to Oceanport by 382.105.

DEFINITIONS 382.107

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

Actual knowledge for the purpose of Section B of this policy means actual knowledge by Oceanport that a driver has used alcohol or controlled substances based on Oceanport's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol. *[Caution: Certain brands and types of cough medicines contain alcohol.]*

CFR means Code of Federal Regulations.

Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

It is the position of the Federal Motor Carrier Safety Administrator that the above section (2) language covers all municipal vehicles which fit within the "Commercial Motor Vehicle" definition below, even if that vehicle does not cross state lines.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- (3) Is designed to transport 16 or more passengers, including the driver; or

- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of Federal regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

Designated employer representative (DER) is an individual identified by Oceanport as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of Oceanport. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:
 - i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - ii. Tire disablement without other damage even if no spare tire is available.
 - iii. Headlight or taillight damage.
 - iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity, *including a municipal employer*, employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));
- (2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));

(6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).

(9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

(11) Admit to the collector or MRO that you adulterated or substituted the specimen.

(12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

(c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, using a vehicle for road clearing, snow removal, trash and recycling removal, remaining in readiness to operate the vehicle, and
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

- (1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

- (a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
 - (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
 - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.
- (b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, Oceanport, or the general public.

OTHER REQUIREMENTS IMPOSED BY Oceanport 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of Oceanport, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. *Accordingly, Oceanport may adopt, under its own authority, a Non-DOT drug and alcohol testing program.*

REQUIREMENT FOR NOTICE 382.113

Before performing an alcohol or controlled substances test under the Federal regulation, Oceanport shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. Oceanport shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS 382.115

- (a) All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.
- (b) All foreign-domiciled employers must implement the requirements of this policy on the date the employer begins commercial motor vehicle operations in the United States.

PUBLIC INTEREST EXCLUSION 382.117

Oceanport shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R. *This is a service agent who has been found by the DOT to be disqualified from providing services to DOT regulated employers.*

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

- (a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:
 - (1) The admission is in accordance with Oceanport's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
 - (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
 - (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
 - (4) The driver does not perform a safety sensitive function until Oceanport is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
- (b) A qualified voluntary self-identification program or policy must contain the following elements:
 - (1) It prohibits Oceanport from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
 - (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
 - (3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
 - (4) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty-controlled substance test with a verified negative test result for controlled substances use; and
 - (5) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

- (a) For each alcohol test performed, Oceanport shall provide the driver's commercial driver's 0.
- (b) license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).
- (b) For each controlled substance test performed under this part, Oceanport shall provide the following information, which must be recorded as follows:

- (i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).
- (ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If Oceanport has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE 382.205

No driver shall use alcohol while performing safety-sensitive functions. If Oceanport has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE 382.207

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If Oceanport has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT 382.209

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST 382.211

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. Oceanport shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AN/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to Oceanport by the DOT in 49 CFR 382.111 to impose other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow Oceanport to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for Oceanport) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for Oceanport; 3) if the Driver is still insurable at standard rates under Oceanport's fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that

they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES 382.213

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) Oceanport, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.

(c) Oceanport may require a driver to inform the Borough of Oceanport of any therapeutic drug use.

All drivers of Oceanport are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at Oceanport to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, Oceanport, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137).

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although Oceanport shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. Oceanport, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive

functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

- (a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
- (b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
- (c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
- (d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

SECTION C - TESTS REQUIRED

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of Oceanport), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if Oceanport allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

OCEANPORT RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by Oceanport pursuant to 49 CFR Part 40 and 49 CFR Part 382, Oceanport reserves the independent authority to screen and/or test employees under Oceanport's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for Oceanport, the driver shall undergo testing for controlled substances as a condition prior to being used, unless Oceanport uses the exception in paragraph (b) of this section. Oceanport shall not allow a driver, who Oceanport intends to hire or use, to perform safety-sensitive functions unless Oceanport has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. Oceanport shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, Oceanport shall accept the result as a negative test.

(b) Oceanport is not required to administer a controlled substances test required by paragraph (a) of this section if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and
- (2) While participating in that program, either--
 - (i) Was tested for controlled substances within the past 6 months (from the date of application with Oceanport), or

- (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with Oceanport); and
- (3) Oceanport ensures that no prior employer of the driver of whom Oceanport has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.
- (c) (1) If Oceanport exercises the exception in paragraph (b) of this section, Oceanport shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:
 - (i) Name(s) and address(es) of the program(s).
 - (ii) Verification that the driver participates or participated in the program(s).
 - (iii) Verification that the program(s) conforms to part 40 of Federal regulations.
 - (iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.
 - (v) The date the driver was last tested for controlled substances.
 - (vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.
- (2) If Oceanport uses, but does not employ, a driver more than once a year to operate commercial motor vehicles, Oceanport must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If Oceanport cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, Oceanport shall conduct a pre-employment, controlled substances test.
- (d) Oceanport may, but is not required to, conduct pre-employment alcohol testing under this policy. If Oceanport chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:
 - (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
 - (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
 - (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
 - (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
 - (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, Oceanport shall test for alcohol for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, Oceanport shall test for controlled substances for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by Oceanport</u>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

- (d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, Oceanport shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, Oceanport shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.
- (2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, Oceanport shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- (e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by Oceanport to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- (f) Oceanport shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.
- (g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by Oceanport.
- (2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by Oceanport.
- (h) Exception. This section does not apply to:
- (1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or
 - (2) An occurrence involving only the loading or unloading of cargo; or
 - (3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by Oceanport unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

- (a) Oceanport shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- (2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
- (i) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
- (2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
- (3) Each driver selected for testing shall be tested during the selection period.
- (j) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, Oceanport, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in Oceanport's random testing pool, and all covered drivers must be in the random pool. If Oceanport conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) Oceanport does not need to compute this total number of covered drivers rate more than on a once per month basis.
- (2) Oceanport may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, Oceanport must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool
- (k) (1) Oceanport shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
- (2) Oceanport shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.
- (l) Oceanport shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, Oceanport shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
- (m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- (n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for Oceanport, the driver shall be

subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If Oceanport is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, Oceanport may--

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which Oceanport is subject.

REASONABLE SUSPICION 382.307

(a) Oceanport shall require a driver to submit to an alcohol test when Oceanport has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. Oceanport's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) Oceanport shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. Oceanport's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of Oceanport who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving Oceanport premises driving a motor vehicle.*

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the Federal regulation. A driver may be directed by Oceanport to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, Oceanport shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, Oceanport shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions

while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall Oceanport permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or

(ii) Twenty-four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, Oceanport shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit Oceanport with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of Oceanport who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

RETENTION OF RECORDS 382.401

(a) General requirement. Oceanport shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. Oceanport shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following records shall be maintained for a minimum of five years:

- (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
- (ii) Records of driver verified positive controlled substances test results,
- (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
- (iv) Driver evaluation and referrals,
- (v) Calibration documentation,
- (vi) Records related to the administration of the alcohol and controlled substances testing programs,
- (vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and
- (viii) A copy of each annual calendar year summary required by 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by Oceanport while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) Types of records. The following specific records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used,
- (ii) Documents relating to the random selection process,

- (iii) Calibration documentation for evidential breath testing devices,
- (iv) Documentation of breath alcohol technician training,
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,
- (vi) Documents generated in connection with decisions on post-accident tests,
- (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and
- (viii) A copy of each annual calendar year summary as required by 382.403.

(2) Records related to a driver's test results:

- (i) Oceanport's copy of the alcohol test form, including the results of the test,
- (ii) Oceanport's copy of the controlled substances test chain of custody and control form,
- (iii) Documents sent by the MRO to Oceanport, including those required by part 40, Subpart G,
- (iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and
- (v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.
- (vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that Oceanport:

(A) Must obtain in connection with the exception contained in 382.301 of this policy, and

(B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

- (i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and
- (ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

- (i) Materials on alcohol misuse and controlled substances use awareness, including a copy of Oceanport's policy on alcohol misuse and controlled substances use,
- (ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,
- (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;

- (iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and
- (v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

- (i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,
- (ii) Names and positions of officials and their role in Oceanport's alcohol and controlled substances testing program(s),
- (iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and
- (iv) Oceanport's alcohol and controlled substances testing policy and procedures.

(d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at Oceanport's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

(a) Oceanport shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over Oceanport or any of its drivers.

(b) If Oceanport is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report Oceanport's annual calendar year summary information, Oceanport shall prepare and submit the report to the FMCSA by March 15 of that year. Oceanport shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. ***Entity Name*** must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). Oceanport may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see:

<http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. ***Entity Name*** shall ensure the accuracy and timeliness of each report submitted by Oceanport or a consortium.

(d) If Oceanport has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for Oceanport), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. Oceanport may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of Oceanport. However, an Oceanport official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS 382.405

(a) Except as required by law or expressly authorized or required, Oceanport shall not release driver information that is contained in records required to be maintained under 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. Oceanport will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) Oceanport shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over Oceanport or any of its drivers.

(d) Oceanport and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by Oceanport and any other information pertaining to Oceanport's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over Oceanport or any of its drivers.

(e) When requested by the National Transportation Safety Board as a part of a crash investigation:

(i) Oceanport must disclose information related to the Oceanport's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and

(ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.

(f) When requested by the National Transportation Safety Board as part of an accident investigation, Oceanport shall disclose information related to Oceanport's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

(g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(h) Oceanport may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not

limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).

(i) Oceanport shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO OCEANPORT 382.407

The medical review officer shall report the results of controlled substances tests to Oceanport in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

(a) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.

(b) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

(a) Oceanport shall notify a driver of the results of a pre-employment, controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. Oceanport shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. Oceanport shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

(a) Oceanport must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that Oceanport must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

(c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, Oceanport must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION 382.415

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

- (a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.
- (b) Oceanport shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if Oceanport has determined that the driver has violated this policy.
- (c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING 382.503

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. Oceanport shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT 382.505

- (a) No driver tested under the provisions of Section C of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for Oceanport, including driving a commercial motor vehicle, nor shall Oceanport permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- (b) Except as provided in paragraph (a) of this section, Oceanport shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit Oceanport with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on Oceanport's property, or in any of Oceanport's vehicles, or on Oceanport's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify Oceanport's personnel when contacted. Failure to advise Oceanport of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

Oceanport and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL

OCEANPORT’S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

(a) *General requirements.* Oceanport shall provide educational materials that explain the requirements of this policy and Oceanport’s policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

(1) Oceanport shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) Oceanport shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by Oceanport to answer driver questions about the materials; *(COVERED EMPLOYEE CERTIFICATE OF RECEIPT)*

(2) The categories of drivers who are subject to the provisions of this policy; *(APPLICABILITY)*

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with the policy; *(PERIOD OF THE WORK DAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE)*

(4) Specific information concerning driver conduct that is prohibited by this policy; *(SECTION B - PROHIBITIONS)*

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d); *(SECTION C - TESTS REQUIRED)*

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); *(49 CFR part 40)*

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy; *(REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST)*

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences; *(DEFINITIONS)*

(9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O; (*CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E*)

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; (*OTHER ALCOHOL-RELATED CONDUCT 382.505*)

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;

(c) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse (once established):

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On-duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use, pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

(d) *Optional provision.* The materials supplied to drivers may also include information on Oceanport's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on Oceanport's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(e) *Certificate of receipt.* Oceanport shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. Oceanport shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

Oceanport shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT 382.605

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE

The purpose of Oceanport Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of Oceanport’s efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule issued December 5, 2016; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) Pre-employment query required.

(1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.

(2) Oceanport must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) Annual query required.

(1) Oceanport must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, Oceanport may obtain the individual driver’s consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell Oceanport whether there is information about the individual driver in the Clearinghouse, but will not release that information to Oceanport. The individual driver may give consent to conduct limited queries that is effective for more than one year.

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within

24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) *Employer notification.* If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at

§ 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

(1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

(2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

(e) *Recordkeeping required.* Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.703

(a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.

(b) Before Oceanport may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:

(1) A verified positive, adulterated, or substituted controlled substances test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to a test in violation of § 382.211;

(4) An employer's report of actual knowledge, as defined at § 382.107, of:

(i) On duty alcohol use pursuant to § 382.205;

- (ii) Pre-duty alcohol use pursuant to § 382.207;
- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use, pursuant to § 382.213;
- (5) A SAP report of the successful completion of the return-to-duty process;
- (6) A negative return-to-duty test; and
- (7) An employer's report of completion of follow-up testing.
- (c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.
- (d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).
- (e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE 382.705

(a) MROs.

- (1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:
 - (i) Verified positive, adulterated, or substituted controlled substances test results;
 - (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).
- (2) MROs must provide the following information for each controlled substances test result specified in paragraph (a)(1) of this section:
 - (i) Reason for the test;
 - (ii) Federal Drug Testing Custody and Control Form specimen ID number;
 - (iii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iv) Employer's name, address, and USDOT number, if applicable;
 - (v) Date of the test;
 - (vi) Date of the verified result; and
 - (vii) *Test result.* The test result must be one of the following:
 - (A) Positive (including the controlled substance(s) identified);
 - (B) Refusal to test: adulterated;
 - (C) Refusal to test: substituted; or

(D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) *Employers.*

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
- (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) *Test result.* The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time,

date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

(ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);

(iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and

(iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

(i) On-duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

(i) Driver's name, date of birth, CDL number and State of issuance;

(ii) Employer name, address, and USDOT number, if applicable;

(iii) Date the employer obtained actual knowledge of the violation;

(iv) Witnesses to the violation, if any, including contact information;

(v) Description of the violation;

(vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and

(vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain

responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) SAPs.

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

(i) SAPs name, address, and telephone number;

(ii) Driver's name, date of birth, and CDL number and State of issuance;

(iii) Date of the initial substance-abuse-professional assessment; and

(iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately.* Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	— Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	— Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION 382.707

(a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.

(b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.

(c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

(a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

(1) Employer Clearinghouse registration must include:

- (i) Name, address, and telephone number;
- (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
- (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.

(2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.

(3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
- (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
- (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) *C/TPAs and other service agents.* Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
- (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

- (a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.
- (b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.
- (c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

- (a) *C/TPAs.* No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
- (b) *SAPs.* A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

- (a) Petitions limited to inaccurately reported information.
 - (1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.
 - (2) *Exceptions.*
 - (i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.
 - (ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).
 - (iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).
- (b) *Petition.* Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:
 - (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
 - (2) Detailed description of the basis for the allegation that the information is not accurate; and
 - (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition.* The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision.* Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e) *Request for expedited treatment.*

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review.*

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: “Administrative Review of Drug and Alcohol Clearinghouse Decision” and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver’s request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver’s request for review. The Associate Administrator’s decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver’s drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

(1) The SAP reports to the Clearinghouse the information required in § 382.705(d);

(2) The employer reports to the Clearinghouse that the driver’s return-to-duty test results are negative;

(3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and

(4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

(1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.

(2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. **Exception:** No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

(c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.

(d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) Exceptions.

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

(B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

(ii) [Reserved]

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Appendix A

Oceanport

Commercial Motor Vehicle Driver's

Certificate of Compliance With DOT Cell-Phone/Texting

Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

*Except as prohibited under Oceanport policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.*

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. Oceanport can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by Oceanport to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

APPROVED
MINUTES OF THE OCEANPORT HISTORICAL COMMITTEE MEETING HELD
10/10/2019

The Oceanport Historical Committee held met on Thursday, October 10, 2019. We met at the Blackberry Bay Pavilion at 7:00 p.m., and we wrapped things up around 9:00 p.m. The goals of the committee are to plan and execute efforts to celebrate the Borough's centennial which will occur in 2020 and to promote a better understanding of the Borough's history.

In attendance were:

Frank Barricelli
 John Bonforte (just briefly, to drop off bracelets to be used at the Holiday Home Tour)
 Tom Cavanagh
 Nadine Jeffrey
 Robin Kelly
 Rosanne Letson
 Brian Landrigan
 Paula Lombardo
 Barbara Sheppard
 Ric Siciliano
 Toni Sverapa

Guests:

Debbie Blair – new liaison from Wolf Hill School
 Karen Long
 Kathy Sniffen Miele
 Victor Turback – guest/new member

(Note: If I omitted your name from the attendance for this meeting, please let me know.)

Our Agenda for this meeting was as follows:

- Sign-in sheet
- Introduction of new members and guests
- Review/approve previous month's Minutes
- Review status of donation letter responses
- Review status of tee shirt purchase and sale
- Review status of banners
- Review status of Holiday Home Tour
- Review status of Halloween prize
- Review Summer's End Festival participation on September 7th – staffing, set-up, displays, tee shirt and book sale, trivia questions
- Review status of inputs to history book

Status of school contact/member
 Open discussion
 Next meeting scheduled for November 14th
 Verify new action items and adjourn

We approved the Minutes from our last meeting, which was August 29, 2019, after one minor change by Frank.

Our guests were Debbie Blair, who is our new liaison for Wolf Hill School, Karen Long, Kathy Sniffen Miele, who shared both the original deed for her former family home, known as The Corlies Cottage located on 28 Riverside Avenue, and Victor Turback, an artist who lives in Oceanport who wanted to join the Committee.

Frank began by telling us that he had emailed both the Superintendent of Oceanport Schools and the new principal of Wolf Hill School. The Superintendent told him that Rosalie Cuoco would be pulling together the history of the school and coordinating with our new liaison/point-of-contact, who is Debbie Blair. Debbie will be in touch with Rosalie.

Ric talked about the donation letter responses he's gotten. Ansell, Grimm & Aaron want to get involved with the Historical Committee. We need to develop a plan for Peter Grimm. Ric said we will email the plan to Terry at Peter Grimm's office, and he will present our plan to his partners. Ric suggested that we do several levels of corporate sponsorship; we can set up a meeting to do that.

Ric said that he and Frank would be meeting at TetherView in Russel Hall on the Fort Monmouth property. They will meet with Colleen Lanzano and Michael Aboud, who owns Russel Hall. There are tenants in the building who do videotaping, etc. Frank will request a history of the business.

Frank added that we need to request the history of Woodbine Cemetery, which he found out is the oldest business in Oceanport.

Ric sent out about four sponsorship letters, and he said that Mayor Coffey said the letters were okay to send out. The letter he sent to Peter Grimm contained trivia questions, which Peter enjoyed and did very well with. Frank mentioned several Oceanport businesses that we also need to contact, like Fiore, Beckers, and Brummers. He asked us all to email the names of Oceanport businesses/business owners to him. Frank asked that if members do any soliciting of businesses/send out any letters, that we keep Ric in the loop. Tom suggested putting a note in the Oceanport Bulletin.

Regarding the tee shirt sales, Toni said had 100 tee shirts at Summer's End and sold out of the smaller sizes (small, medium, and large). Tom ordered 50 additional tee shirts after that. Toni posted on Facebook that we were selling tee shirts, and we ended up ordering another 18. In total, 168 tee shirts were sold at \$10.00 each. The money went to Katie LaPorta at Borough

Hall. Toni said our balance at Borough Hall is \$2,372.00, not including two outstanding bills from Skip's Sports for the tee shirts (\$121.00 and \$214.00).

Tom asked about whether we wanted to sell sweatshirts. Toni said Skip's quoted us \$20.00 for hoodies. We discussed how we could market them. Robin suggested selling them for \$30.00 each. Tom can order the sweatshirts, as he goes to Skip's every Saturday. We felt kid's sizes would be best to order.

Robin talked about the banners. She had samples to show us, and told us the banners were two-sided. We have 17 poles on East Main Street, and there are three designs, one of which would post the name of the sponsor. Robin has had some trouble getting in touch with Public Works for specifics regarding the poles closest to Port-Au-Peck Avenue, as they appear to be very small banner-holders, but can be expanded. Robin's working with Erin Oakley at Fantastic Signs. The banners will cost \$96.00 each. Robin suggested we charge \$200.00 each. Rosanne will put some information for sponsors for the banners in the Bulletin, whose deadline is October 14th. Rosanne will also get specific information from Regina at FMERA about the poles on The Avenue of Memories on the Fort Monmouth property. Robin will start advertising the banners, and will email everyone before sending out.

Discussion turned to the Holiday Home Tour. Robin said she has eleven homes confirmed to participate in the Tour. One is 16 Arcana, owned by June Kylie. She has original hand-painted wallpaper from when the house was built. Captain Edwards was her husband's great-grandfather. Barbara Sheppard's home is on the Tour as well, and is 200+ years old. Caputo's is donating a tray of cookies for each house, and the Garden Club is making a centerpiece for each house. We only have seven pre-paid tickets so far, and this was cause for concern. Robin will make copies of the updated forms with the tear-off portion for submission of payment, and Paula will bring some to the Library, Borough Hall, and the Post Office for people to hopefully pick up. Robin will get the updated form to Lauren McCrae by October 14th so it can go out in the Bulletin.

We talked about Halloween, and the Rec Committee's festivities, which are scheduled for October 27th at 11:00 a.m. Paula said Mike MacStudy added a category for prizes for the best historical costumes. Recreation will be providing the prizes, so we don't have to worry about that. The parade starts at Charles Park, goes down Monmouth Boulevard to Myrtle to the Port-Au-Peck Firehouse. We talked about offering a sweatshirt as a prize.

We talked about Summer's End, and overall we concluded that it was a success for us.

We talked a little about the old "Oceanport in Retrospect" books, because Ric said he needed two of them for his meeting October 11th. Toni told us that the money we make selling these books is now going to the Oceanport Centennial line item.

On that note, Rosanne suggested that we needed a Treasurer, and she nominated Toni for same. Everyone was in agreement, and Toni agreed to accept. Toni then suggested that we needed a

Secretary, and she nominated Rosanne. Everyone agreed, and Rosanne accepted. A Recording Secretary was mentioned, but we opted to stick with just a Secretary.

We discussed the book we're working on. Paula said that she and Frank had reached out to the following groups and organizations in Oceanport who were working on their individual histories:

1. Girl Scouts.
2. Methodist Church – Frank obtained pictures that were very good.
3. Triumphant Church – Frank emailed them.
4. Frank Pingitore, who is on the Board of Education for Shore Regional, and Tom Farrell, the superintendent of Shore Regional.
5. Bill McNish and Steve Briskey regarding Port-Au-Peck Fire.
6. Mark Patterson and Darlene Crochet for the Ladies Auxiliary and Hook and Ladder.
7. September 11th – Paula reached out to Jimmy Straine's wife, Tricia. She provided information, and she has a picture of the bench that the Rec Committee did that she purchased at Old Wharf Park.
8. First Aid.
9. OEM – Buzzy Baldanza sent articles about all major storms.
10. Boy Scouts – two troops.
11. Lion's Club – Pete Dellera submitted something already, which Paula said was very good.
12. Sewer Authority - Mike MacStudy is working on this.
13. Library.

Frank said the deadline for all submissions for the book is the end of October. He is working on Fort Monmouth's history. He was able to get Fort Monmouth calendars from eBay which have great photos that can be used.

Saturday, October 12th is Archive and History Day at the Manalapan Branch of the Monmouth County Library. Frank has gone in the past, and intends to go again. The subject this year is women in Monmouth County.

A week or so ago, Frank went to Maple Place for a presentation by Rich Geffken about Oceanport's history. The presentation was made to 7th and 8th grade students. Frank said the presentation was very well received by the students. There will be another presentation in the spring about slavery in Monmouth County/Oceanport. Frank said he'd love to do a presentation to the students.

There is a presentation Monday, October 14th at the Middletown Library at 7:00 p.m. about the Klan in New Jersey. Frank is going to go to this.

Kathy Sniffen Miele was one of our guests. She grew up in what was known as Corlies Cottage on Riverside Avenue. She brought with her a framed photograph of the house, and the original deed to the house from April 29, 1838, which was also framed. Frank said he'd love to have a

photograph of the house with its history at Old Wharf Park so that you could read about it and look across the water there and see it. Kathy noted that a Pidge Morrow was connected in some way with the house, and he was from the Pigeon Corps at Fort Monmouth.

Tom spoke next about the piece he's working on for the book, which is the fact that in 2002, Oceanport had 5953 people, and there were 625,000 people in Monmouth County. We had less than 1% of the population of the County, but we had 20% of the judges – we had five judges right here in Oceanport. No other big city had that.

Victor Turback was one of our guests who will be joining us on the Historical Committee as a member. He is an artist, and shared a small portfolio of some of the work he's done, all of which were beautiful. We discussed asking him to illustrate perhaps for invitations to the Gala next October, or for the chapter/section separations in the book.

Debbie Blair was one of our guests who will be our liaison/point-of-contact for Wolf Hill School. We talked to her about input for the book, and we briefly discussed the essay contest we have discussed in the past. Debbie told us that at one time, there were old photographs in the Board of Education office, and that she would try to figure out what happened to them. Toni suggested having an Oceanport Residents' Day, and Robin suggested a 100th Day of School to coordinate with Oceanport's 100 years. Frank added that he really wanted to start a local history section in the school library.

We adjourned around 9:00 p.m. Our next meeting is November 14th.

Action Items for November meeting

1. Members will email Frank with the names of all the Oceanport businesses/business owners they can think of.
2. Rosanne will submit information to Lauren McCrae about the banners by October 14th for the Oceanport Bulletin.
3. Rosanne will get more specific information from Regina at FMERA about the poles on The Avenue of Memories on the Fort Monmouth property.
4. Robin will start advertising the banners.
5. All writing for the book should be done and should have been submitted to Frank by the end of October.

Oceanport Historical Committee

Outline of Upcoming Events

2019-2020

- I. Halloween prize awarded for best historical costume at the Oceanport Recreation Committee's Halloween parade

- II. Holiday Home Tour – Sunday, December 8, 2019.
- III. Flags/banners on Main Street and the Avenue of Memories/Route 537 on Fort Monmouth– after Christmas wreaths/lights come down – January, 2020.
- IV. Essay contest for the schools (“Why I Love Oceanport”, etc.) – April, 2020.
- V. Memorial Day Parade – May, 2020.
- VI. Oceanport Day at Monmouth Park – Sunday, June 7, 2020.
- VII. Regatta – sailing, model boat, kayak, etc. – July or August 2020.
- VIII. Summer’s End Festival – September 2020 (pet parade, pie contest, old-fashioned county fair type activities)
- IX. Blu Grotto Social – date not yet secured – September, 2020.
- X. Centennial Gala – Saturday, October 17, 2020.
- XI. Halloween Window Painting of local businesses – October 2020.

**BOROUGH OF OCEANPORT****MAYOR & COUNCIL****MINUTES • NOVEMBER 7, 2019****Workshop****Maple Place School****7:00 PM****2 Maple Place, Oceanport, NJ 07757**

- I. **Meeting Called to Order:** Mayor Coffey called the meeting to order at 7:07 p.m.
- II. **Statement of Compliance with Open Public Meetings Act:** Mayor Coffey stated "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 9, 2019, and by the posting of same on the municipal bulletin board and Borough Web Site."
- III. **Flag Salute:** Mayor Coffey led the audience and members of the Council in the flag salute
- IV. **Invocation:** Chaplain Stacy Deerin gave the invocation.
- V. **Roll Call:**

Attendee Name	Title	Status	Arrived
Jay Coffey	Mayor	Present	
William Deerin	Councilman	Present	
Richard Gallo	Councilman	Present	
Joseph A. Irace	Councilman	Absent	
Michael O'Brien	Councilman	Absent	
Robert Proto	Councilman	Absent	
Stephen Solan	Council President	Present	
Jeanne Smith	Borough Clerk	Present	
Donna M. Phelps	Borough Administrator	Present	
Scott Arnette	Borough Attorney	Present	
Catherine D. LaPorta	Chief Financial Officer	Present	

VI. **PRESENTATION: Board of Education Building Program Referendum:**

Anne Facendo, Oceanport Schools Superintendent, appeared and thanked the Governing Body for the ability to present its proposed renovations and plans for Wolf Hill and Maple Place schools. Architect Frank Messineo of Solutions Architecture appeared and provided detailed information on the plans and costs. The plans are available on the Board of Education's website. The following residents appeared with questions regarding the referendum and plans: Joan Cox, 18 Hunters Run; Maggie Lippolis, 65 Monmouth Rd.; Jeff Oakes, 60 Pemberton Ave.; Jim Kopek, 19 Tecumseh Ave.; Lisa Harvey, 59 Asbury Ave.; Mike MacStudy, 110 Oceanport Ave.; Cullin Wible, 67 Wolf Hill Ave.; Dennis Herbert, 40 Asbury Ave.; Melina Stock, 14 Bradley Avenue; Ron Sickler, 45 Morris Pl.; Gina Rescinio, 43 Pocahontas Ave.; Mike Keats, 17 Maple Ave.; Michelle McMahon, 46 Monmouth Blvd.; Ms. Huang, 42 Bradley Ave.

Mayor Coffey thanked the Board of Education for their presentation.

- VII. **Administrator's Report:** Ms. Phelps reported that she finally received an application from the State regarding the Borough's share of sports wagering. The State requires a description of the project and a resolution approving the request for funds, which must be used to support economic development of the municipality. While police overtime can be deducted from its share, the Borough needs to provide additional projects to claim the entire amount available. The deadline for the submission is January 15th, 2020. Mayor Coffey suggested that concrete ideas need to be presented at the December meeting and that all Committees should submit suggestions to Ms. Phelps.

Two bids were received for solid waste and recycling collections. She outlined the previous contract and stated that the lowest bid received for a 5-year contract with same services was \$2,381,000, more than double the current contract. Ms. Phelps does not expect an extension at the same rate. Mayor Coffey noted that there are very few contractors in this business, and they all know the market. He stated that it was Council's decision to award or reject the contract. Ms. Phelps will investigate alternatives before the December meeting.

Ms. Phelps reported that the Lions Club would be willing to make a donation to defray the cost of the installation of the electronic sign that was at old borough hall. There was discussion regarding Internet accessibility, the placement of the sign at the corner of Port-Au-Peck Ave.

Ms. Phelps requested permission to close Borough offices on Veterans' Day in the future. Mayor Coffey noted that there may be an issue with the police collective bargaining agreement. There was discussion regarding pay for police under their contract. Ms. Phelps will review the contract and perhaps the change could be made next year.

Ms. Phelps advised that interior demolition at the new Municipal Complex is complete. However, mold was discovered in both the new Municipal Complex and the new Police Dept. bldg. She is waiting for estimates for removal. She and John Johnson, Construction Official, have bi-weekly progress meetings with the contractor. There were issues regarding sidewalk repair at the new Borough Hall, the apron at Public Works and sidewalks in front of the Police Dept. Ms. Phelps asked for guidance for future change orders where approval from the Governing Body is required, but occurs between meetings. Mayor Coffey suggested the Planning and Development Committee could be responsible for approval of change orders, which was acceptable to Council. Ms. Phelps advised that a generator at the Police Dept. was insufficient for the department's needs, but she was able to sell it for \$4,900. She also reported that FEMA approved additional funding above the project worksheet for asbestos removal in the amount of \$376,558.

VIII. Clerk's Report:

1. Health Insurance Renewal – Ms. Smith reported that she, the BA and CFO reviewed various options. Based on that review, the Borough will see a reduction in costs in the amount of \$40,344 next year. The transition is complete from Targeted Technologies to Intron for IT services.

Meeting Items:

1. Resolution authorizing payment of BILL LIST 11-07-2019
2. Resolution authorizing budget appropriation transfers
3. Resolution cancelling outstanding checks
4. Resolution creating a dedicated Trust for Sports Wagering Revenue
5. Resolution to amend 2019 budget for Drunk Driving Enforcement Grant
6. Resolution authorizing renewal of OPRS-RIM Shared Services Agreement with Monmouth County
7. Resolution authorizing increase to contract with Intron Technology Solutions
8. Receipt & Acceptance of Minutes, Historical Committee, August 29, 2019
9. Receipt & Acceptance of Minutes, Recreation Committee, August 14, 2019
10. Approval of First Aid Membership, Michael Leschanka
11. Mayor & Council - Workshop - Oct 3, 2019 7:00 PM
12. Mayor & Council - Regular Meeting - Oct 17, 2019 7:00 PM
13. Executive Session Minutes, Oct. 17, 2019

Ms. Smith reviewed items for the regular meeting and requested any changes/corrections to the minutes presented. As there were none, items were moved to the regular meeting's consent agenda for action.

IX. Discussion Items:

1. Resolution authorizing a contract with Shore BOE for Student Transportation 2019-2020
Ms. Phelps reviewed the agreement for student transportation, the cost will increase to \$33,935.89. Mayor Coffey explained the reasons for the need for transportation including Highway 36.

2. Ordinance Creating Position of ADA Coordinator and Deputy Coordinator

Ms. Phelps reiterated MEL/JIF's requirements for ADA compliance. Based on her research, the ordinance adopted by Lavallette would meet the Borough's requirements and recommended adoption of the same. As there were no objections, the ordinance was approved for introduction at the next meeting.

3. Electronic Payments for Bamboo HR, Borough Administrator

Ms. Phelps explained that Bamboo HR is a company that tracks time off for municipal employees. The current procedure is tedious. She explained the electronic process for submitting requests for time off and electronic approvals. Unfortunately, Bamboo will only accept electronic payments. Ms. Phelps explained the process of transferring information and associated costs. Ms. LaPorta described the current electronic payments. There was some discussion after which there was no objection to add to consent agenda in the next meeting.

4. OPRA / OPMA Law Changes, Borough Clerk

Ms. Smith reported on the pending changes to both the OPRA and OPMA laws, their impacts, the increase in records requests annually and the request by the State Clerk's Association to support an initiative to establish a study commission on the issue of OPRA. She described the costs and staff hours required to respond to the OPRA's. As there were no objections, this item was added to the consent agenda for next meeting.

5. Volunteer Incentives Exceptions, Borough Clerk

Ms. Smith requested clarification from the Council with regard to the Volunteer Incentives Ordinance concerning whether Special Service Charges for Open Public Records Act requests were to be considered exempt for volunteers as a miscellaneous fee. The ordinance was put in place prior to OPRA and Ms. Smith asked for guidance as to whether the Council intended for this cost to be an exemption or an exclusion. Discussion ensued regarding special service charges and whether they should be considered an incentive for volunteers. Afterwards, Council determined that the intent of the incentives ordinance was not applicable to special service charges for OPRA and directed the Clerk to prepare an amending ordinance for a future meeting.

X. Mayor's Report:

1. 2020 Census - Complete Count Committee – Mayor Coffey advised that Sen. Frank Pallone has again requested the Borough to participate in the Census count and establish a Complete Count Committee. Mayor Coffey suggested posting information regarding volunteering on the Borough's website

XI. Petitions from the Public: Mayor Coffey opened the meeting to petitions from the public:

Mark Patterson, 40 Itaska Pl, asked for clarification of how the Borough's portion of the sports book wagering would be used for Police Dept. overtime. His opinion was that the money should be spent for its true intentions.

Jeff Oakes, 60 Pemberton Ave, stated the ADA compliant crosswalk in front of the Community Center was installed at his request, and he appreciated the response. He expressed willingness to work with the ADA Committee or be a member of the ADA Committee, since he is an advocate. He stated that Monmouth Park is non-compliant. Mayor Coffey noted that the racetrack is owned by the State, and the Borough has no jurisdiction. Mr. Oakes asked Council President Solan about a post on social media in which he said he was "pissed" and what he meant by that. Council President Solan stated it was just a general feeling.

Cullin Wible, 67 Wolf Hill Ave., addressed the school transportation agreement, stating that according to the Shore Regional budget, it does provide busing for non-qualified individuals, but charges West Long Branch and Oceanport for the service. While he thinks the contract should be signed for this year, he believes that it is Shore Regional's responsibility to pay for busing, and it should be included in their budget moving forward.

Jim Kopek, 19 Tecumseh Ave., discussed the school referendum, reminding everyone that Maple Place is not just a school, it is a community building. He agreed that generators should be included with the plans for renovations at the schools.

Stuart Briskey, 46 Werah Pl., asked about a \$25,000 grant for a portable generator. Ms. Phelps replied that the grant has not been received yet, and that there was a problem with electricity at the schools. Mr. Briskey acknowledged there was some discussion about whether the Board of Education or the Borough would be responsible for that repair. Ms. Phelps explained that this was part of a \$100,000 FEMA grant, and the grant was for a standalone generator, not portable. Because the school didn't have the electrical capacity, the Borough submitted a scope change to have the generator installed at the Police Dept. at the new municipal complex. Mayor Coffey advised the \$25,000 grant will be investigated. Mr. Briskey stated there was no flag flying at the Police Dept. on Veteran's Day. Patrolman Petrillo advised the flag was tattered and torn after the last storm. Council President Solan stated the flag will be replaced.

Jeff Oakes, 60 Pemberton Ave., reappeared and spoke about medical cannabis for veterans with post-traumatic stress disorder. He also spoke about his extensive involvement in getting legislative approval for medical cannabis.

Mayor Coffey made an announcement that the Shore Regional Girls Soccer team won the Central Jersey Group 1 state title, beating New Egypt 3-0. First goal was assist from Mellie Peckmezian on a goal by Cole Wollman; second goal was scored by Sidney Sears, assist by Julia Eichenbaum; Tara Mendillo had an assist to Sidney Sears for a goal. Several of these athletes are from Oceanport. This is the eighth consecutive Central Jersey Group 1 title. The State semi-final is next week. If successful, they will contend for the overall State title at Kean University. Other residents on the team are: Julianne Britton, Savannah Notte and Cassie DeSantis.

- XII. Adjournment:** As there was no further business, the meeting was adjourned at 9:34 PM on a motion by Councilman Deerin, seconded by Councilman Gallo and approved by Council.

Respectfully submitted,

Jeanne Smith
BOROUGH CLERK

**BOROUGH OF OCEANPORT****MAYOR & COUNCIL****MINUTES • NOVEMBER 7, 2019****Regular Meeting****Maple Place School****7:30 PM****2 Maple Place, Oceanport, NJ 07757**

- I. **Call to Order:** Mayor Coffey called the meeting to order at 9:44 p.m.
- II. **Statement of Compliance with Open Public Meetings Act:** Mayor Coffey stated "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 9, 2019, and by the posting of same on the municipal bulletin board and Borough Web Site."
- III. **Flag Salute:** Mayor Coffey led the audience and members of the Council in the flag salute
- IV. **Invocation:** Given earlier in the workshop meeting.
- V. **Roll Call:**

Attendee Name	Title	Status	Arrived
Jay Coffey	Mayor	Present	
William Deerin	Councilman	Present	
Richard Gallo	Councilman	Present	
Joseph A. Irace	Councilman	Absent	
Michael O'Brien	Councilman	Absent	
Robert Proto	Councilman	Absent	
Stephen Solan	Council President	Present	
Jeanne Smith	Borough Clerk	Present	
Donna M. Phelps	Borough Administrator	Present	
Scott Arnette	Board Attorney	Present	
Catherine D. LaPorta	Chief Financial Office	Present	

VI. **Consent Agenda:**

- #2019-203 1. Resolution authorizing budget appropriation transfers
- #2019-204 2. Resolution cancelling outstanding checks
- #2019-205 3. Resolution creating a dedicated Trust for Sports Wagering Revenue
- #2019-206 4. Resolution to amend 2019 budget for Drunk Driving Enforcement Grant
- #2019-207 5. Resolution authorizing renewal - OPRS-RIM Shared Services with Monmouth County
- #2019-208 6. Resolution authorizing increase to contract with Intron Technology Solutions
7. Receipt & Acceptance of Minutes, Historical Committee, August 29, 2019
8. Receipt & Acceptance of Minutes, Recreation Committee, August 14, 2019
9. Approval of First Aid Membership, Michael Leschanka
- #2019-211 10. Resolution authorizing a contract with Shore BOE for Student Transportation 2019-2020
- #2019-212 11. Resolution authorizing payment to Bamboo HR by EFT
- #2019-213 12. Resolution calling for a Study Commission to Review OPRA
- #2019-214 13. Resolution authorizing Change Order #1 to Benjamin Harvey Co. Contract

Mayor Coffey stated there were 9 items on the Consent Agenda with 4 items being added from the Workshop which were read by the Clerk by short title. Council President Solan made a motion to approve Consent Agenda as amended which was seconded by Councilman Gallo.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Stephen Solan, Council President
SECONDER: Richard Gallo, Councilman
AYES: Deerin, Gallo, Solan
ABSENT: Irace, O'Brien, Proto

VII. Minutes:

1. Mayor & Council - Workshop - Oct 3, 2019 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Stephen Solan, Council President
SECONDER: Richard Gallo, Councilman
AYES: Deerin, Gallo, Solan
ABSENT: Irace, O'Brien, Proto

2. Mayor & Council - Regular Meeting - Oct 17, 2019 7:00 PM

RESULT: ACCEPTED [2 TO 0]
MOVER: William Deerin, Councilman
SECONDER: Richard Gallo, Councilman
AYES: Deerin, Gallo
ABSTAIN: Solan
ABSENT: Irace, O'Brien, Proto

3. Approval of Executive Session, October 17, 2019

RESULT: ADOPTED [2 TO 0]
MOVER: Richard Gallo, Councilman
SECONDER: William Deerin, Councilman
AYES: Deerin, Gallo
ABSTAIN: Solan
ABSENT: Irace, O'Brien, Proto

VIII. Resolutions:

- #2019-209 Resolution authorizing payment of BILL LIST 11-07-2019 - *Amended*

RESULT: ADOPTED [UNANIMOUS]
MOVER: Stephen Solan, Council President
SECONDER: William Deerin, Councilman
AYES: Deerin, Gallo, Solan
ABSENT: Irace, O'Brien, Proto

IX. First Reading Ordinances:

Introduction of Ordinance Creating Position of ADA Coordinator and Deputy Coordinator

Council President Solan called for the introduction of "AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, CREATING THE POSITIONS OF ADA COORDINATOR AND DEPUTY COORDINATOR, PROVIDING NOTICE TO ALL PERSONS OF INTEREST AND ADOPTING GRIEVANCE PROCEDURES UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)" and then asked the Clerk to read the proposed ordinance by title only, after which Council President Solan moved to approve the Ordinance upon first reading and to hold the public hearing on the

proposed ordinance at the Council meeting of December 19, 2019 and to advertise same in accordance with the law, which was seconded by Councilman Deerin.

RESULT:	APPROVED OF FIRST READING [UNANIMOUS] Next: 12/19/2019 7:00 PM
MOVER:	Stephen Solan, Council President
SECONDER:	William Deerin, Councilman
AYES:	Deerin, Gallo, Solan
ABSENT:	Irace, O'Brien, Proto

X. Second Reading Ordinances:

#1011 An Ordinance to Increase Fees for Liquor Licenses

Council President Solan called for the 2nd reading and Public Hearing of an ordinance to amend liquor license fees and asked the Clerk to read the affidavit of publication of the proposed ordinance by title only. **"AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY AMENDING CHAPTER 115 OF THE CODE OF THE BOROUGH OF OCEANPORT, ENTITLED "ALCOHOLIC BEVERAGES" FOR THE INCREASE IN FEES FOR LIQUOR LICENSES".**

PUBLIC HEARING: Mayor Coffey opened the meeting for public comment for this ordinance. As no one from the public wished to be heard, Mayor Coffey closed the public hearing on a motion by Council President Solan, which was seconded by Councilman Gallo and approved by Council.

Council President Solan made a motion to adopt the ordinance and advertise in accordance with law, which was seconded by Councilman Gallo.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Stephen Solan, Council President
SECONDER:	Richard Gallo, Councilman
AYES:	Deerin, Gallo, Solan
ABSENT:	Irace, O'Brien, Proto

#1012 Ordinance regulating helistops and their usage

Council President Solan called for the 2nd reading and Public Hearing of an ordinance to adopt an ordinance for the regulation and usage of helistops and asked the Clerk to read the affidavit of publication of the proposed ordinance by title only. **"AN ORDINANCE OF THE BOROUGH OF OCEANPORT COUNTY OF MONMOUTH, STATE OF NEW JERSEY REGULATING HELISTOPS AND ITS USAGE WITHIN THE BOROUGH OF OCEANPORT".**

PUBLIC HEARING: Mayor Coffey opened the meeting for public comment for this ordinance. As no one from the public wished to be heard, Mayor Coffey closed the public hearing on a motion by Council President Solan, which was seconded by Councilman Deerin and approved by Council.

Council President Solan made a motion to adopt the ordinance and advertise in accordance with law, which was seconded by Councilman Deerin.

RESULT:	ADOPTED [2 TO 0]
MOVER:	Stephen Solan, Council President
SECONDER:	William Deerin, Councilman
AYES:	Deerin, Solan
ABSTAIN:	Gallo
ABSENT:	Irace, O'Brien, Proto

#1013 Ordinance approving municipal boundary with Eatontown on Fort Monmouth

Council President Solan called for the 2nd reading and Public Hearing of an ordinance to adopt an ordinance for the regulation and usage of helistops and asked the Clerk to read the affidavit of publication of the proposed ordinance by title only. **"AN ORDINANCE OF THE BOROUGH OF OCEANPORT COUNTY OF MONMOUTH, STATE OF NEW JERSEY APPROVING THE MUNICIPAL BOUNDARY BETWEEN THE BOROUGH OF OCEANPORT AND THE BOROUGH OF EATONTOWN ON FORT MONMOUTH PROPERTY."**

PUBLIC HEARING: Mayor Coffey opened the meeting for public comment for this ordinance. As no one from the public wished to be heard, Mayor Coffey closed the public hearing on a motion by Council President Solan, which was seconded by Councilman Gallo and approved by Council.

Council President Solan made a motion to adopt the ordinance and advertise in accordance with law, which was seconded by Councilman Gallo.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Stephen Solan, Council President
SECONDER:	Richard Gallo, Councilman
AYES:	Deerin, Gallo, Solan
ABSENT:	Irace, O'Brien, Proto

XI. Committee Reports:

1. Councilman Proto, Planning and Development Liaison - Absent
2. Councilman Irace, Finance and Administration Liaison - Absent
3. Councilman Gallo, Public Works and Engineering Liaison: Councilman Gallo reported on projects being performed by the DPW: pipe replacement on Shore Rd., remove pilings on Mohawk Ave., replacement of ceiling tiles at Port Au Peck firehouse and continuing leaf pick up. As members of the DPW are using vacation time before the end of the year, they will be shorthanded for the next few weeks. At the new Municipal Complex, vehicles and trailers were moved to accommodate the upcoming milling and paving.
4. Councilman O'Brien, Health and Human Services Liaison – Absent
5. Council President Solan, Public Safety Liaison – No report.
6. Councilman Deerin, Parks and Recreation Liaison: Councilman Deerin advised that the Halloween Parade was great, and some parents were very creative. He thanked the Recreation Committee for their hard work for another successful event. A Veterans' Day ceremony will be held at the Port-Au-Peck firehouse on Nov. 11 at 11 AM. On Nov. 16th at 12:30 PM, a ribbon cutting ceremony will be held at Evergreen Park to celebrate the renovations.

XII. Mayor Coffey's Report: Mayor Coffey predicted he will beat Mr. Mascio at the Evergreen Park foul shooting contest.**XIII. Petitions from the public:** Mayor Coffey opened the meeting to petitions from the public.

Mike MacStudy, 110 Oceanport Ave., re-emphasized the ribbon cutting ceremony at Evergreen Park and invited everyone to attend. Mr. MacStudy stated the Recreation Committee suggested using funds from sports betting to pave the driveway and parking lot at Maria Gatta Park and also toward the installation costs for the electronic municipal sign.

As no one else from the public wished to be heard, Mayor Coffey closed that portion of the meeting.

XIV. Executive Session:

#2019-210 Resolution authorizing an Executive Session

Litigation, Negotiations and the Attorney Client Privilege N.J.S.A. 10:4-12(b)(7)

FMERA/Status of transactions for Oceanport parcels

At 9:57 pm, the Mayor asked for a motion to approve Resolution #2019-210, authorizing the Governing Body to enter Executive Session, which was made by Council President Solan, seconded by Councilman Gallo.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Stephen Solan, Council President
SECONDER:	Richard Gallo, Councilman
AYES:	Deerin, Gallo, Solan
ABSENT:	Irace, O'Brien, Proto

At 10:04 pm, the Mayor & Council returned from Executive Session and the regular meeting was reopened on a motion by Council President Solan and seconded by Councilman Gallo and approved by Council.

- XV. Adjournment:** As there was no further business, the meeting was adjourned at 10:04 PM on a motion by Councilman Deerin, seconded by Council President Solan and approved by Council.

Respectfully submitted,

Jeanne Smith
BOROUGH CLERK

ORDINANCE # NNNN

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER X, 'POLICE REGULATIONS', NEW SECTION X-Y ENTITLED "LIMITING USE OF SINGLE-USE PLASTIC BAGS, POLYSTYRENE FOAM CONTAINERS AND PLASTIC STRAWS BY BUSINESSES" OF THE CODE OF THE BOROUGH OF OCEANPORT

NNN.1: INTENT.

The intent of this Ordinance is to adapt regulations relating to and limiting the use of single-use non-biodegradable plastic bags, polystyrene foam containers and plastic straws by businesses in the Borough of Oceanport. The regulations are intended as necessary and proper steps by the Borough to address a significant global problem relating to the sale and use of single-use plastic bags, polystyrene foam containers and plastic straws; to further incentivize the use of reusable bags at businesses and, ultimately, to protect the environment, wildlife and the public health, welfare and safety.

NNN.2: DEFINITIONS.

"Business or Store" means any retail establishment that engages in the retail sale of goods and products. This definition includes, but is not limited to pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, surf shops, dry cleaners, food marts and food service establishments.

"Effective Date" shall be defined as the date on which final adoption and publication in accordance with the law are complete.

"Enforcement Date" shall be the later of 180 days from the Effective Date or Month, Day, Year.

"Food Service Establishment" means any establishment which serves made-to-order food or beverages for dine-in, takeout, or delivery.

"Garment Bag" means a larger bag incorporating a hanger on which garments may be hung to prevent wrinkling during travel or storage and used to protect transport clothing or other textiles.

"Goods and Products" means things and items that are prepared and made to be sold including, but not limited to, clothing, groceries, prepared food, foodstuffs, meat, dairy, beverages, merchandise, books, jewelry, alcohol, tobacco products, toys and any and all other things and items sold at retail by businesses and stores.

"Produce Bag or Product Bag" means any bag without handles that is used exclusively to segregate produce, meats, other food items and merchandise to the point of sale inside a store to prevent such items from coming into direct contact with other purchased items, where such contact could damage or contaminate other food or merchandise when placed together in a reusable or recycled bag.

"Retail" means the sale of goods and products for use and/or consumption.

“Reusable Bag” means a bag that is designed and manufactured to withstand repeated uses over a period of time, is machine washable or made from a material that can be cleaned and disinfected regularly, is at least 2.25 mil thick if made from plastic, has a minimum lifetime of 75 uses, and is capable of carrying a minimum of 18 pounds.

“Single-Use, Plastic Carryout Bag” means a bag, sheet, or receptacle produced or manufactured from material commonly known as “plastic” or “polyethylene” which does not decompose within 12 months provided at the check-out stand, cash register, point of sale, or other point of departure for the purpose of transporting goods or products out of the establishment. The term “single-use plastic carryout bag” does not include reusable bags, produce or product bags or garment bags.

NNN.3 REGULATION OF SINGLE-USE, PLASTIC CARRYOUT BAGS.

No business or store shall provide any single-use, plastic carryout bags, polystyrene foam containers and/or plastic straws to a customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this chapter.

NNN.4 ENFORCEMENT.

This Ordinance shall take effect on the Effective Date and all businesses and stores must be in compliance with same by the Enforcement Date.

Any business or store found not to be in compliance with this Ordinance on the Enforcement Date, and which has not made application to the Borough Council for an extension as provided in this section, shall be in violation of this Ordinance and subject to the violations and penalties prescribed herein.

The Borough Council may, in the Borough’s sole discretion, grant an extension of time for compliance with the Ordinance when a business or store makes application for an extension prior to the Enforcement Date. Upon such application, the Borough shall consider whether the business or store has made adequate good faith efforts to comply with this Ordinance by the Enforcement Date, and has been unable to do so for compelling reasons. The Borough may, in its sole discretion, grant an extension for not longer than 180 additional days from the Enforcement Date.

NNN.5 VIOLATIONS AND PENALTIES.

Each business or store violating any of the provisions of this section shall, upon conviction thereof in municipal court, be subject to a penalty of up to \$500 for a first offense, up to \$1,000 for a second offense, and up to \$2,500 for a third offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

NNN.6 SEVERABILITY.

In the event that any clause, section, provision, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance not affected by said invalidity shall remain in full force and effect.



Engineers
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November 6, 2019

Honorable Mayor and Council
Borough of Oceanport
315 East Main Street
Oceanport, NJ 07757

Re: Solid Waste/Recycling Collection
Borough of Oceanport, Monmouth County, New Jersey
Project No. OPB-168

Dear Mayor and Council:

On Tuesday, November 6, 2019, at 11:00 a.m., bids were received for the Borough's Collection of Solid Waste and Recyclables. Our office has reviewed the bids and found a mathematical error in one of the bid totals. Attached to this letter is a copy of the Bid Summary Sheet with the error highlighted. Proposal A continues the current three collection zones for solid waste with two recycling collections per month while Proposal B increased the recycling collection to once per week. For comparison, the bids are as follows:

BIDDER	5 YEAR GRAND PROPOSAL A	5 YEAR GRAND PROPOSAL B
Suburban Disposal Inc.	\$ 2,381,000.00	\$ 2,700,000.00
Republic Services	\$ 2,707,695.00	NO BID

The lowest responsive bidder for Proposal A and Proposal B is Suburban Disposal Inc., the current contractor for the Borough. The current contract expires on January 31, 2020. The previous contract total for the 5-year period was \$1,135,565.00. If Proposal B is chosen, the average annual cost for the increase to weekly recyclable pickup is \$63,800.00.

The bid specifications were set up for a two-year contract with up to three one-year renewals. The Council can reject all bids and re-bid the contract. The only issue with this is that there is a 60-day minimum advertisement period which would extend the bid receipt past the end of the present contract thereby requiring the Borough to request a contract extension from the current contractor. The other option is for the Borough to award the contract for the two-year period and rebid it prior to its expiration.

Any recommendation of award from the Council should be conditioned upon the review and approval of the bid documents by the Borough Attorney and the availability of funds.



Mayor and Council
MC Project No. OPB-168
November 6, 2019
Page 2 of 2

Should have any questions or require additional clarification, please do not hesitate to contact me.

Very truly yours,

MASER CONSULTING P.A.

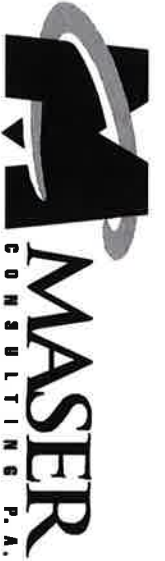
A handwritten signature in blue ink, appearing to read 'W. H. White, III'.

William H.R. White, III, P.E., P.P., C.M.E.
Oceanport Borough Engineer

WHW/nb
Enclosures

cc: Jeanne Smith, RMC, Borough Clerk (with enclosure)
Scott Arnette, Esq., Borough Attorney (with enclosure)

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Consulting, Municipal & Environmental Engineers
Planners - Surveyors - Landscape Architects

COLLECTION OF SOLID WASTE AND RECYCLABLES

BOROUGH OF OCEANPORT, MONMOUTH COUNTY, NEW JERSEY

MC PROJECT NO. OPB-168

November 6, 2019

Proposal A (two recyclable pick ups/month)		SUBURBAN DISPOSAL INC	REPUBLIC SERVICES
YEAR 1	Furnish Basic Solid Waste Collection Services	\$286,000.00	\$338,988.00
	Furnish Basic Recycling Collection Services	\$160,000.00	\$169,494.00
	Subtotal	\$446,000.00	\$508,482.00
YEAR 2	Furnish Basic Solid Waste Collection Services	\$294,000.00	\$349,158.00
	Furnish Basic Recycling Collection Services	\$163,000.00	\$174,579.00
	Subtotal	\$457,000.00	\$523,737.00
YEAR 3	Furnish Basic Solid Waste Collection Services	\$302,000.00	\$361,378.00
	Furnish Basic Recycling Collection Services	\$166,000.00	\$180,689.00
	Subtotal	\$468,000.00	\$542,067.00
YEAR 4	Furnish Basic Solid Waste Collection Services	\$317,000.00	\$372,220.00
	Furnish Basic Recycling Collection Services	\$180,000.00	\$186,110.00
	Subtotal	\$497,000.00	\$558,330.00
YEAR 5	Furnish Basic Solid Waste Collection Services	\$330,000.00	\$383,386.00
	Furnish Basic Recycling Collection Services	\$183,000.00	\$191,693.00
	Subtotal	\$513,000.00	\$575,079.00
5 YEAR GRAND TOTAL		\$2,381,000.00	\$2,707,695.00

- Corrected totals



Consulting, Municipal & Environmental Engineers
Planners • Surveyors • Landscape Architects

COLLECTION OF SOLID WASTE AND RECYCLABLES

BOROUGH OF OCEANPORT, MONMOUTH COUNTY, NEW JERSEY

MC PROJECT NO. OPB-168

November 6, 2019

Proposal B (weekly recyclable pick up)			SUBURBAN DISPOSAL	REPUBLIC SERVICES
YEAR 1	Furnish Basic Solid Waste Collection Services		\$286,000.00	
	Furnish Basic Recycling Collection Services		\$220,000.00	NO BID
	Subtotal		\$506,000.00	
YEAR 2	Furnish Basic Solid Waste Collection Services		\$294,000.00	
	Furnish Basic Recycling Collection Services		\$223,000.00	NO BID
	Subtotal		\$517,000.00	
YEAR 3	Furnish Basic Solid Waste Collection Services		\$302,000.00	
	Furnish Basic Recycling Collection Services		\$229,000.00	NO BID
	Subtotal		\$531,000.00	
YEAR 4	Furnish Basic Solid Waste Collection Services		\$317,000.00	
	Furnish Basic Recycling Collection Services		\$246,000.00	NO BID
	Subtotal		\$563,000.00	
YEAR 5	Furnish Basic Solid Waste Collection Services		\$330,000.00	
	Furnish Basic Recycling Collection Services		\$253,000.00	NO BID
	Subtotal		\$583,000.00	
5 YEAR GRAND TOTAL			\$2,700,000.00	NO BID

- Corrected totals