

(The following is not a verbatim transcript of comments or discussion that occurred during the meeting, but rather a summarization intended for general informational purposes. All motions and votes are the official records).

REGULAR MEETING – CITY COUNCIL

-JANUARY 28, 2013-

Regular meeting of the City Council was held on Monday, January 28, 2013 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:00 P.M. by the Council President.

Roll call showed the following members present: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

Also Present: Gerald Cordy, Director of Administration; Carlos Lopez, Chief of Staff; Robert Strom, Director of Finance; Christopher Rawson, City Solicitor; Evan Kirshenbaum, Assistant City Solicitor; Patrick Quinlan, City Council Legal Counsel; Roy Damiano, City Council Internal Auditor.

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to dispense with the reading of the minutes of the last meeting and they stand approved as recorded. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

(*Rule 25 see Councilmember Communications – Councilman Santamaria)

I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS

None.

II. PUBLIC HEARINGS (limited to docketed matters)

Alice Petrone appeared to speak in favor of liquor license application for Della Valle, Inc.

III. RESOLUTIONS

None.

-JANUARY 28, 2013-

IV. REPORT OF COMMITTEES

FINANCE COMMITTEE

(Steven A. Stycos, Chair)

RESOLUTION AUTHORIZING REAL ESTATE TAX ABATEMENTS

On motion by Councilman Stycos, seconded by Councilman Santamaria, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

[\[click here to view\]](#)

RESOLUTION AUTHORIZING MOTOR VEHICLE TAX ABATEMENTS

[\[click here to view\]](#)

On motion by Councilman Stycos, seconded by Council Vice-President Farina, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

TAX INTEREST WAIVER APPROVALS AS RECOMMENDED BY CITY

TREASURER [\[click here to view\]](#)

On motion by Councilman Aceto, seconded by Council Vice-President Farina, it was voted to approve the above list of Tax Interest Waiver Approvals as recommended by the City Treasurer. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

TAX INTEREST WAIVER DENIALS AS RECOMMENDED BY CITY

TREASURER [\[click here to view\]](#)

On motion by Councilman Stycos, seconded by Council Vice-President Farina, it was voted to approve the above list of Tax Interest Waiver Denials as recommended by the City Treasurer. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

PUBLIC WORKS COMMITTEE

(Emilio L. Navarro, Chair)

RHODE ISLAND RESOURCE RECOVERY CORPORATION APPEAL DATED NOVEMBER 9, 2012 OF OCTOBER 30, 2012 DECISION ON 2011 INDUSTRIAL PRE-TREATMENT INVOICE FOR FEE ADJUSTMENT. *(Bill for \$300,000, Requesting waiver of \$290,000.00)*. Cont. from 12/17/2012. [\[click here to view\]](#)

RHODE ISLAND RESOURCE RECOVERY CORPORATION APPEAL DATED NOVEMBER 9, 2012 OF OCTOBER 30, 2012 DECISION ON 2012 INDUSTRIAL PRE-TREATMENT INVOICE FOR FEE ADJUSTMENT. *(Bill for \$300,000, Requesting waiver of \$290,000.00)*. Cont. from 12/17/2012. [\[click here to view\]](#)

Councilman Aceto questioned why the above two items are listed on the Docket since they were continued by the Public Works Committee. Solicitor Kirshenbaum stated that they were continued by the Public Works Committee. He also stated that he will be meeting with RIRRC tomorrow and will have more information after that meeting. He suggested keeping these items on the Docket since this is in negotiations.

Councilman Aceto stated that he would like Solicitor Kirshenbaum to give an update at the next Public Works Committee meeting in Executive Session.

THE CITY OF CRANSTON

RESOLUTION OF THE CITY COUNCIL
AUTHORIZING REAL ESTATE/TANGIBLE TAX ABATEMENTS AS
RECOMMENDED BY CITY ASSESSOR

No. 2013-1

Passed:

January 28, 2013



John E. Lanni, Jr., Council President**Resolved, That**

The request of the City Assessor for the following abatements for manifest errors and reasons therein stated be granted and that a certified copy of this Resolution be for the respective amounts a sufficient voucher for the City Treasurer.

(See attached list of Abatements)

U/RES.RE ABATE



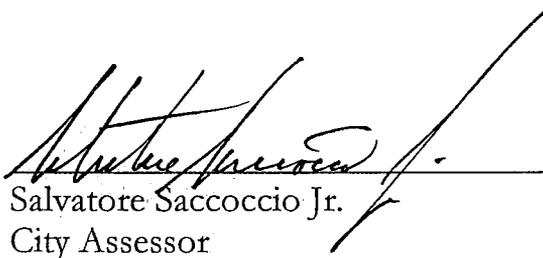
DIVISION OF ASSESSMENT
869 PARK AVE
CRANSTON, RI 02910

MEMO

DATE: January 9, 2013
TO: His Honor the Mayor and the Honorable City Council
FROM: City Assessor
RE: Real Estate and Tangible Abatements

The following assessments are recommended for abatement in the amounts and for the reasons hereinafter set forth:

<u>Assessment Date</u>	<u>Value</u>	<u>Tax</u>
December 31, 2011	525,204	15,708.34


Salvatore Saccoccio Jr.
City Assessor

City of Cranston
2012 Abatement List

Location	Original Value	Adjusted Value	Original Tax	Adjusted Tax
1 1006873001 991-0068-730 Location 100 EAST ST JOHN'S PIZZA & SUBS FURTADO, JOAO P 100 EAST ST CRANSTON RI 02920	12517	12517	428.83	428.83
2 1108165001 027-0439 Location SCITUATE AV KAVALI SURYA KAVALI SUPRIYA T/E 7 CASTLETON DRIVE CRANSTON RI 02921	392900	329800	8973.83	7532.63
3 1431897501 015-0374 Location 828 OAKLAWN AV MONTECATINI PROPERTIES LLC 116 BATTERY LANE JAMESTOWN RI 02835	213600	106800	7317.93	3658.97
4 1916120506 007-3331 Location 100 FOUNTAIN AV RHODE ISLAND HOUSING & MORTGAG 44 WASHINGTON STREET PROVIDENCE RI 02903	137000	137000	3129.08	3129.08
5 1915159501 991-9151-595 Location 1672 CRANSTON ST RI FOOT & ANKLE INC VOLPE JOHN DPM 1591 CRANSTON ST CRANSTON RI 02920	226230	51383	7750.63	1780.37
6 2309092001 992-3090-920 Location 1400 CRANSTON ST VRV & SONS CONSTRUCTION LLC VINCENT R VOLPE 1400 CRANSTON STREET CRANSTON RI 02920	74383	43443	2548.36	1488.96
Abatement Summary	Original Value: 1056630	Adjusted Value: 531426	Tax: 30148.66	Tax: 14440.32

on 6 Accounts

THE CITY OF CRANSTON

RESOLUTION OF THE CITY COUNCIL
AUTHORIZING MOTOR VEHICLE TAX ABATEMENTS AS RECOMMENDED
BY CITY ASSESSOR

No. 2013-2

Passed:
January 28, 2013



*John E. Lanni, Jr., Council President***Resolved, That**

The request of the City Assessor for the following abatements for manifest errors and reasons therein stated be granted and that a certified copy of this Resolution be for the respective amounts a sufficient voucher for the City Treasurer.

(See attached list of Abatements)

U/RES.MV ABATE



DIVISION OF ASSESSMENT
869 PARK AVE
CRANSTON, RI 02910

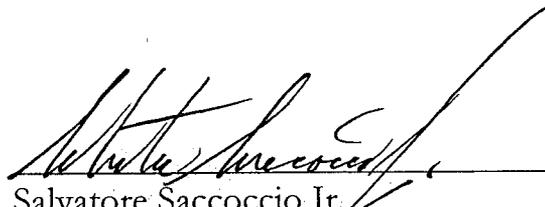
DAVID COLE
DEPUTY ASSESSOR

MEMO

DATE: January 9, 2013
TO: His Honor the Mayor and the Honorable City Council
FROM: City Assessor
RE: Motor Vehicle Abatements

The following assessments are recommended for abatement in the amounts and for the reasons hereinafter set forth:

<u>Assessment Date</u>	<u>Value</u>	<u>Tax</u>
December 31, 2009	1,989	84.41
December 31, 2010	27,535	1,168.58
December 31, 2011	<u>112,963</u>	<u>4,794.17</u>
Totals:	142,487	6,047.16


Salvatore Saccoccio Jr.
City Assessor

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City of Cranston
2010 Motor Vehicle
Abatement List

Item	Vehicle ID	Value	Tax	Original Value	Original Tax	Adjusted Tax
1	42015370 Vehicle 2000 ID MAUZL64B7YN057515 LINK JILL A 42 EDDY DT Cranston RI 02920	000085134	871940	3,328	354.08	345.28
2	46013950 Vehicle 2007 ID 2T1BR32E67C810399 PEREGO CARMELLA T 935 PONTIAC AVE APT 10 Cranston RI 02920	0000115144	903662	9561	389.81	314.20
	00000000 Vehicle 0000 ID	0000000000				

For Tax Year: 2010

Category	Value	Tax	Accounts
Original	12909	743.89	
Adjusted Tax		659.48	on 2

City of Cranston
2012 Motor Vehicle
Abatement List

ID	Vehicle	Year	Make	Model	Original Value	Original Tax	Adjusted Value	Adjusted Tax
1	31001600	2011	CHEV	RV 16	0000000543	7,348.22	0000001187	229.56
	ID 16NKRGE3BJ242823					900.20		229.56
	ACAR LEASING LTD							
	4001 EMBARCADERO DR							
	ARLINGTON TX 76014							
2	31003610	2004	FORD	HI 309	0000001187	5909	000000320	9065
	ID 1FMZU72K04ZAG7961					229.56		375.81
	AGUIAR KENNETH							375.81
	94 INTERVALE RD							
	Cranston RI 02910							
3	32007540	2011	SUBA		0000009320	509479		
	ID JF2SHABC2BH764565							
	BAUER JAMES R							
	53 LONESOME PINE RD							
	Cranston RI 02910							
4	32017270	2008	BMW	MAC 13	0000012572	172,971.66	0000034696	8606
	ID MBANV13518CZ51691					856.03		344.02
	BMW FINANCIAL SERVICES NA LLC							344.02
	5550 BRITTON PKWY							
	Hilliard OH 43026							
5	33038090	2010	FORD		0000030283	114107		
	ID 1FBNE3BL0ADAE4624					753.81		
	COMPREHENSIVE HOME MEDICAL EQ							
	1150 OAKLAWN AVE							
	Cranston RI 02920							
6	33046510	2005	MINI		0000034696	ARK 3		
	ID WMMR33555T62685							
	CUSTER MARIE E							
	185 VINTON AVE							
	Cranston RI 02920							
7	36014290	2005	CHRY	FD 496	0000053923	4102110	0000078983	961021
	ID PC3JA63H15H121780					9413.39		753.81
	FOX NICOLE M							8659.58
	14 FERBRROCK CT APT 4							
	Cranston RI 02920							
8	41012110	2001	LINC		0000078983	961021		
	ID 1LNHM81KX1Y732613					42014470	0000083720	010626
	KUZITIAN MYRON E							
	50 OVERLAND AVE							
	Cranston RI 02910							
9	42014470	2001	FORD		0000083720	010626		
	ID 1FTNX21L01EA87702					42014470	0000083720	010626
	LIMA CHRISTIAN A							
	400 PIPPIN ORCHARD RD							
	Cranston RI 02921							
10	43043310	2000	PLYM	EM 424	0000100619	46008430	0000110825	010284
	ID 1P3E346C4YD654836					2902		101.94
	MOSCHETTI ELEANOR A							89.98
	50 FOUNTAIN AVE							11.96
	Cranston RI 02920							
11	46008430	2004	NISS		0000110825	010284		
	ID 1H4AL1D24C158773					49028840	0000137305	027004
	PARSON FRANCES M							
	155 WHITING ST							
	Cranston RI 02920							
12	49028840	2007	PUMA		0000137305	027004		
	ID 4X4TPUR257P013262					49028840	0000137305	027004
	SPAZIANO KELLY M							
	160 BURDICK DRIVE							
	Cranston RI 02920							
	Original Value				1,422			
	Original Tax				39.13			
	STOLEN/SOLD/JUNK/TOT							
	Adjusted Tax:				39.13			
	Original Value				3910			
	Original Tax				238.22			
	STOLEN/SOLD/JUNK/TOTA							
	Adjusted Tax:				153.60			
	Original Value				15903			
	Original Tax				1320.10			
	OUT OF COMMUNITY							
	Adjusted Tax:				653.70			
	Adjusted Tax:				666.40			

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City of Cranston
2012 Motor Vehicle
Abatement List

13	49031270	0000138119	745859	14	50010540	0000144243	053618	15	52003750	0000148936	CU 653
	Vehicle 2003	FORD			Vehicle 2002	SUZU			Vehicle 2001	FORD	
	ID 1FNZU77E03UC70697				ID J1GN7BA422104491				ID 1FAFP53UX1A205926		
	STAINER MAARI J				TORRES JOEL A				VAZQUEZ SARA M		
	37 HARDING AVENUE				292 AQUEDUCT RD APT 315				63 WHIPPLE AVE		
	CRANSTON RI 02905				Cranston RI 02910				Cranston RI 02920		
	Original : 6,583	Value	Tax	Original :	Value	Tax	Original :	Value	Tax		
	STOLEN/SOLD/JUNK/TOT	1,060.99	169.60	STOLEN/SOLD/JUNK/TOTA	1891	59.03	STOLEN/SOLD/JUNK/TO	1974	62.56		
	Adjusted Tax:	911.39	Adjusted Tax:	Adjusted Tax:	17.44	Adjusted Tax:	Adjusted Tax:	Adjusted Tax:	Adjusted Tax:		

For Tax Year: 2012

Original	:	Value	Tax
Adjusted Tax	:	135502	193933.65
		4794.17	on 15
		189139.48	Accounts

Recommend To Approve:

<u>NAME</u>	<u>ADDRESS</u>	<u>TAX AMT</u>	<u>INTEREST</u>	<u>REASON</u>
Freeman, John	1 Dwight St	3,261.19	\$195.67	hardship
Grant, Edgar	34 Ingleside Ave	2,227.15	\$277.47	illness
Lang's Lane	225 Niantic Ave	15,911.20	\$635.46	death
Mancini, Michael	40 Lake Garden	96.22	\$14.43	hardship
Meyerzon, Mikhail	14 Northview Dr	1,154.70	\$196.30	hardship
Romano, Albert	61 Brandon Rd	3,900.35	\$312.00	hardship
Sherlock, Joan	25 Ausdale Rd	2,111.00	\$158.32	hardship

Recommend To Deny:

Pjojian, Robert	283 Summit Dr	3,762.55	\$158.20
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Taxpayer scheduled his payment for Oct 26. This is after the 5 Business day grace period.
 The Treasurer is able to waive \$250 for a good taxpayer, unable to waive the rest.

12 NOV -9 11:51:23

CITY OF CRANSTON

Gerald J. Petros
gpetros@haslaw.com

November 9, 2012

VIA HAND DELIVERY

Public Works Committee
City Council
City of Cranston
869 Park Avenue
Cranston, Rhode Island 02910

Re: Appeal of October 30, 2012, Decision on Rhode Island Resource Recovery Corporation's ("RIRRC") 2011 Industrial Pretreatment Invoice For Fee Adjustment

To the Public Works Committee:

Pursuant to Sections 13.08.670.F.10.f. and 13.08.510 of the Cranston Sewer Use Ordinance ("SUO"), Rhode Island Resource Recovery Corporation ("RIRRC") appeals the Director of the Cranston Department of Public Works ("DPW") October 30, 2012, Decision on RIRRC's Request for a Fee Adjustment on its 2011 Industrial Pretreatment Invoice (the "IP Invoice").¹ (The DPW Director's Decision is attached.)

The 2011 IP Invoice

The IP Invoice consisted of the charges assessed by the City on RIRRC's wastewater discharge during calendar year 2010. The Invoice totals \$370,012.37 and consists of three separate charges: (1) IP Fee of \$40,442.41; (2) IP Violation of \$151,691.58; and (3) IP Surcharge of \$177,878.38.

The IP Invoice was not accompanied by any backup data or any explanation for how the City calculated these three charges. RIRRC requested back up data from the Department of Public Works and was sent a two page calculation sheet dated August 24, 2011 prepared by Tutela Engineering. (The 2011 IP Invoice and this Tutela letter are attached).

¹ Section 13.08.670.F.10.f. of the SUO states that the DPW Director's decision "shall be subject to appeal to the public works committee pursuant Section 13.08.510." Section 13.08.510 states that the appeal of the Director's decision shall be made "to the city council." Therefore, RIRRC is submitting this appeal to both the Public Works Committee of the City Council, and to the City Council.

November 9, 2012

Page 2

On October 14, 2011, RIRRC requested a review of its 2011 Industrial Pretreatment Invoice (the "IP Invoice") to obtain a fee adjustment. RIRRC demonstrated that the IP Fee of \$370,012.37 was not calculated correctly, and should be adjusted to \$40,442.41.

In its Fee Adjustment Request, RIRRC noted that the City made several errors in the way it had applied the Sewer Use Ordinance in calculating these fees, and RIRRC requested that the City make the adjustments to RIRRC's 2010 wastewater discharge fee by reducing the IP Violation Charge of \$151,691.59 to \$0, and by reducing the IP Surcharge of \$177,878.38 to \$0. (RIRRC's Fee Adjustment Request is attached.)

The DPW Director's Decision

The DPW Director was required to issue a decision on RIRRC's request within thirty days, or by November 14, 2011. Approximately one year later, on October 30, 2012, the Director finally issued his decision (the "DPW Director's Decision"). The DPW Director agreed to reduce the IP Violation Charge of \$151,691.59 to \$0, but kept the IP Surcharge of \$177,878.38 the same. The Director explained in his decision that RIRRC's calculation of the IP Surcharge fee was based on an "outdated" Sewer Use Ordinance. The Director stated that, "in June 2010, the City Council adopted modifications" to the SUO Section 13.08.670 ("Payments") that changed the "methodology" by which the City calculated the IP Surcharge, and that the City applied this new methodology in determining the IP Surcharge. The DPW Director's Decision provided no explanation or basis for its retroactive application of a new methodology it allegedly adopted in June 2010, to discharges that began six months prior, in January 1, 2010, to calculate the IP Surcharge.

The DPW Director Applied the Wrong Ordinance

Cranston's calculates sewer use assessments, including the IP Surcharge, at the end of each calendar year, after the twelve month calendar is completed, using data totals from the entire calendar. This data includes total annual flows, average flow rates, and sampling results of constituents taken over the entire calendar year. The City's calculation of an annual IP Surcharge fee must be based on the law and "methodology" in existence as of January 1, 2010. There is no basis for the City to retroactively calculate a surcharge on RIRRC's discharges based on a methodology that did not exist or apply at the time of the discharge. Here, for example, the City's revised surcharge calculation methodology includes a "pounds of pollutant discharged per year" factor, which is calculated "based on the highest measured concentration in excess of the permit value" during the calendar year. Several of these "highest" measured concentrations listed in Tutela's calculation sheet occurred on dates prior to June 2010. There is no basis for the City to calculate an annual fee, based on annual discharge, using a methodology that did not exist at the beginning of that calendar year. The City cannot retroactively apply its "revised" June 2010 ordinance to RIRRC's 2010 annual sewer assessment. The ordinance that applies to RIRRC's 2010 discharges is the one that existed as of January 1, 2010. Under that ordinance, as explained in RIRRC's October 14, 2011, Fee Adjustment Request, the IP Surcharge is \$0.

November 9, 2012
Page 3

The Validity of the June 2010 Ordinance Modifications

RIRRC received the DPW Director's Decision on November 1, and given the short ten day appeal period, RIRRC has not yet been able to determine whether the City followed the necessary procedures and notice requirements in enacting the June 2010 ordinance modification, including, but not limited to, Sections 3.11, 3.12, and 3.15 of the City Charter. RIRRC received no prior notice of these proposed modifications, and neither the City's invoice nor the Tutela calculations indicated that the City was retroactively applying a revised ordinance that it "adopted" halfway through the calendar year to RIRRC's 2010 discharge. In fact, *in April 2011*, the City's counsel Sean Coffey forwarded to us a copy of a 2010 red-lined ordinance showing the "proposed" revisions the City was planning to make to its SUO as part of its Substantial Modification to the MIPP request to RIDEM. The proposed red-lined revisions included the changes to the local limits, BOD and TKN surcharges, and the revised "methodology" for calculating the IP Surcharge in Section 13.08.670 ("Payments"). It is unclear why the City's submittal to RIDEM showed these as "proposed" changes to Section 13.08.670 of the SUO, and why Mr. Coffey sent these to RIRRC as "proposed" changes in April 2011, when the City claims it had already adopted these changes in June 2010. Thus, RIRRC also appeals the DPW Director's Decision on the basis that the June 2010 ordinance modifications were not validly enacted.

Additional Grounds

RIRRC reserves the right to assert other grounds for its appeal. RIRRC has had little time to consider the Director's decision or the new grounds asserted by the City, or to gather additional facts and information. Thus, RIRRC reserves the right to assert additional grounds for its appeal.

Further, the City's ordinances do not clearly indicate whether this appeal is to the Public Works Committee or to the City Council. RIRRC is filing this appeal with both bodies to ensure that its appeal is properly asserted.

Very truly yours,


Gerald J. Petros

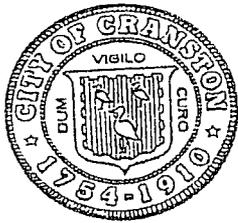
Enclosures

cc: Michael O'Connell – RIRRC

#51003898

ALLAN W. FUNG
MAYOR

REC'D
12 NOV -9 PM 7
CITY
CITY



Kenneth R. Mason P.E.
Director of Public Works

DEPARTMENT OF PUBLIC WORKS
CITY HALL, ROOM 109
869 PARK AVENUE
CRANSTON, RHODE ISLAND 02910

October 30, 2012

Rhode Island Resource Recovery Corporation
65 Shun Pike
Johnston, RI 02919-4512

Attn: Mr. Michael O'Connell, Executive Director

Re: Appeal of the 2011 Industrial Pretreatment Charge
Municipal Industrial Pretreatment Program (MIPP)
Cranston, RI

Gentlemen:

On October 17, 2011 the City of Cranston Department of Public Works received an appeal from your firm of their 2011 Industrial Pretreatment (IP) charge of \$370,012.37. In the letter, your firm presents their basis for appeal in opposition of the calculated Surcharge and Violation Charge amounts as follows:

IP Surcharge

Your firm states in their letter that the Surcharge should be calculated based on the Permit limit value less the Chapter limit value. However, your firm appears to be quoting outdated City of Cranston Sewer Use Ordinance (SUO) language related to the determination of the Surcharge amount. In June 2010, the City Council adopted modifications to Section 13.08.670 (copy enclosed), entitled Payments, that indicates the "surcharge shall be calculated by first determining the difference between the industry's permitted concentration and the background concentration, then multiplying that difference times the gallonage in flow (in million gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant." This methodology, as set forth in the SUO, was applied in the determination of your IP Surcharge as represented in the enclosed calculation summary sheet that was previously sent to your firm. Therefore, the City has determined that your argument is invalid and that the calculated Surcharge amount is correct.

IP Violation Charge

Your firm states in their letter that the Violation Charge should be calculated based on the highest concentration less the allowable discharge limit. However your firm appears to be misinterpreting the methodology set forth in the SUO for the determination of the Violation Charge amount. Section 13.08.670 of the SUO clearly states that "A violation of the permit concentration during the billing year shall cause the billing (*that is both Surcharge and Violation Charge*) to be based on the highest measured concentration in excess of the permit value." Therefore, for the violating concentrations exhibited by your firm for Arsenic, Beryllium, Mercury, and Total Toxic Organics, the Surcharge and Violation Charge were both based on these higher values less the background concentration amounts as prescribed by

FAX (401)780-3176

(401) 780-3175

the SUO. The application of the highest concentration to both the Surcharge and Violation Charge calculations results in "an increase in the dollar per pound rate for that priority pollutant by a factor of two."

The City has consulted with the MIPP and determined that no additional monitoring was performed during the billing year with respect to the violations of Arsenic, Beryllium, Mercury, and Total Toxic Organics. Therefore, the City has decided to reduce the 2011 IP charge by \$151,691.58, which represents the full Violation Charge amount. However, the City regards the remaining Surcharge fee as valid and due in full.

Your firm has indicated that an amount of \$92,503.09 was previously remitted to the City as a first quarter payment. Therefore, the remaining due amount to the City for payment of the 2011 IP Charge is \$370,012.37 less the Violation Charge of \$151,601.58, less the amount paid of \$92,503.09, for a remaining balance of \$125,817.70 plus interest and penalties. Should your firm make payment to the City within thirty (30) days from receipt of this notice, the City is willing to waive all accrued interest and penalty charges.

Should you have any questions regarding this matter, please contact the undersigned at (401)780-3245.

Sincerely,



Kenneth R. Mason, PE
Director of Public Works

Encls.

cc: G. Cordy, Cranston DOA, w/encls.
E. Tally, Cranston DPW, w/encls.
D. Gorka, Veolia Water North America w/encls.
A.J. Tutela, Tutela Engineering Associates, Inc. w/encls.

(401) 780-3175

FAX (401)780-3176



TUTELA ENGINEERING ASSOCIATES, INC.
 P.O. BOX 28066
 PROVIDENCE, RI 02908

MUNICIPAL INDUSTRIAL PRETREATMENT
 PROGRAM (MIPP)
 CRANSTON, RI 24-Aug-2011

Calc. by: AJT

Company: Rhode Island Resource Recovery Corporation

2011 BILLING CALCULATION SUMMARY SHEET

INDUSTRIAL PRETREATMENT (IP) FEE:

Total Industrial Sewer Assessment = \$3,298,513.46
 Total IP Fee Recovered = \$270,686.40

$$\begin{aligned} \text{IP Fee} &= \$270,686.40 / \$3,298,513.46 \times \text{Industrial Sewer Assessment} \\ &= 0.082063149 \times \text{Industrial Sewer Assessment} \end{aligned}$$

* - Sewer Assessment for 2011 (based on 2010 data) = \$492,820.57

$$\text{IP Fee} = 0.082063149 \times \$492,820.57 = \underline{\underline{\$40,442.41}}$$

INDUSTRIAL PRETREATMENT (IP) SURCHARGE:

Average Daily Flow = 286,953 gals
 Total IP Surcharge Recovered = \$270,686.40
 Total Industrial Pollutant Discharge (all industries) = 9,489.78 lbs/year

Ref: Self-Monitoring Reports

Parameter	Highest Concentration in 2010 (mg/l)	Sample Date/Source *	Discharge Permit Limit (mg/l)	Sewer Use Ordinance Background Concentration (mg/l)	Adjusted Concentration = Highest Concentration or Discharge Permit Limit - Sewer Use Ordinance Background Concentration (mg/l)
Arsenic	0.520	11/16/2010 / S **	ND	< 0.010	0.5100
Beryllium	0.0021	12/21/2010 / S **	ND	< 0.002	0.0001
Cadmium	0.023	05/19/2010 / S	0.04	0.008	0.0320
Chromium	0.348	07/20/2010 / S	0.40	0.034	0.3660
Copper	0.032	01/05/2010 / M	1.00	0.051	0.0000
Lead	0.032	05/19/2010 / S	0.30	0.065	0.0000
Mercury	0.000057	10/19/2010 / S **	ND	< 0.0005	0.6530
Nickel	0.120	12/21/2010 / S	0.70	0.047	0.0000
Silver	0.004	12/21/2010 / S	0.10	0.019	0.0000
Zinc	0.168	05/19/2010 / S	1.00	0.201	0.0000
TCN	0.023	07/20/2010 / S	0.30	0.082	0.0000
PCB	ND	--	< 0.001	< 0.001	5.5780
TTO	5.587	11/16/2010 / S **	2.13	0.009	Total: 7.1391

PCB - Polychlorinated Biphenyls
 TCN - Total Cyanide
 TTO - Total Toxic Organics

* Source: S - Self Monitoring Report
 M - Municipal Industrial Pretreatment Program (MIPP) Monitoring
 A - Average of a Split Sample (Program and Industrial Monitoring Analysis)

** - Violation
 ND - Not Detected



TUTELA ENGINEERING ASSOCIATES, INC.
P.O. BOX 28066
PROVIDENCE, RI 02908

MUNICIPAL INDUSTRIAL PRETREATMENT
PROGRAM (MIPP)
CRANSTON, RI 24-Aug-2011

Company: Rhode Island Resource Recovery Corporation

Calc. by: AJT

2011 BILLING CALCULATION SUMMARY SHEET

INDUSTRIAL PRETREATMENT (IP) SURCHARGE: (cont'd)

$$\begin{aligned}
 \text{Pollutant Discharge (lbs/year)} &= \text{Total Adjusted Concentration (mg/l)} \times (\text{Flow (gpd)} / 1,000,000) \\
 &\quad \times (\text{Flow (gpd)} / 1,000,000) \times 8.34 \times 52 \text{ Days per Year} \\
 &= 7,139 \times (286,953 / 1,000,000 \text{ gal/MG}) \times 8.34 \\
 &\quad \times 365 \text{ Days per Year} \\
 &= 6,236.10 \text{ lbs/year} \\
 \\
 \text{IP Surcharge} &= (\text{Pollutant Discharge (lbs/year)} / \text{Total Industrial Pollutant Discharge (lbs/year)}) \\
 &\quad \times \text{Total Adjusted IP Surcharge Recovered} \\
 &= (6,236.10 / 9,489.78) \times \$270,686.40 \\
 &= \underline{\underline{\$177,878.38}}
 \end{aligned}$$

INDUSTRIAL PRETREATMENT (IP) VIOLATION CHARGE: (based on highest concentration)

Violation Parameters	Highest Concentration in 2010 (mg/l)	Sewer Use Ordinance Background Concentration (mg/l)	Adjusted Concentration = Highest Concentration or Discharge Permit Limit - Sewer Use Ordinance Background Concentration (mg/l)
Arsenic	0.520	< 0.010	0.5100
Beryllium	0.0021	< 0.002	0.0001
Cadmium	NV	0.008	0.0000
Chromium	NV	0.034	0.0000
Copper	NV	0.051	0.0000
Lead	NV	0.065	0.0000
Mercury	0.000057	< 0.0005	0.0000
Nickel	NV	0.047	0.0000
Silver	NV	0.019	0.0000
Zinc	NV	0.201	0.0000
TCN	NV	0.082	0.0000
PCB	NV	< 0.001	0.0000
TTO	5.587	0.009	5.5780
			Total: 6.0881

NV - This parameter was not in violation during the billing year

$$\begin{aligned}
 \text{Cost per Pound of Toxics per Year (for all industries)} &= \text{Total IP Surcharge Recovered} / \text{Total Industrial Pollutant Discharge (lbs/year)} \\
 &= \$28.52
 \end{aligned}$$

$$\begin{aligned}
 \text{IP Violation Charge} &= \text{Total Adjusted Concentration (mg/l)} \times (\text{Flow (gpd)} / 1,000,000) \times 8.34 \\
 &\quad \times 365 \text{ Days per Year} \times \text{Cost per Pound of Toxics per Year (for all industries)} \\
 &= 6.088 \times (286,953 / 1,000,000 \text{ gal/MG}) \times 8.34 \\
 &\quad \times 365 \text{ Days per Year} \times \$28.52 \\
 &= \underline{\underline{\$151,691.58}}
 \end{aligned}$$

TOTAL INDUSTRIAL PRETREATMENT (IP) CHARGE:

$$\begin{aligned}
 \text{Total IP Charge} &= \text{IP Fee} + \text{IP Surcharge} + \text{IP Violation Charge} \\
 &= \underline{\underline{\$370,012.37}}
 \end{aligned}$$

THE CITY OF CRANSTON

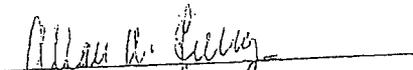
ORDINANCE OF THE CITY COUNCIL
 IN AMENDMENT OF TITLE 13 OF THE CODE OF THE CITY OF CRANSTON, 2005,
 ENTITLED "PUBLIC SERVICES"

No. 2010-16

Passed:
 June 14, 2010


 John E. Lanni, Jr., Council President

Approved:
 June 16, 2010


 Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

SECTION 1. Title 13.08 Section 670 Entitled "Payments" is hereby amended by deleting there from in its entirety the following section entitled:

(Sec. 13.08.670 Payments)

And by adding thereto the following:

Sec. 13.08.670 Payments.

A. Pursuant to the authority conferred by Section 10 of Chapter 750, of the Public Laws, 1939, as amended by Chapter 1372 of the Public Laws, 1943, and by Chapter 1891 of the Public Laws, 1947, the following annual charges for the use of the sewerage system of the city are established to be paid by every person whose particular sewer entered into such system at 12:01 a.m., January 1, 2010, and by every person whose particular sewer enters into such system at 12:01 a.m., January 1, of each year thereafter.

B. The annual charge shall be due and payable on July 15, 2010, and that all annual charges remaining unpaid at 4:00 p.m. on July 15, 2010, shall carry, until collected, a penalty at the rate of twelve (12) percent per annum from July 15, 2010, upon said unpaid annual charge, provided however, that said annual charge may be paid in four installments, the first installment of twenty-five (25) percent on or before the 15th day of July A.D. 2010, and the remaining installments as follows: twenty-five (25) percent on or before the 15th day of October A.D. 2010, twenty-five (25) percent on or before the 17th day of January A.D. 2011 and twenty-five (25) percent on or before the 15th day of April A.D. 2011.

C. Each installment of annual charge, if paid on or before the last day of the installment period successively and in order, shall be free from any charge for interest.

D. If the first installment of any succeeding installment of annual charge is not paid by the last day of the respective installment period or periods as they occur, then the whole annual charge or remaining unpaid balance of the annual charge, as the case may be, shall immediately become due and payable and shall carry, until collected, a penalty at the rate of twelve (12) percent per annum from July 15, 2010.

E. In the event of nonpayment, as noted herein, there shall be a penalty, of which shall be the same as the tax rate penalty set by ordinance.

F. For any building or premises situated within the city discharging sanitary sewage or industrial wastes, either directly or indirectly, into such sewerage system shall be charged the following rates per annum:

1. Dwellings and Apartments.

Single-family: \$384.90

Two-family: \$777.34

Three-family: \$1,166.01

Four-family: \$1,550.90

And three hundred eighty-four dollars and ninety cents (\$384.90) for each and every additional family unit. Duplex houses that have more than one connection shall be billed as separate units.

2. Buildings Containing Clubs, Libraries and Hospitals.

One unit: \$525.24

Two units: \$1,050.48

Three units: \$1,575.72

And five hundred and twenty-five dollars and twenty-four cents (\$525.24) for each unit in excess of three. Each such club, library and hospital and each dwelling or apartment contained in such building shall be deemed one unit. For purposes of this section, a unit shall be defined as housing a maximum of two people.

3. Buildings Containing Retail Establishments and Business Offices.

Each business office or retail establishment will be considered one unit. Any such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Any such retail establishments or business office in which ten (10) or less persons are regularly employed shall be charged a minimum of five hundred and twenty-five dollars and twenty-four cents (\$525.24).

b. Any such retail establishment or business office in which eleven (11) but not more than twenty (20) persons are regularly employed shall be charged a minimum of one thousand fifty dollars and forty-seven cents (\$1,050.47).

c. Any such retail establishment or business office in which twenty-one (21) but not more than forty-nine (49) persons are regularly employed shall be charged a minimum of three thousand one hundred and fifty-one dollars and thirty-nine cents (\$3,151.39).

d. Any such retail establishment or business office in which fifty (50) but not more than one hundred (100) persons are regularly employed shall be charged a minimum of four thousand two hundred and one dollars and eighty-five cents (\$4,201.85).

e. Any such retail establishment or business office in which one hundred and one (101) but not more than two hundred (200) are regularly employed shall be charged a minimum of six thousand three hundred and two dollars and seventy-eight cents (\$6,302.78).

f. Any such retail establishment or business office in which more than two hundred (200) are regularly employed shall be charged a minimum of eight thousand four hundred and three dollars and seventy cents (\$8,403.70).

4. Restaurants, Cafes, Club C Licenses, and Automatic Self-Service Laundries. Such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Restaurants and cafes having a seating capacity of twenty-five (25) or less shall be charged a minimum of one thousand thirty-one dollars and fifty-four cents (\$1,031.54).

b. Restaurants and cafes having a seating capacity of twenty-six (26) but not more than fifty (50) shall be charged a minimum of two thousand one hundred and forty-five dollars and eight cents (\$2,145.08).

c. Restaurants and cafes having a seating capacity of fifty-one (51) but not more than one hundred (100) shall be charged a minimum of three thousand two hundred and twenty-four dollars and ninety-four cents (\$3,224.94).

d. Restaurants and cafes having a seating capacity of more than one hundred (100) shall be charged a minimum of four thousand two hundred and ninety-four dollars and twenty-nine cents (\$4,294.29).

e. Class C liquor establishments shall be charged a minimum of six hundred twenty-six dollars and eight cents (\$626.08).

f. Automatic self-service laundries per washing unit shall be charged a minimum of two hundred fifty-four dollars and twenty-one cents (\$254.21).

5. Buildings Used for Manufacturing or Industrial Operations of Any Kind (Including Laundries and Dairies).

Such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Any such establishment in which ten (10) or less persons are regularly employed shall be charged a minimum of one thousand three hundred and forty dollars and thirty-nine cents (\$1,340.39).

b. Any such establishment in which eleven (11) but not more than fifty (50) persons are regularly employed shall be charged a minimum of two thousand six hundred eighty-nine dollars and nineteen cents (\$2,689.19).

c. Any such establishment in which more than fifty (50) persons are regularly employed shall be charged a minimum of four thousand seven hundred and six dollars and nine cents (\$4,706.09).

d. For the purpose of this section, each individual business in the building or building complex shall be considered an independent establishment. For the purpose of assessing sewer usage fees for a business complex containing several individual businesses having similar or dissimilar usage classifications, the greater of the calculations between the total flow of the entire complex and the aggregate minimum fees of all individual businesses shall prevail. In the case of using the total flow calculation, it shall not be the responsibility of the City of Cranston to apportion the usage fee for individual businesses within the complex unless the property owner, at their own expense, installs and maintains flow meters within each individual business. However, upon request of the property owner, the City will assist, to the best of its ability, in providing an approximate apportionment of the total charges for each individual business within the complex.

e. To the above charges shall be added a pretreatment surcharge for all industries discharging any priority pollutant at a concentration in excess of the background concentration given in Section 13.08.340 of this chapter. That surcharge shall be calculated by first determining the difference between the industry's permitted concentration and the background concentration, then multiplying that difference times the gallonage of flow (in million gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant, then multiplying that pound loading by a rate in dollars per pound loading established by the director for that priority pollutant. The rate for each priority pollutant shall be determined annually based on an equitable proportioning, as determined by the director, of fifty (50) percent of the actual costs to the city of administering the pretreatment program. (The remaining costs of administering the pretreatment program will be incorporated in the charges under subsection (F)(5)(a) of this section.) At the option of the director (or the building owner if the director does not exercise the option), each industry within a building housing more than one industry shall or need not have its own flow meter and monitoring facilities for industrial wastewaters. A violation of the permit concentration during the billing year shall cause the billing to be based on the highest measured concentration in excess of the permit value and an increase in the dollar per pound rate for that priority pollutant by a factor of two. That factor will serve the purpose of defraying costs of additional monitoring required for industries in violation of permit limits. The additional charges resulting from such violation shall be separate from and in addition to any fines or penalties levied as a result of such violation. The industry shall have the right to appeal to the director for a negotiated price in lieu of such additional cost, based on the actual cost to the city of the additional monitoring. Any further appeal process shall be in accordance with Section 13.08.510 of this chapter.

6. Sewage Disposal:
Fees, billing, and collection of fees for sewage disposal shall be administered by the authorized representative of the City.

7. Public Buildings:
There is established an annual charge of forty-four dollars and eleven cents (\$44.11) for each fixture located in buildings owned by the city.

8. Charge for Non-Users:
An annual charge of one hundred and fifteen dollars and fifty-four cents (\$115.54) is established to be paid by every owner of land on which there is located at 12:01 a.m. on January 1, 2010, and one which there is located at 12:01 a.m. on January 1st of each year thereafter, any building used for residential, business or industrial purposes, which land abuts upon that portion of any street or highway or right-of-way in which there is then a sewer and the sewerage of which land is not then connected with such sewer; such charge to be paid in full at the time and place that the first installment of the regular city taxes is payable. Fees collected under this chapter from non-users will only be used to recover costs of sewer system capital improvements.

9. Sewer Lateral Service Installations:
Sewer laterals are installed at the direction of the Cranston Public Works department from the sewer main line in the street to the property line. The charge for this installation will be equal to the actual construction costs. (Ord. 05-61 § 1; Ord. 05-24 § 1)

10. Sewer Usage Fee Adjustment
A. It is the responsibility of each residential, commercial or industrial user to verify the accuracy of the information on the billing statement for the Sewer Usage Fee. If the billing statement is viewed as inaccurate, the user may request a review for fee adjustment or cancellation.

B. The request for adjustment shall be made in writing no later than October 15th of the year the bill was issued. If the City of Cranston is not in receipt of the request for adjustment by said date, the City of Cranston will not consider the request for adjustment for the bill in question. Sewer adjustment issues shall include the following categories:

- A request for adjustment that is related to a Sewer Usage Fee statement error;
- A change in sewer classification, confirmed by the assessor or by inspection;
- Residential, commercial, or industrial sewer service termination due to fire, demolition of a structure or other loss of "certificate of occupancy"; and/or
- Lack of sewer service to the building

C. All classifications for Sewer Usage Fees are based on building use as of January 1 of each year. Classification changes and loss of certificate of occupancy that occur after January 1 will not qualify for a Sewer Usage Fee adjustment for that year's bill, but will be applied towards the following year's bill.

D. The City of Cranston, on its own initiative, may adjust clerical errors in the Sewer Usage Fee. If the correction results in a decrease to the Sewer Usage Fee, and if the error is detected before October 15 of the billing year, then the Sewer Usage Fee may be adjusted for that year. If the correction is an increase to the Sewer Usage Fee, the City of Cranston may assess the user the full Sewer Usage Fee that would have been due but for the error. The City of Cranston will notify the user of this adjustment and the cause for the adjustment. If the Sewer Usage Fee was in error due to the user's violation of the ordinance, charges that would have been due but for the violation shall be assessed by the City of Cranston. In either case, a separate supplemental Sewer Usage Fee bill will be mailed reflecting the additional charge.

E. Sewer Usage Fee adjustment requests shall be processed using a form provided for this purpose. This form shall be signed and dated by the property owner and included with a copy of the Sewer Usage Fee bill in contention and any other pertinent information or documents supporting an adjustment. All forms and documents shall be submitted to:

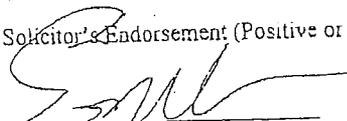
City of Cranston
Department of Public Works
869 Park Avenue
Cranston, RI 02910
Attention: Director

F. A written decision will be made by the Director to approve or deny the adjustment within 30 days from receipt of completed request, unless further information is required. All written decisions by the Director shall be final upon issuance of such written decision, but shall be subject to appeal to the Public Works Committee pursuant to Section 13.08.510 of the City of Cranston Codified Ordinance, including decisions on adjustment requests that were not filed within the time periods set forth in Subsection B above.

G. The Director shall prepare a report summarizing the number of Sewer Usage Fee adjustment requests, the number of requests approved and the reasons for such approvals, and such other information as he or she deems appropriate. Such report shall be delivered to the Public Works Committee by September 1 of each year for the prior fiscal year.

SECTION 2. This Ordinance shall take effect upon its final adoption.

Solicitor's Endorsement (Positive or Negative)



Anthony A. Cipriano
City Solicitor

Date



REC'D
12 NOV -9 PM 5:00

CLAN...
CITY...

Department of Public Works
City of Cranston
869 Park Avenue
Cranston, Rhode Island 02910
Attention: Director

Re: Request For Review of 2011 Industrial Pretreatment Invoice For Fee Adjustment
Pursuant to Section 13-08-670 of the Sewer Use Ordinance

65 Shun Pike

Johnston, RI 02871

tel: (401) 942-1430

fax: (401) 946-5174

www.rirrc.org

Dear Director:

Pursuant to Section 13-08-670 of the Cranston Sewer Use Ordinance, the Rhode Island Resource Recovery Corporation ("RIRRC") requests a review of its 2011 Industrial Pretreatment Invoice (the "IP Invoice") to obtain a fee adjustment.

The IP Invoice consists of the charges assessed by the City of Cranston for RIRRC's wastewater discharge in calendar year 2010. The Invoice totals \$370,012.37 and consists of three separate charges: (1) IP Fee of \$40,442.41; (2) IP Violation of \$151,691.58; and (3) IP Surcharge of \$177,878.38.

The IP Invoice was not accompanied by any backup data or any explanation for how the City calculated these three charges. Mr. Anderson of RIRRC requested back up data from the Department of Public Works and was sent a two page calculation sheet dated August 24, 2011 prepared by Tutela Engineering. (The IP Invoice and this Tutela letter are attached).

There are several errors in the way the City applied the Sewer Use Ordinance in calculating these fees, and RIRRC requests that the City review the IP Invoice and make the following adjustments to RIRRC's 2010 wastewater discharge fee.

IP Surcharge Fee

The IP Surcharge of \$ 177,878.38 is not calculated in accordance with the Sewer Use Ordinance. Section 13.08.670(5)(e) of the Sewer Use Ordinance states that in addition to the sewer use fee (the IP Fee), there "shall be added a surcharge for all industries discharging any priority pollutant at a concentration in excess of the limit given in Section 13.08.340 of this chapter." The surcharge

shall be calculated by first determining the difference between the industry's permitted concentration and the chapter limit, then multiplying that difference times the gallonage of flow (in million of gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant, then multiplying

that pound loading by a rate in dollars per pound loading established by the director for that priority pollutant. The rate for each priority pollutant shall be determined annually based on an equitable proportioning, as determined by the director, of fifty percent of the actual costs to the city of administering the pretreatment program.

Because RIRRC's permitted concentration and the chapter limit are the same, the difference between these two numbers is zero. Multiplying zero by the gallonage flow and the pounding loading rate equals zero. Therefore, the IP surcharge fee under this provision should be \$0, not \$177,878.38.

The City miscalculated this charge because it used the listed background concentration instead of the listed allowable discharge limit set out in Section 13.08.340 in its calculation. There is no basis for Cranston to use the background concentration in this calculation.¹

IP Violation Fee

The IP Violation charge of \$151,691.58 is also not calculated in accordance with the Sewer Use Ordinance. Under Section 13.08.670(5)(e):

a violation of the permit concentration during the billing year shall cause the billing to be based on the highest measured concentration in excess of the permit value and an increase in the dollar per pound rate for that priority pollutant by a factor of two. That factor shall serve the purpose of defraying costs of additional monitoring required by industries in violation of permit limits. ... The industry shall have the right to appeal to the director for a negotiated price in lieu of such additional cost, based on the actual cost to the city of the additional monitoring.

This IP Violation Fee appears to be assessed because RIRRC exceeded its permit limit for several parameters, including total toxics, during the 2010 calendar year. However, there are several errors in the City's calculation. First, the "adjusted concentration" figure the City calculated at 6.088 mg/l is incorrect because it is based on comparing the highest concentration to the background concentration, rather than comparing the highest concentration to the allowable discharge limit. As the ordinance plainly states above, the correct figure is to be based on the permit limit, not the background concentration. Using the allowable permit limit for comparison, the correct adjusted concentration is 3.967 mg/l, and, using the other numbers in the City's calculation, the resulting fee calculation would total \$98,830.81, not \$151,691.58.

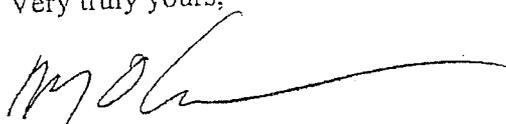
¹ It appears from a March 28, 2011 Resolution passed by the City Council that Cranston has proposed to amend its ordinance to replace the chapter limit with the background concentration, but we understand that proposed ordinance is still pending review at RIDEM and in any event, it was not the ordinance in effect during the 2010 calendar year and does not apply to this 2010 assessment.

Second, as the ordinance also states, the violation fee is to serve the purpose of defraying the cost of "additional" monitoring the City conducted as a result of the violation. Thus, the ordinance provides that the industry has a right to request a different fee in lieu of this calculated fee based on the "actual" cost to the City of the additional monitoring. Here, the City conducted no additional monitoring as a result of the violation, and thus the additional actual cost to the City as a result of this violation is \$0. This is underscored by the fact that the total costs for Tutela to run the MIPP program in 2009 and 2010 were approximately the same, and thus there were no additional costs in 2010 incurred by the City based on the referenced violation. (There was no IP Violation Fee in 2009). Accordingly, the IP Violation Fee should be \$0, not \$151,691.58.

Pursuant to Section 13-08-670 of the Sewer Use Ordinance, RIRRC hereby requests that the City review the 2011 Industrial Pretreatment Invoice, and adjust the fee from \$370,012.37 to \$40,442.41. Furthermore, since under the ordinance provision a request for review for a fee adjustment is due October 15, a month after the first quarterly payment of the Invoice due on September 15, 2011, RIRRC has already paid its first quarterly payment of \$92,503.09. RIRRC did so under protest, reserving its right to challenge the charges, and to seek a full refund. Based on the above, RIRRC requests that the City make the requested fee adjustment, and refund to RIRRC \$52,060.68, the amount it has overpaid.

Finally, RIRRC expressly reserves all of its rights and arguments, including those not raised in this request.

Very truly yours,



Michael O'Connell



City of Cranston, RI
2011 Tax Bill
 ASSESSED DECEMBER 31, 2010

Information regarding this tax bill is printed on the reverse of this sheet.

THIS IS THE ONLY NOTICE YOU WILL RECEIVE

***** 2011 INDUSTRIAL PRETREATMENT CHARGE

RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON, RI 02919

RECEIVED

Rec # 24130
 R.D. #

Send Payments To: City of Cranston
 Tax Collector
 869 PARK AVENUE
 CRANSTON, RI 02910

ACCT# P:19-1517-35-01

	Net Tax
040-0300 65 SHUN PIKE	40,442.41
IP FEE	151,691.58
IP VIOLATION	177,878.38
IP SURCHARGE	
370,012.37	

To Pay by Credit Card
 Visit www.CranstonRI.com
 There will be a nominal fee charged for this service.

PRIOR YEAR TAXES NOT INCLUDED
 PLEASE DO NOT STAPLE
 STUBS OR CHECKS
 ***** 2011 INDUSTRIAL PRETREATMENT CHARGE

City of Cranston 2011
Full Payment

Name: RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON RI 02919

Due Date
 September 15, 2011

Account No.
 P:19-1517-35-01

Total Due
 370,012.37

RETURN THIS STUB WITH YOUR PAYMENT

City of Cranston 2011
1st Quarter

Due Date
 September 15, 2011

Name: RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON RI 02919

RETURN THIS STUB WITH YOUR PAYMENT

Account No.	Total Tax	Total Due
P:19-1517-35-01	370,012.37	92,503.09

City of Cranston 2011
2nd Quarter

Due Date
 October 17, 2011

Name: RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON RI 02919

RETURN THIS STUB WITH YOUR PAYMENT

Account No.	Total Tax	Total Due
P:19-1517-35-01	370,012.37	92,503.09

City of Cranston 2011
3rd Quarter

Due Date
 January 16, 2012

Name: RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON RI 02919

RETURN THIS STUB WITH YOUR PAYMENT

Account No.	Total Tax	Total Due
P:19-1517-35-01	370,012.37	92,503.09

City of Cranston 2011
4th Quarter

Due Date
 April 16, 2012

Name: RHODE ISLAND SOLID WASTE MANAGEMEN
 65 SHUN PIKE
 JOHNSTON RI 02919

RETURN THIS STUB WITH YOUR PAYMENT

Account No.	Total Tax	Total Due
P:19-1517-35-01	370,012.37	92,503.09



TUTELA ENGINEERING ASSOCIATES, INC.
 P.O. BOX 28066
 PROVIDENCE, RI 02908

MUNICIPAL INDUSTRIAL PRETREATMENT
 PROGRAM (MIPP)
 CRANSTON, RI 24-Aug-2011

Calc. by: AJT

Company: Rhode Island Resource Recovery Corporation

2011 BILLING CALCULATION SUMMARY SHEET

INDUSTRIAL PRETREATMENT (IP) FEE:

Total Industrial Sewer Assessment = \$3,298,513.46
 Total IP Fee Recovered = \$270,686.40

$$\begin{aligned} \text{IP Fee} &= \$270,686.40 / \$3,298,513.46 \times \text{Industrial Sewer Assessment}^* \\ &= 0.082063149 \times \text{Industrial Sewer Assessment} \end{aligned}$$

* - Sewer Assessment for 2011 (based on 2010 data) = \$492,820.57

$$\text{IP Fee} = 0.082063149 \times \$492,820.57 = \underline{\underline{\$40,442.41}}$$

INDUSTRIAL PRETREATMENT (IP) SURCHARGE:

Average Daily Flow = 286,953 gals
 Total IP Surcharge Recovered = \$270,686.40
 Total Industrial Pollutant Discharge (all industries) = 9,489.78 lbs/year
 Ref: Self-Monitoring Reports

Parameter	Highest Concentration in 2010 (mg/l)	Sample Date/Source *	Discharge Permit Limit (mg/l)	Sewer Use Ordinance Background Concentration (mg/l)	Adjusted Concentration = Highest Concentration or Discharge Permit Limit - Sewer Use Ordinance Background Concentration (mg/l)
Arsenic	0.520	11/16/2010 / S **	ND	< 0.010	0.5100
Beryllium	0.0021	12/21/2010 / S **	ND	< 0.002	0.0001
Cadmium	0.023	05/19/2010 / S	0.04	0.008	0.0320
Chromium	0.348	07/20/2010 / S	0.40	0.034	0.3660
Copper	0.032	01/05/2010 / M	1.00	0.051	0.0000
Lead	0.032	05/19/2010 / S	0.30	0.065	0.0000
Mercury	0.000057	10/19/2010 / S **	ND	< 0.0005	0.0000
Nickel	0.120	12/21/2010 / S	0.70	0.047	0.6530
Silver	0.004	12/21/2010 / S	0.10	0.019	0.0000
Zinc	0.168	05/19/2010 / S	1.00	0.201	0.0000
TCN	0.023	07/20/2010 / S	0.30	0.082	0.0000
PCB	ND	--	< 0.001	< 0.001	5.5780
TTO	5.587	11/16/2010 / S **	2.13	0.009	Total: 7.1391

PCB - Polychlorinated Biphenyls
 TCN - Total Cyanide
 TTO - Total Toxic Organics

* Source: S - Self Monitoring Report
 M - Municipal Industrial Pretreatment Program (MIPP) Monitoring
 A - Average of a Split Sample (Program and Industrial Monitoring Analysis)

** - Violation
 ND - Not Detected

REC-11
12 NOV -9 PM 5:22
CITY OF CRANSTON

Gerald J. Petros
gpetros@haslaw.com

November 9, 2012

VIA HAND DELIVERY

Cranston City Council
City of Cranston
869 Park Avenue
Cranston, Rhode Island 02910

Re: Appeal of October 30, 2012, Decision on Rhode Island Resource Recovery Corporation's ("RIRRC") 2012 Industrial Pretreatment Invoice For Fee Adjustment

To the City Council:

Pursuant to Sections 13.08.670.F.10.f. and 13.08.510 of the Cranston Sewer Use Ordinance ("SUO"), Rhode Island Resource Recovery Corporation ("RIRRC") appeals the Director of the Cranston Department of Public Works ("DPW") October 30, 2012, Decision on RIRRC's Request for a Fee Adjustment on its 2012 Industrial Pretreatment Invoice (the "IP Invoice").¹ (The DPW Director's Decision is attached.)

On October 15, 2012, RIRRC requested a review of its 2012 Industrial Pretreatment Invoice (the "IP Invoice") to obtain a fee adjustment. RIRRC contended that the IP Fee of \$271,461.24 was not calculated correctly, and should be adjusted to \$42,992.32. In its Fee Adjustment Request, RIRRC contended that the City made several errors in the way the it had applied the Sewer Use Ordinance in calculating these fees, and RIRRC requested that the City make the adjustments to RIRRC's 2010 wastewater discharge fee by reducing the IP Violation Charge of \$97,190.78 to \$0, and by reducing the IP Surcharge of \$131,278. to \$0. (RIRRC's Fee Adjustment Request is attached.)

The DPW Director's Decision

October 30, 2012, the Director issued his decision (the "DPW Director's Decision"). The DPW Director agreed to reduce the IP Violation Charge of \$97,190.78 to \$0, but kept the IP Surcharge of \$131,278.14 the same. The Director explained in his decision that

¹ Section 13.08.670.F.10.f. of the SUO states that the DPW Director's decision "shall be subject to appeal to the public works committee pursuant Section 13.08.510." Section 13.08.510 states that the appeal of the Director's decision shall be made "to the city council." Therefore, RIRRC is submitting this appeal to both the Public Works Committee of the City Council, and to the City Council.

RIRRC's calculation of the IP Surcharge fee was based on an "outdated" Sewer Use Ordinance. The Director stated that, "in June 2010, the City Council adopted modifications" to the SUO Section 13.08.670 ("Payments") that changed the "methodology" by which the City calculated the IP Surcharge, and that the City applied this new methodology in determining the IP Surcharge.

The Validity of the June 2010 Ordinance Modifications

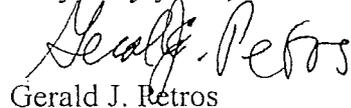
RIRRC received the DPW Director's Decision on November 1, and given the short ten day appeal period, RIRRC has not yet been able to determine whether the City followed the necessary procedures and notice requirements in enacting the June 2010 ordinance modification, including, but not limited to, Sections 3.11, 3.12, and 3.15 of the City Charter. In April 2011, the City's counsel Sean Coffey forwarded to us a copy of a 2010 red-lined ordinance showing the "proposed" revisions the City was planning to make to its SUO as part of its Substantial Modification to the MIPP request to RIDEM. The proposed red-lined revisions included the changes to the local limits, BOD and TKN surcharges, and the revised "methodology" for calculating the IP Surcharge in Section 13.08.670 ("Payments"). It is unclear why the City's submittal to RIDEM showed these as "proposed" changes to Section 13.08.670 of the SUO, and why Mr. Coffey sent these to RIRRC as "proposed" changes in April 2011, when the City claims it had already adopted these changes in June 2010. Thus, RIRRC also appeals the DPW Director's Decision on the basis that the June 2010 ordinance modifications were not validly enacted.

Additional Grounds

RIRRC reserves the right to assert other grounds for its appeal. RIRRC has had little time to consider the Director's decision or the new grounds asserted by the City, or to gather additional facts and information. Thus, RIRRC reserves the right to assert additional grounds for its appeal.

Further, the City's ordinances do not clearly indicate whether this appeal is to the Public Works Committee or to the City Council. RIRRC is filing this appeal with both bodies to ensure that its appeal is properly asserted.

Very truly yours,



Gerald J. Retros

Enclosures

cc: Cranston City Clerk
Michael O'Connell -RIRRC

51003144



FILE
12 NOV -9 PM 5:24
October 15, 2012
CITY

Kenneth Mason, Director
Department of Public Works
City of Cranston
869 Park Avenue
Cranston, Rhode Island 02910

Re: Request For Review of 2012 Industrial Pretreatment Invoice For Fee
Adjustment Pursuant to Section 13-08-670 of the Sewer Use Ordinance

65 Shun Pike
Johnston, RI 02919-4512
Tel: (401) 942-1430
Fax: (401) 946-5174
www.rirrc.org

Dear Director:

Pursuant to Section 13-08-670 of the Cranston Sewer Use Ordinance, the Rhode Island Resource Recovery Corporation ("RIRRC") requests a review of its 2012 Industrial Pretreatment Invoice (the "IP Invoice") to obtain a fee adjustment. (The IP Invoice is attached).

The IP Invoice consists of the charges assessed by the City of Cranston for RIRRC's wastewater discharge in calendar year 2011. The Invoice totals \$271,461.24 and consists of three separate charges: (1) IP Fee of \$42,992.32; (2) IP Violation of \$97,190.78; and (3) IP Surcharge of \$131,278.14.

The IP Invoice was not accompanied by any backup data or any explanation for how the Department of Public Works ("DPW") calculated these three charges. Mr. Anderson of RIRRC requested back up data from the DPW Director on October 2, 2012, but to date, RIRRC has not received any information explaining how the DPW calculated these fees.

RIRRC has reviewed the IP Invoice and believes the City made several errors in the way it applied the Sewer Use Ordinance in calculating these fees. While we do not have the data from DPW, it appears the City followed the same flawed methodology it used for last year's 2011 IP Invoice. As you know, RIRRC filed a request for a fee adjustment to its 2011 IP Invoice because the City's calculation of \$370,012.37 was wrong. RIRRC requested the fee be adjusted to the correct amount of \$40,442.41. The DPW Director was to issue a written decision on RIRRC's fee adjustment request within 30 days, or by November 14, 2011. RIRRC followed up in writing several times during the last year requesting a decision. To date, one year later, Cranston still has not issued a written decision on the RIRRC's 2011 fee adjustment request.

For this year's 2012 IP Invoice, RIRRC also requests a similar fee adjustment, because it appears the City has made the same errors as it did on last year's invoice. Thus, RIRRC requests that the City review the IP Invoice and make the following adjustments to RIRRC's 2011 wastewater discharge fee.

IP Surcharge Fee

The IP Surcharge of \$ 131,278.14 is not calculated in accordance with the Sewer Use Ordinance. Section 13.08.670(5)(e) of the Sewer Use Ordinance states that in addition to the sewer use fee (the IP Fee), there "shall be added a surcharge for all industries discharging any priority pollutant at a concentration in excess of the limit given in Section 13.08.340 of this chapter." The surcharge

shall be calculated by first determining the difference between the industry's permitted concentration and the chapter limit, then multiplying that difference times the gallonage of flow (in million of gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant, then multiplying that pound loading by a rate in dollars per pound loading established by the director for that priority pollutant. The rate for each priority pollutant shall be determined annually based on an equitable proportioning, as determined by the director, of fifty percent of the actual costs to the city of administering the pretreatment program.

Because RIRRC's permitted concentration and the chapter limit are the same, the difference between these two numbers is zero. Multiplying zero by the gallonage flow and the pounding loading rate equals zero. Therefore, the IP surcharge fee under this provision should be \$0, not \$131,278.14.

RIRRC believes the City miscalculated this charge because we believe it used the listed background concentration instead of the listed allowable discharge limit set out in Section 13.08.340 in its calculation. There is no basis for Cranston to use the background concentration in this calculation.

IP Violation Fee

The IP Violation charge of \$97,190.78 is also not calculated in accordance with the Sewer Use Ordinance. Under Section 13.08.670(5)(e):

a violation of the permit concentration during the billing year shall cause the billing to be based on the highest measured concentration in excess of the permit value and an increase in the dollar per pound rate for that priority pollutant by a factor of two. That factor shall serve the purpose of defraying costs of additional monitoring required by industries in violation of permit limits.

...The industry shall have the right to appeal to the director for a negotiated price in lieu of such additional cost, based on the actual cost to the city of the additional monitoring.

This IP Violation Fee appears to be assessed because RIRRC exceeded its permit limit for several parameters, including total toxics, during the 2011 calendar year. However, while we do not have the backup data, we believe the City made the same errors as it did in calculating last years' "violation fee." That is, the City appears to have erroneously comparing the highest concentration to the background concentration, rather than comparing the highest concentration to the allowable discharge limit. As the ordinance plainly states above, the correct figure is to be based on the permit limit, not the background concentration. Using the allowable permit limit for comparison would result in a lower fee calculation.

Second, as the ordinance also states, the violation fee is to serve the purpose of defraying the cost of "additional" monitoring the City conducted as a result of the violation. Thus, the ordinance provides that the industry has a right to request a different fee in lieu of this calculated fee based on the "actual" cost to the City of the additional monitoring. Here, the City conducted no additional monitoring as a result of the violation, and thus the additional actual cost to the City as a result of this violation is \$0. This is underscored by the fact that the total costs for Tutela to run the MIPP program in 2009, 2010, and 2011 were approximately the same, and thus there were no additional costs in 2011 incurred by the City based on the referenced violation. Accordingly, the IP Violation Fee should be \$0, not \$97,190.78

Pursuant to Section 13-08-670 of the Sewer Use Ordinance, RIRRC hereby requests that the City review the 2012 Industrial Pretreatment Invoice, and adjust the fee from \$271,461.24 to \$42,992.32.

Finally, RIRRC expressly reserves all of its rights and arguments, including those not raised in this request.

Very truly yours,



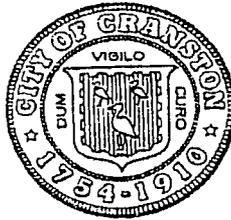
William M. Anderson, PE
Engineering Manager

cc: Michael OConnell, Brian Card

50954724

ALLAN W. FUNG
MAYOR

RECEIVED
12 NOV - 9 PM 5:11
CITY OF CRANSTON
NOV - 1 2012



Kenneth R. Mason P.E.
Director of Public Works

DEPARTMENT OF PUBLIC WORKS
CITY HALL, ROOM 109
869 PARK AVENUE
CRANSTON, RHODE ISLAND 02910

October 30, 2012

Rhode Island Resource Recovery Corporation
65 Shun Pike
Johnston, RI 02919-4512

Attn: Mr. William M. Anderson, PE, Engineering Manager

Re: Appeal of the 2012 Industrial Pretreatment Charge
Municipal Industrial Pretreatment Program (MIPP)
Cranston, RI

Gentlemen:

On October 15, 2012 the City of Cranston Department of Public Works received an appeal from your firm of their 2012 Industrial Pretreatment (IP) charge of \$271,461.24. In the letter, your firm presents their basis for appeal in opposition of the calculated Surcharge and Violation Charge amounts as follows:

IP Surcharge

Your firm states in their letter that the Surcharge should be calculated based on the Permit limit value less the Chapter limit value. However, your firm appears to be quoting outdated City of Cranston Sewer Use Ordinance (SUO) language related to the determination of the Surcharge amount. In June 2010, the City Council adopted modifications to Section 13.08.670 (copy enclosed), entitled Payments, that indicates the "surcharge shall be calculated by first determining the difference between the industry's permitted concentration and the background concentration, then multiplying that difference times the gallonage in flow (in million gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant." This methodology, as set forth in the SUO, was applied in the determination of your IP Surcharge as represented in the enclosed calculation summary sheet. Therefore, the City has determined that your argument is invalid and that the calculated Surcharge amount is correct.

IP Violation Charge

Your firm states in their letter that the Violation Charge should be calculated based on the highest concentration less the allowable discharge limit. However your firm appears to be misinterpreting the methodology set forth in the SUO for the determination of the Violation Charge amount. Section 13.08.670 of the SUO clearly states that "A violation of the permit concentration during the billing year shall cause the billing (*that is both Surcharge and Violation Charge*) to be based on the highest measured concentration in excess of the permit value." Therefore, for the violating concentrations exhibited by your firm for Arsenic, Beryllium, and Total Toxic Organics, the Surcharge and Violation Charge were both based on these higher values less the background concentration amounts as prescribed by the SUO. The application of the highest concentration to both the Surcharge and Violation Charge calculations results in "an

(401) 780-3175

FAX (401) 780-3176

increase in the dollar per pound rate for that priority pollutant by a factor of two.”

The City has consulted with the MIPP and determined that no additional monitoring was performed during the billing year with respect to the violations of Arsenic, Beryllium, and Total Toxic Organics. Therefore, the City has decided to reduce the 2012 IP charge by \$97,190.78, which represents the full Violation Charge amount. However, the City regards the remaining Surcharge fee as valid and due in full.

Therefore, the remaining due amount to the City for payment of the 2012 IP Charge is \$271,461.24 less the Violation Charge of \$97,190.78, for a remaining balance of \$174,270.46. Your firm must make quarterly payments in full to the City in accordance with the payment schedule set forth on their bill, with the last payment equal to the remaining balance after previous payments have been applied. Failure to make payments in full within the required time frames will subject your firm to interest and penalty charges.

Should you have any questions regarding this matter, please contact the undersigned at (401)780-3245.

Sincerely,



Kenneth R. Mason, PE
Director of Public Works

Encls.

cc: G. Cordy, Cranston DOA, w/encls.
E. Tally, Cranston DPW, w/encls.
D. Gorka, Veolia Water North America w/encls.
A.J. Tutela, Tutela Engineering Associates, Inc. w/encls.

(401) 780-3175

FAX (401)780-3176



TUTELA ENGINEERING ASSOCIATES, INC.
P.O. BOX 28066
PROVIDENCE, RI 02908

MUNICIPAL INDUSTRIAL PRETREATMENT
PROGRAM (MIPP)
CRANSTON, RI 16-Oct-2012

Company: Rhode Island Resource Recovery Corporation

Calc. by: AJT

2012 BILLING CALCULATION SUMMARY SHEET

INDUSTRIAL PRETREATMENT (IP) FEE:

Total Industrial Sewer Assessment = \$3,814,319.30
Total IP Fee Recovered = \$280,674.93

$$\begin{aligned} \text{IP Fee} &= \$280,674.93 / \$3,814,319.30 \times \text{Industrial Sewer Assessment}^* \\ &= 0.07358454 \times \text{Industrial Sewer Assessment} \end{aligned}$$

* - Sewer Assessment for 2012 (based on 2011 data) = \$584,257.55

$$\text{IP Fee} = 0.07358454 \times \$584,257.55 = \underline{\underline{\$42,992.32}}$$

INDUSTRIAL PRETREATMENT (IP) SURCHARGE:

Average Daily Flow = 270,118 gals
Total IP Surcharge Recovered = \$280,674.93
Total Industrial Pollutant Discharge (all industries) = 6,899.16 lbs/year

Ref: Self-Monitoring Reports

Parameter	Highest Concentration in 2011 (mg/l)	Sample Date/Source *	Discharge Permit Limit (mg/l)	Sewer Use Ordinance Background Concentration (mg/l)	Adjusted Concentration = Highest Concentration or Discharge Permit Limit - Sewer Use Ordinance Background Concentration (mg/l)
Arsenic	0.341	01/04/2011 / M **	ND	0.010	0.3310
Beryllium	0.0015	11/05/2011 / S **	ND	0.002	0.0000
Cadmium	0.008	05/24/2011 / S	0.04	0.008	0.0000
Chromium	0.231	01/04/2011 / M	0.40	0.034	0.3660
Copper	0.035	01/04/2011 / M	1.00	0.051	0.0000
Lead	0.057	05/24/2011 / S	0.30	0.065	0.0000
Mercury	ND	--	ND	0.0005	0.0000
Nickel	0.140	05/24/2011 / S	0.70	0.047	0.6530
Silver	ND	--	0.10	0.019	0.0000
Zinc	0.054	12/16/2011 / S	1.00	0.201	0.0000
TCN	0.038	12/16/2011 / S	0.30	0.082	0.0000
PCB	ND	--	< 0.001	0.001	0.0000
TTO	2.5834	12/22/2011 / S **	2.13	0.009	2.5744
Total:					3.9244

PCB - Polychlorinated Biphenyls

TCN - Total Cyanide

TTO - Total Toxic Organics

* Source: S - Self Monitoring Report

M - Municipal Industrial Pretreatment Program (MIPP) Monitoring

A - Average of a Split Sample (Program and Industrial Monitoring Analysis)

** - Violation

ND - Not Detected



TUTELA ENGINEERING ASSOCIATES, INC.
P.O. BOX 28066
PROVIDENCE, RI 02908

MUNICIPAL INDUSTRIAL PRETREATMENT
PROGRAM (MIPP)
CRANSTON, RI 16-Oct-2012

Company: Rhode Island Resource Recovery Corporation

Calc. by: AJT

2012 BILLING CALCULATION SUMMARY SHEET

INDUSTRIAL PRETREATMENT (IP) SURCHARGE: (cont'd)

$$\begin{aligned}
\text{Pollutant Discharge (lbs/year)} &= \text{Total Adjusted Concentration (mg/l)} \times (\text{Flow (gpd)} / 1,000,000) \\
&\quad \times (\text{Flow (gpd)} / 1,000,000) \times 8.34 \times 52 \text{ Days per Year} \\
&= 3.924 \times (270,118 / 1,000,000 \text{ gal/MG}) \times 8.34 \\
&\quad \times 365 \text{ Days per Year} \\
&= 3,226.90 \text{ lbs/year} \\
\text{IP Surcharge} &= (\text{Pollutant Discharge (lbs/year)} / \text{Total Industrial Pollutant Discharge (lbs/year)}) \\
&\quad \times \text{Total Adjusted IP Surcharge Recovered} \\
&= (3,226.90 / 6,899.16) \times \$280,674.93 \\
&= \underline{\underline{\$131,278.14}}
\end{aligned}$$

INDUSTRIAL PRETREATMENT (IP) VIOLATION CHARGE: (based on highest concentration)

Violation Parameters	Highest Concentration in 2011 (mg/l)	Sewer Use Ordinance Background Concentration (mg/l)	Adjusted Concentration = Highest Concentration or Discharge Permit Limit - Sewer Use Ordinance Background Concentration (mg/l)
Arsenic	0.3410	0.010	0.3310
Beryllium	0.0015	0.002	0.0000
Cadmium	NV	0.008	0.0000
Chromium	NV	0.034	0.0000
Copper	NV	0.051	0.0000
Lead	NV	0.065	0.0000
Mercury	NV	0.0005	0.0000
Nickel	NV	0.047	0.0000
Silver	NV	0.019	0.0000
Zinc	NV	0.201	0.0000
TCN	NV	0.082	0.0000
PCB	NV	0.001	0.0000
TTO	2.583	0.009	2.5744
			Total: 2.9054

NV - This parameter was not in violation during the billing year

$$\begin{aligned}
\text{Cost per Pound of Toxics per Year (for all Industries)} &= \text{Total IP Surcharge Recovered} / \text{Total Industrial Pollutant Discharge (lbs/year)} \\
&= \$40.68
\end{aligned}$$

$$\begin{aligned}
\text{IP Violation Charge} &= \text{Total Adjusted Concentration (mg/l)} \times (\text{Flow (gpd)} / 1,000,000) \times 8.34 \\
&\quad \times 365 \text{ Days per Year} \times \text{Cost per Pound of Toxics per Year (for all Industries)} \\
&= 2.905 \times (270,118 / 1,000,000 \text{ gal/MG}) \times 8.34 \\
&\quad \times 365 \text{ Days per Year} \times \$40.68 \\
&= \underline{\underline{\$97,190.78}}
\end{aligned}$$

TOTAL INDUSTRIAL PRETREATMENT (IP) CHARGE:

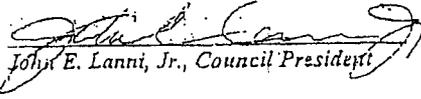
$$\begin{aligned}
\text{Total IP Charge} &= \text{IP Fee} + \text{IP Surcharge} + \text{IP Violation Charge} \\
&= \underline{\underline{\$271,461.24}}
\end{aligned}$$

THE CITY OF CRANSTON

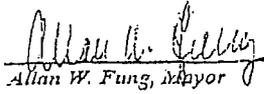
ORDINANCE OF THE CITY COUNCIL
 IN AMENDMENT OF TITLE 13 OF THE CODE OF THE CITY OF CRANSTON, 2005,
 ENTITLED "PUBLIC SERVICES"

No. 2010-16

Passed:
 June 14, 2010


 John E. Lanni, Jr., Council President

Approved:
 June 16, 2010


 Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

SECTION 1, Title 13.08 Section 670 Entitled "Payments" is hereby amended by deleting there from in its entirety the following section entitled:

(Sec.13.08.670 Payments)

And by adding thereto the following:

Sec. 13.08.670 Payments

A. Pursuant to the authority conferred by Section 10 of Chapter 750, of the Public Laws, 1939, as amended by Chapter 1372 of the Public Laws, 1943, and by Chapter 1891 of the Public Laws, 1947, the following annual charges for the use of the sewerage system of the city are established, to be paid by every person whose particular sewer entered into such system at 12:01 a.m., January 1, 2010, and by every person whose particular sewer enters into such system at 12:01 a.m., January 1, of each year thereafter.

B. The annual charge shall be due and payable on July 15, 2010, and that all annual charges remaining unpaid at 4:00 p.m. on July 15, 2010, shall carry, until collected, a penalty at the rate of twelve (12) percent per annum from July 15, 2010, upon said unpaid annual charge, provided however, that said annual charge may be paid in four installments, the first installment of twenty-five (25) percent on or before the 15th day of July A.D. 2010, and the remaining installments as follows: twenty-five (25) percent on or before the 15th day of October A.D. 2010, twenty-five (25) percent on or before the 17th day of January A.D. 2011 and twenty-five (25) percent on or before the 15th day of April A.D. 2011.

C. Each installment of annual charge, if paid on or before the last day of the installment period successively and in order, shall be free from any charge for interest.

D. If the first installment of any succeeding installment of annual charge is not paid by the last day of the respective installment period or periods as they occur, then the whole annual charge or remaining unpaid balance of the annual charge, as the case may be, shall immediately become due and payable and shall carry, until collected, a penalty at the rate of twelve (12) percent per annum from July 15, 2010.

E. In the event of nonpayment, as noted herein, there shall be a penalty, of which shall be the same as the tax rate penalty set by ordinance.

F. For any building or premises situated within the city discharging sanitary sewage or industrial wastes, either directly or indirectly, into such sewerage system shall be charged the following rates per annum:

1. Dwellings and Apartments.

Single-family: \$384.90

Two-family: \$777.34

Three-family: \$1,166.01

Four-family: \$1,550.90

And three hundred eighty-four dollars and ninety cents (\$384.90) for each and every additional family unit. Duplex houses that have more than one connection shall be billed as separate units.

2. Buildings Containing Clubs, Libraries and Hospitals.

One unit: \$525.24

Two units: \$1,050.48

Three units: \$1,575.72

And five hundred and twenty-five dollars and twenty-four cents (\$525.24) for each unit in excess of three. Each such club, library and hospital and each dwelling or apartment contained in such building shall be deemed one unit. For purposes of this section, a unit shall be defined as housing a maximum of two people.

3. Buildings Containing Retail Establishments and Business Offices.

Each business office or retail establishment will be considered one unit. Any such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Any such retail establishments or business office in which ten (10) or less persons are regularly employed shall be charged a minimum of five hundred and twenty-five dollars and twenty-four cents (\$525.24).

b. Any such retail establishment or business office in which eleven (11) but not more than twenty (20) persons are regularly employed shall be charged a minimum of one thousand fifty dollars and forty-seven cents (\$1,050.47).

c. Any such retail establishment or business office in which twenty-one (21) but not more than forty-nine (49) persons are regularly employed shall be charged a minimum of three thousand one hundred and fifty-one dollars and thirty-nine cents (\$3,151.39).

d. Any such retail establishment or business office in which fifty (50) but not more than one hundred (100) persons are regularly employed shall be charged a minimum of four thousand two hundred and one dollars and eighty-five cents (\$4,201.85).

e. Any such retail establishment or business office in which one hundred and one (101) but not more than two hundred (200) are regularly employed shall be charged a minimum of six thousand three hundred and two dollars and seventy-eight cents (\$6,302.78).

f. Any such retail establishment or business office in which more than two hundred (200) are regularly employed shall be charged a minimum of eight thousand four hundred and three dollars and seventy cents (\$8,403.70).

4. Restaurants, Cafes, Club C Licenses, and Automatic Self-Service Laundries.

Such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Restaurants and cafes having a seating capacity of twenty-five (25) or less shall be charged a minimum of one thousand thirty-one dollars and fifty-four cents (\$1,031.54).

b. Restaurants and cafes having a seating capacity of twenty-six (26) but not more than fifty (50) shall be charged a minimum of two thousand one hundred and forty-five dollars and eight cents (\$2,145.08).

c. Restaurants and cafes having a seating capacity of fifty-one (51) but not more than one hundred (100) shall be charged a minimum of three thousand two hundred and twenty-four dollars and ninety-four cents (\$3,224.94).

d. Restaurants and cafes having a seating capacity of more than one hundred (100) shall be charged a minimum of four thousand two hundred and ninety-four dollars and twenty-nine cents (\$4,294.29).

e. Class C liquor establishments shall be charged a minimum of six hundred twenty-six dollars and eight cents (\$626.08).

f. Automatic self-service laundries per washing unit shall be charged a minimum of two hundred fifty-four dollars and twenty-one cents (\$254.21).

5. Buildings Used for Manufacturing or Industrial Operations of Any Kind (Including Laundries and Dairies).

Such charges shall be fixed and determined according to the flow at the rate of four thousand seven hundred and six dollars and nine cents (\$4,706.09) per million gallons and at a like rate for any fraction thereof. Subject to the determination of the charges, there shall be charged for each of the following establishments a minimum charge as follows:

a. Any such establishment in which ten (10) or less persons are regularly employed shall be charged a minimum of one thousand three hundred and forty dollars and thirty-nine cents (\$1,340.39).

b. Any such establishment in which eleven (11) but not more than fifty (50) persons are regularly employed shall be charged a minimum of two thousand six hundred eighty-nine dollars and nineteen cents (\$2,689.19).

c. Any such establishment in which more than fifty (50) persons are regularly employed shall be charged a minimum of four thousand seven hundred and six dollars and nine cents (\$4,706.09).

d. For the purpose of this section, each individual business in the building or building complex shall be considered an independent establishment. For the purpose of assessing sewer usage fees for a business complex containing several individual businesses having similar or dissimilar usage classifications, the greater of the calculations between the total flow of the entire complex and the aggregate minimum fees of all individual businesses shall prevail. In the case of using the total flow calculation, it shall not be the responsibility of the City of Cranston to apportion the usage fee for individual businesses within the complex unless the property owner, at their own expense, installs and maintains flow meters within each individual business. However, upon request of the property owner, the City will assist, to the best of its ability, in providing an approximate apportionment of the total charges for each individual business within the complex.

e. To the above charges shall be added a pretreatment surcharge for all industries discharging any priority pollutant at a concentration in excess of the background concentration given in Section 13.08.340 of this chapter. That surcharge shall be calculated by first determining the difference between the industry's permitted concentration and the background concentration, then multiplying that difference times the gallonage of flow (in million gallons) associated with the priority pollutant times a conversion factor to determine the annual pound loading of priority pollutant, then multiplying that pound loading by a rate in dollars per pound loading established by the director for that priority pollutant. The rate for each priority pollutant shall be determined annually based on an equitable proportioning, as determined by the director, of fifty (50) percent of the actual costs to the city of administering the pretreatment program. (The remaining costs of administering the pretreatment program will be incorporated in the charges under subsection (F)(5)(a) of this section.) At the option of the director (or the building owner if the director does not exercise the option), each industry within a building housing more than one industry shall or need not have its own flow meter and monitoring facilities for industrial wastewaters. A violation of the permit concentration during the billing year shall cause the billing to be based on the highest measured concentration in excess of the permit value and an increase in the dollar per pound rate for that priority pollutant by a factor of two. That factor will serve the purpose of defraying costs of additional monitoring required for industries in violation of permit limits. The additional charges resulting from such violation shall be separate from and in addition to any fines or penalties levied as a result of such violation. The industry shall have the right to appeal to the director for a negotiated price in lieu of such additional cost, based on the actual cost to the city of the additional monitoring. Any further appeal process shall be in accordance with Section 13.08.510 of this chapter.

6. Sewage Disposal:

Fees, billing, and collection of fees for sewage disposal shall be administered by the authorized representative of the City.

7. Public Buildings:

There is established an annual charge of forty-four dollars and eleven cents (\$44.11) for each fixture located in buildings owned by the city.

8. Charge for Non-Users:

An annual charge of one hundred and fifteen dollars and fifty-four cents (\$115.54) is established to be paid by every owner of land on which there is located at 12:01 a.m. on January 1, 2010, and one which there is located at 12:01 a.m. on January 1st of each year thereafter, any building used for residential, business or industrial purposes, which land abuts upon that portion of any street or highway or right-of-way in which there is then a sewer and the sewerage of which land is not then connected with such sewer, such charge to be paid in full at the time and place that the first installment of the regular city taxes is payable. Fees collected under this chapter from non-users will only be used to recover costs of sewer system capital improvements.

9. Sewer Lateral Service Installations:

Sewer laterals are installed at the direction of the Cranston Public Works department from the sewer main line in the street to the property line. The charge for this installation will be equal to the actual construction costs. (Ord. 95-61 § 1; Ord. 05-24 § 1).

10. Sewer Usage Fee Adjustment

A. It is the responsibility of each residential, commercial, or industrial user to verify the accuracy of the information on the billing statement for the Sewer Usage Fee. If the billing statement is viewed as inaccurate, the user may request a review for fee adjustment or cancellation.

B. The request for adjustment shall be made in writing no later than October 15th of the year the bill was issued. If the City of Cranston is not in receipt of the request for adjustment by said date, the City of Cranston will not consider the request for adjustment for the bill in question. Sewer adjustment issues shall include the following categories:

- A request for adjustment that is related to a Sewer Usage Fee statement error;
- A change in sewer classification, confirmed by the assessor or by inspection;
- Residential, commercial, or industrial sewer service termination due to fire, demolition of a structure or other loss of "certificate of occupancy" and/or
- Lack of sewer service to the building

C. All classifications for Sewer Usage Fees are based on building use as of January 1 of each year. Classification changes and loss of certificate of occupancy that occur after January 1 will not qualify for a Sewer Usage Fee adjustment for that year's bill, but will be applied towards the following year's bill.

D. The City of Cranston, on its own initiative, may adjust clerical errors in the Sewer Usage Fee. If the correction results in a decrease to the Sewer Usage Fee and if the error is detected before October 15 of the billing year, then the Sewer Usage Fee may be adjusted for that year. If the correction is an increase to the Sewer Usage Fee, the City of Cranston may assess the user the full Sewer Usage Fee that would have been due but for the error. The City of Cranston will notify the user of this adjustment and the cause for the adjustment. If the Sewer Usage Fee was in error due to the user's violation of the ordinance, charges that would have been due but for the violation shall be assessed by the City of Cranston. In either case, a separate supplemental Sewer Usage Fee bill will be mailed reflecting the additional charge.

E. Sewer Usage Fee adjustment requests shall be processed using a form provided for this purpose. This form shall be signed and dated by the property owner and included with a copy of the Sewer Usage Fee bill in contention and any other pertinent information or documents supporting an adjustment. All forms and documents shall be submitted to:

City of Cranston
Department of Public Works
869 Park Avenue
Cranston, RI 02910
Attention: Director

F. A written decision will be made by the Director to approve or deny the adjustment within 30 days from receipt of completed request, unless further information is required. All written decisions by the Director shall be final upon issuance of such written decision, but shall be subject to appeal to the Public Works Committee pursuant to Section 13.08.510 of the City of Cranston Codified Ordinance, including decisions on adjustment requests that were not filed within the time periods set forth in Subsection B above.

G. The Director shall prepare a report summarizing the number of Sewer Usage Fee adjustment requests, the number of requests approved and the reasons for such approvals and such other information as he or she deems appropriate. Such report shall be delivered to the Public Works Committee by September 1 of each year for the prior fiscal year.

SECTION 2. This Ordinance shall take effect upon its final adoption.

Solicitor's Endorsement (Positive or Negative)



Anthony A. Cipriano
City Solicitor

Date

-JANUARY 28, 2013-

CLASS B VICTUALLING LICENSE – NEW * ABOVE THE CAP REQUIRES FULL COUNCIL RECOMMENDATION # 75**

Della Valle Inc d/b/a Potenza Ristorante
Walter Potenza/Carmela Natale

162 Mayfield Ave.

On motion by Councilman Santamaria, seconded by Councilman Aceto, it was voted to approve the above liquor license application. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

V. PUBLIC HEARINGS

(open to any matters)

None.

VI. ELECTION OF CITY OFFICIALS

JUVENILE HEARING BOARD:

PAMELA SCHIFF re-appointment– Alternate term ending Dec. 1, 2013

JUDITH B. FOX, ESQ. – Alternate appointment – term ending Dec. 1, 2013

On motion by Councilman Aceto, seconded by Councilman Santamaria, it was voted to approve the appointments of ***Pamela Schiff*** and ***Judith Fox*** as Alternates to the Juvenile Hearing Board. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

AUDIT COMMITTEE:

COUNCIL MEMBER (majority vote 3.04.110)

On motion by Councilman Aceto, seconded by Councilwoman Lee, it was voted to appoint ***Council Vice-President Farina*** as a member of the Audit Committee. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

SHERRY FERDINANDI – Reappointment term ending Dec. 31, 2015

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to re-appoint ***Sherry Ferdinandi*** as a member of the Audit Committee. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

MARK PERROTTI – Appointment replacing Councilman Farina.

Councilman Botts nominated Mr. Bloom to serve as a member of the Audit Committee. Councilman Favicchio seconded the nomination. Roll call was taken and motion failed on a vote of 2-7. The following being recorded as voting “aye”: Councilmen Botts and Favicchio -2. The following being recorded as voting “nay”: Councilwoman Lee, Councilmen Stycos, Archetto, Aceto, Santamaria, Council Vice-President Farina and Council President Lanni -7.

-JANUARY 28, 2013-

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to appoint **Mark Perrotti** as a member of the Audit Committee. Motion passed on a vote of 7-2. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Archetto, Aceto, Santamaria, Council Vice-President Farina and Council President Lanni -7. The following being recorded as voting "nay": Councilmen Botts and Favicchio -2.

SCHOOL BUILDINGS COMMITTEE

2 council members (majority vote Charter 11.03)

On motion by Councilman Archetto, seconded by Council Vice-President Farina, it was voted to appoint **Councilman Santamaria** as a member of the School Buildings Committee. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

On motion by Council Vice-President Farina, seconded by Councilman Santamaria, it was voted to appoint **Councilman Aceto** as a member of the School Buildings Committee. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

PARKS & RECREATION ADVISORY COMMISSION

Councilman Stycos (majority vote Charter 11.06)

On motion by Councilman Santamaria, seconded by Councilman Archetto, it was voted to appoint **Councilman Stycos** as a member of the Parks and Recreation Advisory Commission. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

HARBOR MASTER

EDWARD W. WESTCOTT – Appointment – Term ending January 5, 2015

On motion by Councilman Stycos, seconded by Councilwoman Lee, it was voted to appoint **Edward W. Westcott** as the Cranston Harbor Master. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

Council President Lanni issued Oath of Office to Mr. Westcott.

BOARD OF CONTRACT AND PURCHASE

(appointment by designated position not by City Council)

Council President: Mark Perrotti – Re-appointment

Council President announced his appointment to the Board of Contract and Purchase to be **Mark Perrotti**.

Majority Leader: Two appointments

Councilman Archetto, Majority Leader, announced his two appointments to the Board of Contract and Purchase to be **Colleen Crudele** and **Richard Tomlins**.

Minority Leader: Two appointments

Councilman Favicchio, Minority Leader, announced his two appointments to the Board of Contract and Purchase to be **Manuel Miguel** and **Matthew Coppa**.

-JANUARY 28, 2013-

VII. REPORT OF CITY OFFICERS

None.

VIII. EXECUTIVE COMMUNICATIONS

REPORT ON HIRING OF SPECIAL COUNSEL, CONSULTANTS, ETC., PURSUANT TO CHARTER SECTION 15.05.

Councilman Santamaria questioned why there are two firms handling the case of Sue Bello. Solicitor Rawson stated that the reason is the City was sued, as well as the City Council, as well as the individual members. There is a conflict with the Mayor and City Council, as they are separate defendants.

Council Vice-President Farina asked Solicitor Kirshenbaum what it is that the City is strategizing between last year and up to now, since we will be losing this case and we have lost the first round. He would like to know this by the Executive Session meeting to discuss this.

REQUEST TO BE PLACED ON PENSION: CAPTAIN CLARENCE A. HOPKINS, CRANSTON FIRE DEPARTMENT.

On motion by Councilman Favicchio, seconded by Councilman Santamaria, it was voted to approve the above request. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

CLAIMS SETTLED BY THE SOLICITOR'S OFFICE: METLIFE AUTO & HOME FOR AYOTTE \$900.00 PROPERTY DAMAGE; LATOYA PEOPLES & D'OLIVEIRA & ASSOCIATES \$4,500.00 PERSONAL INJURY.

No discussion was held.

IX. COUNCIL PRESIDENT COMMUNICATIONS

EMERGENCY MANAGEMENT LIAISON: Councilman Aceto

Council President Lanni announced Councilman Aceto to be the Emergency Management Liaison.

Council President Lanni stated that he realizes that the Mayor is the lead member in negotiations, but he and the City Council need to be kept in the loop, since the City Council will be starting the budget process soon. He asked that the Mayor give monthly updates to the City Council on negotiations. Mr. Lopez re-extended an invitation to the City Council to meet with the Administration to address any matters or concerns to work together for the betterness of the City.

-JANUARY 28, 2013-

UPDATE REGARDING MUNICIPAL COURT DEPOSIT DISCREPANCY INVESTIGATION

Mr. Strom stated that this issue was brought to his attention by the Auditors who found a period of 2-3 months some discrepancies. It was his recommendation to engage the Auditors to conduct a further audit for a period of 146 days and there were 81 discrepancies found. He was given a draft report of the findings. He, personally, met with the Administrative Court Assistant and Judge Joslyn and in his opinion, this was a bookkeeping and reconciliation problem. Each person in Municipal Court who takes in money has their own draw and they were not reconciling their draws daily and that was stopped. The Administrative Assistant was not aware of this and for the last month and a half, there have been no discrepancies. He also indicated that this will be monitored on a monthly basis making sure there are no discrepancies.

X. COUNCIL MEMBER COMMUNICATIONS

Councilman Santamaria:

- **City Council Rule 25: Councilman Santamaria** presented a handout from Mr. Quinlan regarding a scrivener's error in the Council Rules.

On motion by Councilman Santamaria, seconded by Councilman Aceto, it was voted to correct the scrivener's error as indicated in Mr. Quinlan's handout. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

- **Cranston Street Corridor Project** (Resolution No. 2010-77) Adm. update. (Cont. from 12/17/2012).

Mr. Cordy stated that the engineering plans are at 30% and being reviewed by the Public Works Department. As soon as they have a date, he will notify the City Council.

Councilman Santamaria asked that this item be continued.

- **Fletcher Avenue Flood wall engineering study** – Adm. Update. (Cont. from 12/17/2012).

Mr. Cordy stated that the date for the meeting with the neighbors is set for February 20, 2013 at 7:00 P.M. at the Cranston Senior Center.

- **Macklin Street** – no thru trucking issue. (Cont. from 12/17/2012).

Councilman Santamaria stated that Barrington Printing has not responded to the letter sent by the City requesting that they do not use that route.

Mr. Cordy stated that the letter sent does not ask for a response and it was very specific.

- **List of Tow Companies City uses and list of private vendors used for snowstorms, including financials of what they are paid per hour.**

Councilman Santamaria asked that this item be continued in order for the Council to review this report.

Councilman Santamaria asked that the Council be provided with a list of Police Tow companies. Mr. Lopez stated that he can provide this list.

-JANUARY 28, 2013-

Councilman Santamaria asked if we use Cranston vendors first. Mr. Lopez stated that this is required by Ordinance.

Mr. Lopez asked that if there are any requests for information or reports from the Council, in order to adequately respond to the requests, the requests be sent to the Administration and give the Administration time to work on this.

- ***Dollar Tree – Plainfield Pike***

Councilman Santamaria stated that this establishment had another 4 AM dumpster pickup on New Year's Eve. Solicitor Kirshenbaum stated that he will email and call Stan Pikul, Building Official, to see what happened. If it was regular pickup or if it was a new driver, but it has not happened since then. He asked that this be placed on the next Council Docket.

- ***Illegal Tie-Ins***

Councilman Santamaria asked for an Executive Session for a status update regarding this issue. Solicitor Kirshenbaum stated that this can be discussed at the same Executive Session as the RIRRC claims, since they are related.

Council President Lanni stated that this should be discussed in Executive Session with the full City Council.

Councilman Stycos:

- ***Administrative status report on DEM Supply Depot on Warwick Avenue and Pawtuxet walking trail***

Mr. Cordy stated that the Administration has reached out to DEM on the request of Councilman Stycos to see what their interest is on this property and their response is they have no interest to sell the property. They are in the process of demolishing the existing building. They may give us an Easement for a walking trail.

Councilman Stycos asked that this item be continued for an update.

- ***Guns Buy-Back Program***

Councilman Stycos asked if Cranston has considered a gun buy-back program, similar to other cities and towns. Mr. Cordy stated, that he does not believe so, but he can check with the Police Department.

Councilman Aceto:

- ***Bonds – what is interest rate and what is due to date***

Mr. Strom indicated to the Council that the CAFR report shows all the information regarding the Bonds. As of today, we budgeted \$6.5 million in debt service and \$3.3 million in interest; we have expended \$2.7 million in interest and \$5.1 million in principal. He will be going out to Bond this year and will be meeting with the fiscal advisors.

- ***Street Paving List***

Mr. Lopez stated that he has a list he can provide to the Council. He indicated that this is a 2012 plan.

Councilman Archetto:

- ***Speeding on Laurel Hill Ave.***

Councilman Archetto asked Administration what can be done to remedy this problem, since there is an elementary school in the area. We need to address this problem before it gets worse. He indicated that a constituent sent a letter to him, Council President and the Administration on December 12, 2012.

-JANUARY 28, 2013-

Mr. Lopez stated that the Administration did receive this letter and the Traffic Engineer is researching this issue and there will be proposals or possible solutions to this problem.

Councilman Botts:

- ***Police Department***

Councilman Botts stated that on January 9, 2013, he went on a ride along with a Police Officer and reported that he was very impressed with the professionalism of the Cranston Police Department. He urged other members to do the same to witness the operation of this Department.

Discussion ensued regarding the street paving list.

Councilman Archetto stated that he has mentioned numerous times, that this list does not have any streets listed for Ward 3.

Councilman Stycos stated that for the next Finance Committee meeting, he would like a detailed description on how the road paving list is going to be over-budget for the \$1 million.

Mr. Cordy indicated that the numbers on the list are budgeted numbers that are put on the streets. The only way we would know more accurate numbers is when we put it out to bid.

Mr. Strom addressed Councilman Stycos's question on the financials for the road paving. He stated that last year, \$300,000 was spent for storm drains and approximately \$2 million in road improvements, \$500,000 of that was for Hurricane Irene.

Council Vice-President Farina stated that this issue has sparked a lot of questions. What he recommends is that an audit be done on what exactly has been spent in each Ward. He asked Mr. Strom to provide this for the City Council members.

Councilman Aceto stated that this is just the streets that were budgeted for 2012-2013. What he is looking for is a master list for all the streets of the City, if that list is available. Mr. Lopez stated that this list is located in the Public Works and Engineering Departments for anyone to view. This is very voluminous and to make copies and bring them to the Council would be very hard.

Council President Lanni asked if this list can be placed on a disc or e-mailed to the Council. Mr. Lopez stated that he can look into it, but it is quite voluminous.

Council President Lanni stated that he would like to see the Administration work with the Council in compiling a list for the next fiscal year that would treat each Ward equally.

XI. OLD BUSINESS

None.

XII. INTRODUCTION OF NEW BUSINESS

Clerk read the following introduced items and the Committees and the date referred for public hearing:

-JANUARY 28, 2013-

On motion by Councilman Santamaria, seconded by Councilman Aceto, it was voted to suspend Council Rule 5. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

Special City Council – February 20, 2013

1-13-01 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Phenix Lodge). [\[click here to view\]](#)

On motion by Councilman Santamaria, seconded by Council Vice-President Farina, it was voted to refer the above Ordinance to a Special City Council information public hearing on February 20, 2013 at 7:00 P.M. at Cranston High School East Auditorium and if follow-up informational meeting is needed, it will be scheduled at that time. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

Clerk continued to read the following introduced items and the Committees and the date referred for public hearing:

Ordinance Committee – February 14, 2013

1-13-02 Ordinance authorizing the City to enter into an agreement with the RI Department of Education for the transfer of ownership of Cranston Area Career and Technical Center to the City of Cranston for \$3.2 million dollars. [\[click here to view\]](#)

Resolution encouraging the Rhode Island General Assembly to eliminate single party voting by means of a single mark on a ballot. [\[click here to view\]](#)

Finance Committee – February 14, 2013

1-13-03 Ordinance in amendment of Title 3, Chapter 12 of the Code of the City of Cranston, 2005, entitled "Revenue and Finance, Taxes Generally" (Collection of Past Due Taxes). [\[click here to view\]](#)

1-13-04 Ordinance in amendment of Title 2 of the Code of the City of Cranston, 2005, entitled "Administration and Personnel/Municipal Court" (Judges' Salaries and Auxiliary Judge Duties). [\[click here to view\]](#)

Resolution in support of legislation to allow the City to use income criteria in determining whether to grant property tax relief. [\[click here to view\]](#)

Public Works Committee – February 4, 2013

Resolution authorizing the Mayor to enter into a Right of First Refusal Agreement with CLCF for property located at 61 Brayton Avenue. [\[click here to view\]](#)

Claims Committee – February 4, 2013

- *Property damage claim of Paul H. Archetto for alleged incident on January 4, 2013.
- *Property damage claim of Donald L. Webb for alleged incident on December 29, 2012.
- *Property damage claim of Elvira Pazienza for alleged incident on December 31, 2012.
- *Property damage claim of Carlton Rotondo for alleged incident August 7, 2012.
- *Property damage claim of Nancy DiStefano for alleged incident on January 5, 2013.
- *Property damage claim of D'Ercole Construction for alleged incident on December 31, 2012.
- *Personal injury claim of Melissa Devila for alleged incident on December 19, 2012.
- *Property damage claim of Gina Mallilo Bank for alleged incident on January 16, 2013.
- *Property damage claim of Alan Torigian for alleged incident on January 16, 2013.

*forwarded only to City Council, Solicitor and Anna Marino

THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL
IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF
CRANSTON, 2005, ENTITLED "ZONING"
(Phenix Lodge)

No.

Passed:

John E. Lanni, Jr., Council President

Approved:

Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

It is ordained by the City Council of the City of Cranston as follows:

Section 1. That the Zoning Map accompanying and made a part of Chapter 17 of the Code of the City of Cranston, Rhode Island, 2005, entitled, Zoning, as adopted January 24, 1966, as amended, is hereby further amended as follows:

By deleting from an A-12 District, a portion of Lot 3 located on Zoning Plat 19/1, located on the southeasterly side of Natick Avenue and the southeasterly side of Phenix Avenue, Cranston, Rhode Island, between R. I. Route 37 and Interstate Route 295. (See Metes and Bounds description attached hereto as Exhibit "A" and made a part hereof).

And by adding thereto the following:

Mixed Use Planned District (MPD), a portion of Lot 3 located on Zoning Plat 19/1, located on the southeasterly side of Natick Avenue and the southeasterly side of Phenix Avenue, Cranston, Rhode Island, between R. I. Route 37 and Interstate Route 295. (See Metes and Bounds description attached hereto as Exhibit "A" and made a part hereof).

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Section 2. That the Zoning Map accompanying and made a part of Chapter 17 of the Code of the City of Cranston, Rhode Island, 2005, entitled, Zoning, as adopted January 24, 1966, as amended, is hereby further amended as follows:

By deleting from an A-12 District, a portion of Lot 1 located on Zoning Plat 17/1, located on the southeasterly side of Natick Avenue and the southeasterly side of Phenix Avenue, Cranston, Rhode Island, between R. I. Route 37 and Interstate Route 295. (See Metes and Bounds description attached hereto as Exhibit "A" and made a part hereof).

And by adding thereto the following:

Mixed Use Planned District (MPD), a portion of Lot 1 located on Zoning Plat 17/1, located on the southeasterly side of Natick Avenue and the southeasterly side of Phenix Avenue, Cranston, Rhode Island, between R. I. Route 37 and Interstate Route 295. (See Metes and Bounds description attached hereto as Exhibit "A" and made a part hereof).

Section 3. The Overall District Plan, (attached hereto as Exhibit "B"), and the Narrative Outline and Statement of Purpose (attached hereto as Exhibit "C") are incorporated herein and made a part hereof.

Section 4. This ordinance shall take effect upon its final adoption.

Positive Endorsement: Negative Endorsement: (Attach reasons)

Christopher M. Rawson, City Solicitor Date Christopher M. Rawson, City Solicitor Date

Petition filed by: Del Bonis Sand & Gravel Co.

Referred to: Special Council February 20, 2013

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THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE RI DEPARTMENT OF EDUCATION FOR THE TRANSFER OF OWNERSHIP OF CRANSTON AREA CAREER AND TECHNICAL CENTER TO THE CITY OF CRANSTON FOR \$3.2 MILLION DOLLARS

No.

Passed:

John E. Lanni, Jr., Council President

Approved:

Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

SECTION 1. Ordinance No. 2012-16 previously approved by the Council on July 23, 2012 is hereby revoked and rescinded in its entirety including the proposed terms of the agreement and superseded by this Ordinance and attached proposed agreement (See Attached Exhibit A).

SECTION 2: The City of Cranston shall accept transfer of ownership of property, specifically a parcel of land and the improvements thereon at 100 Metropolitan Avenue, from the State of Rhode Island Department of Education to the City of Cranston for \$1.00 consideration. The City will receive three million two hundred thousand dollars (\$3,200,000) from the State of Rhode Island for improvements and repairs. The City Council of the City of Cranston hereby authorizes, approves, confirms, and ratifies the aforementioned Agreement. (See attached Exhibit A).

SECTION 3: This Ordinance shall take effect upon its final adoption.

Positive Endorsement		Negative Endorsement (attach reasons)	
_____	Date	_____	Date
Christopher Rawson, Solicitor		Christopher Rawson, Solicitor	

Referred to Ordinance Committee February 14, 2013
Sponsored by Mayor Fung

EXHIBIT "A"
AGREEMENT TO TRANSFER OF OWNERSHIP
OF THE
CRANSTON AREA CAREER AND TECHNICAL CENTER

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This Agreement is made and entered into this _____ day of _____, 2013, by and between the City of Cranston ("City of Cranston") and the Cranston School District ("CSD") and the State of Rhode Island and Providence Plantations, by and through the State Board of Education, the Rhode Island Department of Elementary and Secondary Education ("RIDE") and the Rhode Island Department of Administration (collectively, the "State").

RECITALS

WHEREAS, pursuant to the title search (appendix 1), the City of Cranston conveyed in fee simple a parcel of land and the improvements thereon at 100 Metropolitan Avenue in the City of Cranston, more specifically described in the attached Exhibit A, to the State Board of Education to use for "vocational purposes" (the "Real Property"), and;

WHEREAS, as owner of the Real Property, the State Board of Education (in trust for the State of Rhode Island in accordance with R.I.G.L. 16-60-1 (b)) is responsible for the Real Property's care and upkeep;

WHEREAS, the Real Property is in need of capital repairs and the Governor's FY 2013 Capital Budget has included appropriations for those capital repairs, to be distributed as follows:

FY 2013	
Within 30 days of execution	\$1,927,417.00
FY 2014	
August 15, 2013	\$ 872,583.00
FY 2015	
August 15, 2014	\$ 400,000.00

WHEREAS, CSD operates the Cranston Area Career and Technical Center ("CTC") on the Real Property;

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WHEREAS, the State of Rhode Island, by and through the State Board of Education and the State of Rhode Island through its Department of Administration wish to convey the Real Property to the City of Cranston and wish CSD to continue operating a career and technical center on the Real Property or elsewhere;

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WHEREAS, the State Properties Committee must approve the transfer of real property from the State Board of Education and the State of Rhode Island to the City of Cranston pursuant to R.I. Gen. Laws § 37-5-5; and

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WHEREAS, it is in the interest of all parties that the mutually agreed upon conditions pursuant to which the State Board of Education and the State of Rhode Island transfers the Real Property to the City of Cranston be set forth.

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AGREEMENT

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NOW, THEREFORE, it is agreed that:

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1. Obligations of the State Board of Education

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a. On or before August 15, 2014, the State of Rhode Island shall grant (without recourse to CSD) and transfer the sum of THREE MILLION TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$3,200,000.00) to be used exclusively by CSD for capital projects identified by CSD in its sole discretion at the Real Property or the appurtenances thereto, including [but not limited to], any areas of Real Property dedicated to activities related to the CTC (the "Capital Projects"). The State agrees that the improvements and repairs identified in Appendix 3 will be submitted to the State Board of Education for approval for any applicable housing aid available for such improvements, in conformance with the applicable State Board of Education Regulations.

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b. On August 15, 2014, the State Board of Education and the State of Rhode Island shall convey good, marketable title by Quit Claim Deed to the Real Property to the City of Cranston.

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c. Assuming conveyance as contemplated hereby, the State Board of Education shall have no liability or other lawful responsibility for any and all conditions arising on or from the Real Property after August 15, 2014, except for any liabilities to third parties not party to this contract arising from conditions of the Real Property prior to such time.

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140 d. For so long as CSD operates a career and technical center, the
141 Rhode Island Department of Education shall allocate to CSD funding through the
142 Carl D. Perkins Vocational and Education Act of 1998 or similar federal program,
143 in accordance with the prescribed allocation formula and programmatic
144 requirements set forth in the federal regulations.
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146 2. Obligations of the City of Cranston and of CSD
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148 a. CSD covenants that the Capital Projects will be competitively bid in
149 the manner required by the State Purchasing Act, R.I. Gen. Laws §§37-2-1, et
150 seq. CSD further covenants that its bidding specifications for the Capital Project
151 shall require contractors to include the State Board of Education and the State of
152 Rhode Island as insured parties in any and all insurance required from the
153 contractor by CSD. CSD, the State Board of Education, and the State of Rhode
154 Island, through the Department of Administration, will confer and agree upon the
155 insurances to be procured to protect the parties from liability resulting from
156 construction work performed as part of any Capital Project or Projects. The
157 parties shall also confer and agree on any additional insurance that may be
158 necessary and proper to protect the interests of the parties.
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160 b. CSD covenants that it will take such steps as are reasonably
161 necessary to accommodate any requests by the State Board of Education to
162 audit the Capitol Projects.
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164 c. On August 15, 2014, the City of Cranston shall accept title to the
165 Real Property, provided that the State Board of Education and the State of
166 Rhode Island shall retain tort and/or environmental liability to third parties who
167 are not parties to this contract for any and all property conditions existing on the
168 Real Property prior to the time CSD accepts ownership of the property, and
169 further contingent upon the State of Rhode Island providing such funding as has
170 been promised under the terms and conditions of this agreement. Nothing in this
171 contract shall be construed to require the State of Rhode Island or the State
172 Board of Education to provide the CSD with additional funds beyond those
173 already specified in this contract to remediate any environmental conditions
174 existing now or in the future in the Real Property.
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176 d. CSD will continue to operate a career and technical center for so
177 long as future state education aid, School Committee funding, and City of
178 Cranston funding is sufficient for such continuation. In no case will operation of a
179 career and technical center cease before June 30, 2015.
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186 e. Any Capital Project or Projects undertaken at the Real Property
187 shall be conducted in conformance with the RIDE 1.0 School Construction
188 Regulations as amended from time to time. In addition, the renovation work shall
189 undergo review by the Rhode Island State Building Commissioner's Office and
190 the State Fire Marshall's Office.

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192 f. The City of Cranston shall transfer all care, custody and control of
193 the Real Property to CSD pursuant to R.I. Gen. Laws 16-2-9, 16-2-15, and
194 16-2-18. Upon transfer, CSD shall maintain care, custody and control of the Real
195 Property as it does its other school facilities.

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197 3. Other Obligations of the Parties

198
199 (A) Nothing herein shall be deemed to obligate CSD to use all or any
200 specific part of the Real Property as a career and technical center, and nothing
201 herein shall preclude CSD from using all or any specific part of the Real Property
202 for other educational purposes, provided in either case, CSD operates a career
203 and technical center.

204
205 (B) Title Examination. The City of Cranston, at its sole cost and expense,
206 has the right to examine title to the Property. If the City of Cranston has any
207 objections to title, it shall give RIDE written notice of such objections. Upon
208 receiving notice of any objection to title, RIDE will make reasonable efforts to
209 cure such objection to title before the transfer of title. If RIDE is unable to cure
210 such objection to title before the transfer of title, the transfer date hereunder shall
211 be extended for a reasonable time (up to thirty days), unless the City of Cranston
212 agrees to waive such objections to title.

213
214 If after the expiration of the extended time RIDE shall have failed to cure
215 said objections to title then at the City's election, exercisable by written notice to
216 RIDE, this Agreement may be canceled by either the City of Cranston or CSD.

217
218 (C) Loss. Until the transfer of title and the recording of the Deed, the State
219 shall bear the risk of loss.

220
221 If the Property or any portion thereof is damaged or destroyed prior to the
222 Closing or if the Property or any portion thereof is taken by exercise of the power
223 of eminent domain during such period, the City of Cranston may elect either: i) to
224 terminate this Agreement and any and all obligations to purchase the Property by
225 giving written notice to RIDE or ii) to consummate the transfer with compensation
226 by the State of Rhode Island in the amount of the cost of replacement or repair.

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(D) Remedies.

a. In the event that the State Board of Education fails to substantially perform the obligations set forth in this Agreement, this Agreement shall be terminated and shall be of no further force and effort, except as otherwise expressly provided herein. Moreover, RIDE waives any and all claims, whether at law or in equity, to recover any funds expended or committed to the Capital Projects referenced in this contract regardless of termination of this Agreement.

b. In the event that the City of Cranston and/or CSD fail to substantially perform the obligations set forth in Section 2 of this Agreement, this Agreement shall be terminated and shall be of no further force and effect. Notwithstanding anything to the contrary, CSD will not be liable for repayment of the \$3,200,000.00 referred to in Paragraph 1(a) of this Agreement so long as CSD has used the funds for capital projects identified by CSD in its sole discretion at the Real Property or the appurtenances thereto and is in compliance with paragraph 2(d) of this Agreement.

(E) The State's Representations And Warranties. The State represents, warrants and covenants, as follows:

a. Authorization. The execution and delivery of this Agreement by the parties to this agreement, the performance by the parties of their covenants and agreements hereunder and thereunder, and the consummation by the parties of the transactions contemplated hereby and thereby have been duly authorized by all necessary action. When executed and delivered by the parties this Agreement will constitute the valid and legally binding obligation of the parties.

b. Encroachments. All improvements now on the Property are entirely within the boundary lines of the land described on Appendix 2, and no other adjoining property encroaches upon the land.

c. Environmental. As of the date hereof neither of the parties: (1) have caused or are aware of a release or threat of release of Materials (as defined herein) on any of the premises or personal property owned or controlled by the State, or any abutting property, which could give rise to liability under any Superfund and Hazardous Waste Laws (as defined herein) or any other federal, state, or local law, rule or regulation; (2) have arranged for the transport of or transported any Materials in a manner as to violate, or result in potential liabilities under, any Superfund and Hazardous Waste Laws; (3) have received any notice, order or demand from the Environmental Protection Agency or from the State of

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Rhode Island under any Superfund and Hazardous Waste Laws; (4) have incurred any liability under any Superfund and Hazardous Waste Laws in connection with the mismanagement, improper disposal, or release of Materials; (5) are aware of any inspection or investigation of any of the premises or personal property owned or controlled by Borrower or abutting property by any federal, state or local agency for possible violations of the Superfund and Hazardous Waste Laws.

To the best of the knowledge of the parties to this agreement, none of them have committed or omitted any act which caused the release of Materials on such premises or property which could give rise to a lien, penalties, fines or other charges thereon by any federal, state or local government.

The term "Materials" means any "oil", "hazardous material", "hazardous wastes" or "hazardous substances" as defined under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq., as amended, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., as amended, or under applicable state law, and regulations adopted thereunder, and the foregoing are collectively the "Superfund and Hazardous Waste Laws".

1. The parties to this contract mutually agree to equitably share between Cranston and the State of Rhode Island any costs or claims including remediation costs arising from environmental pollution occurring on the premises during the time the premises were held in trust for the state of Rhode Island by the State Board of Education for Elementary and Secondary Education.
2. Cranston is invited, urged, and cautioned to inspect the premises before receiving title to the premises and shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any part of the premises.
3. Except as specifically stated in this agreement, Cranston agrees that no warranties by the State Board of Education or the state of Rhode Island either express or implied are given with regard to the condition of the premises.

324 (F) Environmental Condition.

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326 a. Phase 1. City of Cranston, at its sole cost and expense, has
 327 the right to perform a Phase 1 environmental site assessment for the Real
 328 Property. The State will furnish to the City of Cranston copies of any
 329 environmental reports which exist. The City of Cranston shall give the State
 330 written notice of any environmental condition affecting the Real Property which
 331 the Rhode Island Department of Environmental Management or the
 332 Environmental Protection Agency would require to be remedied (environmental
 333 condition) and shall provide the State with a copy of any written report
 334 concerning such site assessment.

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336 b. Substantial Environmental Condition. If the City of Cranston
 337 has notified the State of any such environmental condition on the Real Property,
 338 and if the cost to remedy same shall cost in excess of \$5,000.00, then the State
 339 may elect to terminate this Agreement and any and all obligations, contractual or
 340 otherwise, to purchase the Real Property, by giving written notice to City of
 341 Cranston, within thirty (30) days after receipt by the State of a written notice from
 342 the City of Cranston of such environmental condition and the amount of the cost
 343 to remedy same.

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345 (G) Further Action. Each of the parties hereto shall use such party's
 346 best efforts to take such actions as may be necessary or reasonably requested
 347 by the other parties hereto to carry out and consummate the transactions
 348 contemplated by this Agreement.

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350 (H) No Waiver. Notwithstanding any course of dealing between the
 351 parties, neither failure nor delay on the part of any party to exercise any right,
 352 power, or privilege hereunder shall operate as a waiver thereof, nor shall any
 353 single or partial exercise of any right, power, or privilege hereunder preclude any
 354 other or further exercise thereof or the exercise of any other right, power, or
 355 privilege. No notice to or demand upon the other party shall be deemed to be a
 356 waiver of the obligation of such party or of the right of the party to take further
 357 action without notice or demand.

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359 (I) Binding Effect. This Agreement shall be binding upon and inure to
 360 the benefit of State and the City of Cranston and their respective successors and
 361 assigns. If two or more parties are named, then their obligations hereunder are
 362 joint and several, except that this agreement shall not require the State Board of
 363 Education to transfer any funds to the CDS not appropriated by the General
 364 Assembly to the use of the CDS in conformity with this contract.

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366 (J) Governing Law. This Agreement shall be governed by and
 367 construed in accordance with the internal substantive laws of the State of Rhode
 368 Island.

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372 (K) Section Headings. The section headings are for the convenience
373 of the parties and shall not alter, modify, amend, limit or restrict the contractual
374 obligations of the parties.

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376 (L) Counterparts. This Agreement may be executed in counterparts,
377 each of which shall be deemed an original, but all of which taken together shall
378 constitute one and the same instrument.

379
380 (M) Complete Agreement.

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382 This Agreement represents the complete agreement of the parties and
383 supersedes all prior agreements and communications. This Agreement may not
384 be modified except by a writing signed by both parties. In the event of any
385 dispute over the interpretation, construction or application of this Agreement, the
386 parties agree that such matters shall be subject to proceedings before a court of
387 competent jurisdiction within the State of Rhode Island.
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FOR THE STATE OF RHODE ISLAND AND STATE BOARD OF EDUCATION

Deborah A. Gist, Commissioner of Elementary
And Secondary Education, at the direction of the
State Board of Education
And as the Executive Agent of the Board

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, on this _____ day of _____, 2013, before me personally
appeared Deborah A. Gist, to me known and known by me to be the
Commissioner of Elementary and Secondary Education and the Executive Agent
of the State Board of Education, who executed the foregoing instrument as the
Executive Agent of the State Board of Education and she acknowledged said
instrument by her so executed to be her free act and deed in her said capacity
and the free act and deed of the State Board of Education.

Notary Public
My Commission Expires: _____

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419 _____
420 Richard Licht, Director
421 Department of Administration

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423 STATE OF RHODE ISLAND
424 COUNTY OF PROVIDENCE

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426 In Providence, on this _____ day of _____, 2013, before me
427 personally appeared Richard Licht, to me known and known by me to be the
428 Director of the Department of Administration, who executed the foregoing
429 instrument and he acknowledged said instrument by him so executed to be his
430 free act and deed in his said capacity and the free act and deed of the Rhode
431 Island Department of Administration.

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436 Notary Public
437 My Commission Expires: _____

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442 Ronald N. Renaud, Chair
443 State Properties Committee

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445 STATE OF RHODE ISLAND
446 COUNTY OF PROVIDENCE

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448 In Providence, on this _____ day of _____, 2013, before me
449 personally appeared Ronald N. Renaud, to me known and known by me to be
450 the Chair of the State Properties Committee, who executed the foregoing
451 instrument and he acknowledged said instrument by him so executed to be his
452 free act and deed in his said capacity and the free act and deed of the Rhode
453 Island State Properties Committee.

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458 Notary Public
459 My Commission Expires: _____

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FOR THE CITY OF CRANSTON

Allan Fung, Mayor

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, on this _____ day of _____, 2013, before me personally appeared Allan Fung, to me known and known by me to be the Mayor of the City of Cranston, who executed the foregoing instrument and he acknowledged said instrument by him so executed to be his free act and deed in his said capacity and the free act and deed of the City of Cranston.

Notary Public
My Commission Expires: _____

John Lanni, President
Cranston City Council

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, on this _____ day of _____, 2013, before me personally appeared John Lanni, to me known and known by me to be the President of the City of Council, who executed the foregoing instrument and he acknowledged said instrument by him so executed to be his free act and deed in his said capacity and the free act and deed of the City of Council.

Notary Public
My Commission Expires: _____

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FOR THE CRANSTON PUBLIC SCHOOLS

Dr. Judith Lundsten, Superintendent of Schools

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, on this _____ day of _____, 2013, before me personally appeared Dr. Judith Lundsten, to me known and known by me to be the Interim Superintendent of Cranston Public Schools, who executed the foregoing instrument and she acknowledged said instrument by her so executed to be her free act and deed in her said capacity and the free act and deed of the Cranston Public Schools.

Notary Public
My Commission Expires: _____

FOR CRANSTON SCHOOL COMMITTEE

Andrea M. Iannazzi, Chairperson

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Cranston, on this _____ day of _____, 2013, before me personally appeared Andrea M. Iannazzi, to me known and known by me to be the Chairperson of the Cranston School Committee, who executed the foregoing instrument and she acknowledged said instrument by her so executed to be her free act and deed in her said capacity and the free act and deed of the Cranston School Committee.

Notary Public
My Commission Expires: _____

1 THE CITY OF CRANSTON

2
3 RESOLUTION OF THE CITY COUNCIL

4 ENCOURAGING THE RHODE ISLAND GENERAL ASSEMBLY TO
5 ELIMINATE SINGLE PARTY VOTING BY MEANS OF A SINGLE
6 MARK ON A BALLOT

7 No.

8 *Passed:*

9
10 *John E. Lanni, Jr., Council President*

11 *WHEREAS*, the Cranston City Council finds that current state of the law in Rhode
12 Island allowing voters to select all candidates of one political party by means of a single
13 mark, commonly referred to as the master lever, contributes to voter disenfranchisement;
14 and

15 *WHEREAS*, the Cranston City Council finds that the use of a single mark to select
16 all candidates of one political party could inadvertently lead to voter confusion when
17 there are non-partisan offices to be selected on the ballot; and

18 *WHEREAS*, the Cranston City Council finds that the use of a single mark to select
19 all candidates of one political party is an anachronism left over from the use of
20 mechanical voting machines; and

21 *WHEREAS*, legislation has been introduced in the House of Representatives that
22 would prevent any voter from voting for all candidates of one of the respective parties by
23 means of a single mark on the computer ballot by amending the following sections of
24 Rhode Island General Laws:

- 25 1. §17-19-3 Voting equipment and services – Specifications.
26 2. §17-19-9 Party emblems
27 3. §17-19-10 Sample ballots – Contents – Distribution
28 4. §17-19-15 Party Levers
29 5. §17-20-23 Marking and certification of ballot

30 *NOW, THEREFORE, BE IT RESOLVED* that we, the Cranston City Council
31 respectfully request that the General Assembly support these proposed legislative
32 changes set forth in the following bills: H5072, S0044.

36

37 **BE IT FURTHER RESOLVED** that the City Clerk forward a certified copy of
38 this Resolution to the Cranston State Senators and State Representatives in the Rhode
39 Island General Assembly seeking their consideration and support of these legislative
40 proposals.

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42 Sponsored by Councilman Botts

43 Referred to Ordinance Committee February 14, 2013

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THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF TITLE 3, CHAPTER 12 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED "REVENUE AND FINANCE, TAXES GENERALLY"
(Collection of Past Due Taxes)

Passed:

John E. Lanni, Jr., Council President

Approved:

Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

Section 1. Chapter 3, Section 12. entitled " Taxes Generally" is hereby amended by adding thereto the following new section:

3.12.100 - Collection of past due taxes

The city treasurer is authorized to enter into agreements with the Tax Administrator of State of Rhode Island pursuant to Rhode Island General Laws Section 42-142-7 to collect past due tax bills for a resident's overdue tax if all of the following conditions are satisfied by the city treasurer:

1. The City Treasurer shall negotiate with the Tax Administrator of State of Rhode Island to agree upon a reasonable fee for a collection effort made on behalf of the City.
2. That negotiated agreement on the reasonable fee for the State's collection effort must be submitted the City Council for approval in advance of finalizing the agreement with the Tax Administrator of State of Rhode Island .
3. The debtor must be given full credit toward the satisfaction of the debt for the amount of the fee collected by the Tax Administrator of State of Rhode Island pursuant to the agreement.
4. The City of Cranston shall indemnify the Tax Administrator of State of Rhode Island against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the Tax Administrator of State of Rhode Island of the liability owed to the City of Cranston

1-13-03

46 5. the city treasurer shall notify the debtor of its intention to submit the
 47 liability to the t Tax Administrator of State of Rhode Island for
 48 collection and of the debtor's right to appeal not less than thirty (30)
 49 days before the liability is submitted to the Tax Administrator of
 50 State of Rhode Island for collection .

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 52 Positive Endorsement Negative Endorsement (attach reasons)

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57 _____ Christopher Rawson, City Solicitor Christopher Rawson, City Solicitor

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 59 Date Date

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62 Sponsored by: Councilman Mario Aceto

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64 Referred to Finance Committee February 14, 2013

1-13-04

THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL
IN AMENDMENT OF TITLE 2, OF THE CODE OF THE CITY OF
CRANSTON, 2012, ENTITLED "ADMINISTRATION AND
PERSONNEL/MUNICIPAL COURT"
(Judges' Salaries and Auxiliary Judge Duties)**

Passed:

John E. Lanni, Jr. Council President

Approved:

Allan Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

Section 1. Title 2, Chapter 40, entitled " MUNICIPAL COURT" is hereby amended as follows:

2.40.100 - Costs.

A. The municipal court shall be authorized to impose court costs for each violation in an amount equal to the court costs imposed by the ~~Administrative Adjudication Court of the state of~~ Rhode Island **Traffic Tribunal**. Further, the municipal court shall be authorized to impose additional court costs in the amount of four dollars for each violation ~~as a reimbursement fee to the Administrative Adjudication Court~~. The payment of said costs, shall be part of the sentence.

B. All payments shall be deposited in the general treasury of the city.

2.40.120 - Compensation of municipal court judge and municipal court clerk.

A. The compensation of the ~~e~~Chief ~~j~~Judge of the municipal court shall be fifteen thousand five hundred twenty ~~-five~~ dollars (\$15,525.00) per year, unless otherwise amended by ordinance by of the city council.

B. The compensation of the Senior Associate ~~j~~Judge **and Associate Judges** of the municipal court shall be ~~ten~~ **three thousand seven hundred fifty** dollars ~~(\$10,000.00)~~ **(\$3,750.00)** per year, unless otherwise amended by ordinance by of the city council.

1-13-04

44 C. The compensation of the eClerk of the municipal court shall be zero dollars,
45 unless otherwise amended by ordinance ~~by~~ of the city council.

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47 D. The compensation of the Chief Judge, the Senior Associate Judge, the
48 Associate jJudges, and the eClerk may be amended ~~increased~~ by ordinance of the
49 city council.

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52 2.40.130 - Acting judge/acting clerk/auxiliary judge

53 In case of sickness, absence, or other disability or ineligibility of the Chief
54 ~~municipal court jJudge~~, the Cranston ~~sSenior aAssociate municipal court Judge~~
55 and/or ~~aAssociate municipal court jJudges~~ shall serve as the acting Chief municipal
56 ~~court jJudge~~, with all powers and duties of the Chief municipal court jJudge, and
57 shall receive the pro rata salary of the Chief municipal court jJudge during his or
58 her tenure as acting Chief municipal court jJudge. Said pro rata salary shall be
59 deducted from the salary of the Chief municipal court jJudge

60 There shall be appointed by the city council for a term of two years from
61 the first Monday in January following each council election, a Cranston ~~aAuxiliary~~
62 ~~jJudge~~. ~~Said judge shall have no permanent salary, but shall receive per diem~~
63 ~~compensation representing the pro rata salary of the probate court judge in whose~~
64 ~~place said auxiliary judge shall serve.~~ The Cranston ~~aAuxiliary jJudge~~ shall be a
65 qualified elector of the city, an attorney-at-law admitted to practice in the courts of
66 Rhode Island, and shall at the time of his or her appointment have so practiced for
67 five years. Said Cranston ~~aAuxiliary jJudge~~ shall be empowered, to serve as the
68 acting ~~Presiding Municipal or pProbate eCourt jJudge~~, whenever the Municipal
69 ~~or pProbate Court jJudge~~ is temporarily unable to serve as Municipal or pProbate
70 Court jJudge due to illness, absence or other disability. ~~In that event, the auxiliary~~
71 ~~judge shall receive the pro rata salary of the probate court judge during his or her~~
72 ~~tenure as the acting probate court judge; said pro rata salary shall be deducted from~~
73 ~~the salary of the probate court judge.~~ The compensation of the Auxiliary Judge
74 shall be three thousand seven hundred fifty dollars(\$3,750.00) per year unless
75 otherwise amended by the City Council.

76 In case of sickness, absence, or other disability or ineligibility of the
77 municipal court eClerk which shall be less than fourteen (14) days, said eClerk may
78 appoint an acting eClerk, at the same compensation, or at such salary as the city
79 council may determine, for the term of such sickness, absence, disability, or
80 ineligibility of said eClerk. The acting municipal court eClerk shall perform all
81 duties of the municipal court eClerk in his or her absence. In the event of a sickness,
82 absence, or other disability or ineligibility of the municipal court eClerk which shall
83 be fourteen (14) or more days, the city council may, by resolution, appoint an acting
84 municipal court eClerk, for the term of such sickness, absence, disability or
85 ineligibility of the municipal court eClerk, at the same compensation, or at such
86 salary as the city council may determine. An acting municipal court eClerk shall

87 perform all duties of the municipal court eClerk, and in the performance of said
88 duties, shall have the same effect as if performed by the municipal court eClerk.

89
90 **Section 2.** This Ordinance shall take effect January 7, 2013

91
92
93 Positive Endorsement Negative Endorsement (attach
94 reasons)

95
96
97
98 _____
99 Christopher Rawson, City Solicitor Christopher Rawson, City Solicitor

100 Date Date

101
102
103 Sponsored by: Council President John E. Lanni, Jr.

104
105
106 Referred to Finance Committee February 14, 2013

THE CITY OF CRANSTON

RESOLUTION OF THE CITY COUNCIL
IN SUPPORT OF LEGISLATION TO ALLOW THE CITY TO USE INCOME
CRITERIA IN DETERMINING WHETHER TO GRANT PROPERTY TAX
RELIEF

Passed:

John E. Lanni, Jr., Council President

Resolved that,

WHEREAS, the City of Cranston, in its City Code of Ordinances , contains several provisions allowing property tax relief to the elderly and to handicapped residents;

WHEREAS, the City believes that such tax relief should be awarded to those residents most in need of such relief;

WHEREAS, t the City of Cranston, like most other cities and towns in this State, is experiencing severe economic stresses;

WHEREAS, current Rhode Island laws require that the City of Cranston not consider "the taxpayer's ability to pay" when making the determination on whether to grant tax relief to that resident;

WHEREAS, under current Rhode Island law, several towns in Rhode Island are specifically empowered to take income into consideration when making the determination on whether to grant tax relief to a resident;

NOW THEREFORE, BE IT RESOLVED, that the Cranston City Council hereby requests that the General Assembly pass and enact a law or laws granting the City of Cranston authority to take income into consideration when making the determination on whether to grant tax relief to a resident.

BE IT FURTHER RESOLVED, , that the Cranston City Council hereby requests the City Clerk to transmit a copy of this Resolution to the Cranston legislative delegation to the Rhode Island General Assembly forthwith

Sponsored by: Councilman Stycos

Referred to Finance Committee February 14, 2013

U/Resolutions/General Assembly/Income criteria for tax relief

THE CITY OF CRANSTON

RESOLUTION OF THE CITY COUNCIL

AUTHORIZING THE MAYOR TO ENTER INTO A RIGHT OF FIRST REFUSAL AGREEMENT WITH CLCF FOR PROPERTY LOCATED AT 61 BRAYTON AVENUE

No.

Passed:

John E. Lanni, Jr., Council President

Resolved, That

Whereas, the City is the owner of property located at 61 Brayton Avenue; and

Whereas, the Cranston League for Cranston's Future has operated and continues to operate youth activities at that location and has expended time and resources in the upkeep, maintenance and improvement of the Taft, Capirchio, Perry and Presidents Fields

Whereas, the City of Cranston Home Rule Charter, Section 7.08 which sets forth specific procedural requirements for the sale of city-owner property;

NOW, THEREFORE, BE IT RESOLVED THAT, that the Cranston City Council hereby authorizes the Mayor to enter into a Right of First Refusal Agreement, a copy of which is attached hereto and made a part hereof and marked as Exhibit "A", with Cranston League for Cranston's Future for said property notwithstanding the Charter Section 7.08 requirements.

Sponsored by:

Referred to Public Works Committee: February 4, 2013

Exhibit "A"

RIGHT OF FIRST REFUSAL AGREEMENT

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WHEREAS: The City of Cranston (hereinafter "City") is the owner of property located at 61
Brayton Avenue, Cranston, Rhode Island ("Property"), and

WHEREAS: Cranston League for Cranston's Future (hereinafter "CLCF") is a Rhode Island
Non-Profit Corporation which operates youth softball activities within the City of Cranston, and

WHEREAS: CLCF has expended time and resources in the upkeep, maintenance and improvement
of the Taft, Capirchio, Perry and Presidents Fields (hereinafter "Fields") located at the Property, and

WHEREAS: CLCF has requested that the Parks and Recreation Department of the City grant it a
right of first refusal for the use of the Fields for softball activities, and

WHEREAS, the City has agreed to enter into said agreement with CLCF.

NOW THEREFORE: For nominal consideration, the receipt of which is acknowledged, the parties
agree as follows:

1. Right of First Refusal: In the event that the City should receive a bona fide request from
a third party for the use of the Fields and the third party request is acceptable to the City,
the City will not grant the request to use the Property without first offering the dates and
times to CLCF pursuant to the terms of this paragraph. The City shall forward, in
writing, the third party request to CLCF delineating the dates, times and the name of the
field(s) that a Third Party is requesting use of. The request shall be forwarded to either
the President or Director of CLCF. CLCF shall have five (5) days to respond, in writing,

66 to the City of the exercise or waiver of its right to use the Fields during those requested
67 time periods. Should CLCF not respond to the written request of the City within the
68 aforementioned time period, then the right of first refusal shall automatically be deemed
69 waived for the requested dates and time of field use.

70 2. CLCF may not assign this agreement without written consent of the City. CLCF shall
71 not rent, lease or otherwise grant the right to use said Fields to a third party and shall at
72 no time charge or collect any revenue from the use, maintenance or enjoyment of said
73 Fields.

74 3. This agreement shall in no way bind or mandate that the City offer the use of the Fields
75 to CLCF on an annual basis but shall only grant the Right of First Refusal to CLCF if the
76 City allows said Fields to be used by any group or organization.

77 4. The term of this agreement shall be for Four (4) years ("Term"). Not less than 60 days
78 before the end of the Term, but in no event after the end of the Term, CLCF shall have
79 the Option to renew the Right of First Refusal according to the terms provided herein for
80 an additional term of Five (5) years. Said Option shall be delivered to the City in
81 writing. Should CLCF fail to deliver a written request exercising said Option in the
82 period described above, then the Right of First Refusal shall automatically terminate and
83 be void.

84 5. Each provision of this Agreement shall be considered severable, and if for any reason
85 any provision that is determined to be invalid and contrary to any existing or future law,
86 such invalidity shall not impair the operation of or affect those provisions of this
87 Agreement that are not invalid.

88 6. None of the parties shall be deemed to have waived any rights hereunder unless said

89 waiver shall be in writing and signed by all the parties. The waiver of any party of any
90 breach of this Agreement shall not operate or be construed to be a waiver of any
91 subsequent breach.

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93

94 Dated the _____ day of _____, 2013

95 **CITY OF CRANSTON**

96

97 BY _____ Date _____

98 Allan W. Fung, Mayor

99

100

101 **CRANSTON LEAGUE FOR CRANSTON'S FUTURE**

102

103 BY: _____ Date _____

-JANUARY 28, 2013-

On motion by Councilman Santamaria, seconded by Council Vice-President Farina, it was voted to refer the above new business to the respective Committees. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

XIII. MISCELLANEOUS BUSINESS ON CLERK'S DESK

8S-12-1 ORDINANCE IN AMENDMENT OF TITLE 13.08 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED 'PUBLIC SERVICES' (SEWER SERVICE SYSTEM) AND TITLE 13.12 ENTITLED 'WASTEWATER DISPOSAL SERVICES'. [[click here to view Ordinance](#)] [[click here to view notice](#)] (Awaiting conclusion of DEM's public comment period.)

Solicitor Kirshenbaum asked that this item be continued.

2012-16 ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE RI DEPARTMENT OF EDUCATION FOR THE TRANSFER OF OWNERSHIP OF CRANSTON AREA CAREER AND TECHNICAL CENTER TO THE CITY OF CRANSTON FOR \$3.2 MILLION DOLLARS. Report from Administration on status of executed agreement from the RIDE representative. (Awaiting Executed Copy)

Councilman Aceto asked where the funds would come from to purchase the property. Solicitor Rawson stated that the City will purchase the property for \$1 and the State will provide \$3.2 million for renovations. The proposed Ordinance has just been tweaked.

DEM notice of application no. 12-0192 of Frank O Monti, Jr. for alteration of freshwater wetlands at Briarbrook & Regal Way. [[click here to view](#)]

DEM notice of application no. OCTA 12-029 from DSD Enterprises for alteration of freshwater wetlands at intersection of Plainfield and Sailor Way. [[click here to view](#)]

Mr. Quinlan stated that no vote is needed. This is just for the Council's notification.

The meeting adjourned at 9:55 P.M.


 Rosalba Zanni
 Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Ron Ronzio, Stenotypist)



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

January 17, 2013
Application No. 12-0192

NOTICE

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has under consideration the application of Frank O. Monti, Jr. of 116 Lydia Ann Road, Smithfield, RI 02917 requesting permission to alter freshwater wetlands in the City of Cranston.

The proposed project is located approximately 50 feet west of Briarbrooke Lane and approximately 500 feet southwest of its intersection with Regal Way, Assessor's Plat 26-2, Lot 83, Cranston, RI

The freshwater wetlands affected by the proposed project include at least a swamp, and its associated 50-foot perimeter wetland (that area of land within 50 feet of the edge of any swamp)

The purpose of the proposed alterations is for the construction of a three (3) bedroom dwelling with attached garage and deck, driveway, utility connections, Onsite Wastewater Treatment System ("OWTS"), stormwater treatment areas (two rain gardens) and landscaping.

The proposed alterations to freshwater wetlands consist of at least clearing, filling, soil disturbance and all construction related activities associated with lot development within the above-noted freshwater wetlands.

The project, as proposed, will result in the alteration and/or disturbance of approximately 12,500 square feet (0.29) acres of freshwater wetlands as described above.

Full site plans illustrating the proposed project and detailing freshwater wetlands to be altered have been furnished to the Cranston City Council and the Cranston City Clerk's Office and may be viewed at either the City offices or at our offices. A reduced-size set of site plans has been provided with this NOTICE.

This NOTICE is not authorization to do any work or to proceed with the project.

The purpose of this NOTICE is to inform all landowners whose properties are within two hundred feet (200') of the proposed project, the Town/City Council, the Conservation Commission, the Planning Board, the Zoning Board, and any other interested individuals and agencies of the proposal and to provide for a period of forty-five (45) days (NOTICE Period) within which concerns or comments may be received. Any comments and/or objections received during the NOTICE period shall be used to evaluate the proposed project and its impacts upon freshwater wetland functions and values.

You are advised that if you desire to submit a statement or have a good reason to enter a protest against the proposed project, it is your privilege to do so. Objections to the proposed project must relate to the proposed project's impacts on the functions and values provided by the freshwater wetlands to be altered. Such functions and values include but are not limited to:

- 1) Protection of life and/or property from flooding or flood flows by retaining, storing, metering, or slowing flood waters from storm events;
- 2) Providing and maintaining surface and/or groundwater supplies by acting as a recharge or discharge area;
- 3) Providing and maintaining valuable wildlife habitats;
- 4) Providing and maintaining high value recreation areas; and
- 5) Protecting and maintaining water quality.

Information regarding the Program's practices and procedures for evaluating such comments, any definitions, or further information on wetland functions and values may be obtained by consulting the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules).

In accordance with Rule 10.04(C), comments filed with the DEM will be considered if they are in writing, are legible, contain a discernable name and address, are signed and are received during the NOTICE period. The application number appearing in this NOTICE or other information, which will identify the comments to the proposed project is also required. The NOTICE period for this application ends at 4:00 p.m. on March 4, 2013. **This Program cannot extend this NOTICE period.**

In accordance with Rhode Island General Laws (R.I.G.L.) Section 2-1-21 and Rule 10.04 (D), a Town or City may disapprove of an application to alter freshwater wetlands within the NOTICE period. A permit for the proposed project may not be granted by the DEM should disapproval be received in writing from the City/Town Council. To exercise its right to disapprove of this application the City/Town Council must notify this Program, in writing, that it has voted to do so before the end of the NOTICE period indicated herein. Such disapproval by a City or Town, however, shall not preclude the DEM from granting a permit to alter freshwater wetlands relating to a State highway project proposed by the R.I. Department of Transportation, which passes through or crosses two (2) or more municipalities.

Anyone wishing to review the file in this matter should contact Nancy Freeman of this office in advance (telephone: 401-222-6820, ext. 7408) to arrange an appointment.

Sincerely,



Charles A. Horbert, Program Supervisor
Freshwater Wetlands Program
Office of Water Resources
CAH/NLF/nlf



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

13

TDD 401-839-5508

JAN 17 2013

January 17, 2013

Maria Wall
Town Clerk
869 Park Avenue
Cranston, RI 02910

Dear Ms. Wall:

In accordance with Rule 10.04.B.1(b) of the *Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act* I am providing you with a copy of the application, site plan, and public notice for project OCTA 112-029, DSD Enterprises, LLC. Please maintain the application, site plan, and public notice within the town hall for public viewing during the forty-five (45) day public notice period. The public notice period concludes at 4pm on Monday, March 4, 2013.

If you have any questions concerning this meeting or the permitting process, please contact me at (401) 222-4700, extension 4410.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Antonio".

Joseph Antonio, Senior Environmental Scientist
Office of Customer & Technical Assistance
Rhode Island Department of Environmental Management



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

Date: January 17, 2013

Application No. OCTA 12-029

Page 1 of 2

PUBLIC NOTICE

The Department of Environmental Management ("DEM") has accepted for consideration the application of the DSD Enterprises, LLC (the "Applicant"), 2050 Plainfield Pike, Cranston, RI 02921, requesting permission to alter freshwater wetlands in Cranston, RI. The subject property is located approximately 500 feet southwest of the intersection of Plainfield Pike (Rt. 14) and Sailor Way and immediately west of Sailor Way, City of Cranston's Assessor's Plat 36-2, Lot 117. The property is bounded by Plainfield Pike to the north and Sailor Way to the east. A commercial property owner abuts the DSD Enterprises property to the west and south. The southern portion of the property is forested. The forested portion of the DSD property is located along the southern and southwestern property lines and continues onto the abutting property. The property on which the proposed work will occur is owned by DSD Enterprises, LLC.

The purpose of the project is to create a vehicle storage facility necessary to meet the Applicant's goals, while keeping the vehicle storage area adjacent to the currently existing paved parking area. The vehicle storage area will consist of a stone vehicle storage area on the southern edge of the current parking lot over an area that is currently a Forested Wetland (< 3 acres). The stone vehicle storage area will measure approximately 3,515 square feet. In order to construct the stone vehicle storage area, the Applicant is proposing to clear and fill a portion of the Forested Wetland (approximately 3,100 square feet). An additional approximately 1,935 square feet of disturbance is proposed within the 100-foot Riverbank Wetland buffer in order to construct the sediment forebay and bioretention areas. As explained by the Applicant, the sediment forebay and bioretention basin will aid in stormwater management by improving water quality and aiding in flood control of stormwater runoff from the surrounding impervious surfaces prior to reaching the wetland and intermittent stream channel.

The project location features at least the following characterized wetlands, as previously verified under wetland application # OCTA 12-005: Forested Wetland (< 3 acres) measuring approximately 11,310 square feet. The previous application also identified a regulated intermittent stream (< 10 feet wide) on the subject property with an associated 100-foot Riverbank Wetland and floodplain. The applicant has limited the vehicle storage area in scale to approximately 3,515 square feet; the remainder of the wetland will be undisturbed.

Full site plans illustrating the proposed project and detailing freshwater wetlands to be altered have been furnished to the City of Cranston City Town Council and Clerk's Office and may be viewed at the Cranston

impacts upon freshwater wetland functions and values.

You are advised that if you desire to submit a statement or have a good reason to enter a protest against the proposed project, it is your privilege to do so. Objections to the proposed project must relate to the proposed project's impacts on the functions and values provided by the freshwater wetlands to be altered.

Such functions and values include but are not limited to:

- 1) Protection of life and/or property from flooding or flood flows by retaining, storing, metering, or slowing flood waters from storm events;
- 2) Providing and maintaining surface and/or groundwater supplies by acting as a recharge or discharge area;
- 3) Providing and maintaining valuable wildlife habitats;
- 4) Providing and maintaining high value recreation areas; and
- 5) Protecting and maintaining water quality.

Information regarding the DEM's practices and procedures for evaluating such comments, any definitions, or further information on wetland functions and values may be obtained by consulting the DEM's *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* (the "Rules").

In accordance with Section 10.04(C) of the *Rules*, comments filed with the DEM will be considered if they are in writing, are legible, contain a discernable name and address; are signed and are received during the NOTICE Period. The application number appearing in this NOTICE or other information that will identify the comments to the proposed project is also required. The NOTICE Period for this application ends at 4:00 p.m. on March 4, 2013. DEM cannot extend this NOTICE Period.

In accordance with Rhode Island General Laws § 2-1-21 and Section 10.04(D) of the *Rules*, a Town or City may disapprove of an application to alter freshwater wetlands within the NOTICE Period. A permit for the proposed project may not be granted by the DEM should disapproval be received in writing from the City/Town Council. To exercise its right to disapprove of this application the City/Town Council must notify the DEM in writing before the end of the NOTICE Period indicated herein.

Anyone wishing to review the file in this matter at the DEM office located at 235 Promenade Street in Providence should contact Joseph Antonio, DEM Office of Customer & Technical Assistance, in advance (telephone: 401-222-4700 ext 4410, or e-mail: joseph.antonio@dem.ri.gov) to arrange an appointment.

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES/FRESHWATER WETLANDS PROGRAM**

235 Promenade Street, Providence, RI 02908
Telephone: 401-222-6820, Telecommunication Device for the Deaf: 401-222-4468

GENERAL APPLICATION FORM

Please type or print

PART A Purpose of Application:

- Request to Determine Presence of Wetlands only (Rule 8.02)
- Request to Verify Delineated Edge of Wetlands (Rule 8.03)
- Request for Preliminary Determination (Rule 9.00)
- Application to Alter a Freshwater Wetland (Rule 10.00)
- Application For Renewal (Rule 11.02) Complete Only Parts B, D & H
- Application for Permit Modification (Rule 11.03)
- Application For Permit Transfer (Rule 11.04) Complete Only Parts B, E & H
- Change In Owner during review - (Rule 7.02(E)) Cmpl. Only Parts B, F & H

AGENCY USE ONLY
Application No. OCTA 12-039
AGENCY USE ONLY
Application Received:
November 14, 2012

PART B Applicant Information:

- Name of Applicant (see Rules 7.02): DSD Enterprises LLC
Note: The applicant must be the owner of the property or easement which is the subject of this application or must be the government agency or entity with power of condemnation over such property or easement.

Mailing Address of Applicant: 2050 Plainfield Pike

	Street/Road <u>Rhode Island</u>	P.O. Box <u>(401) 943-0005</u>
City/Town <u>Cranston</u>	State <u>RI</u>	Zip Code <u>02921</u>
		Telephone No.

Location of Property subject to this Application:

	Street Abutting Site <u>Plainfield Pike</u>	Street address number (if applicable) <u>2050</u>
City/Town <u>Cranston</u>		

Plainfield Pike and Sallor Way, 170+/- to the East

Nearest street intersection and its distance and direction from site
 Nearest utility pole number(s): 389-51 on site Direction to site from abutting street: N ___ S E ___ W ___
 Tax Assessor's Plat(s) and Lot No.(s): AP 38/2 Lot 117
 Recorded Plat (s) and Lots No.(s) (if no Tax Assessor Plat and Lots available): _____

PART C General Information:

- Any previous application for this site? Yes No Provide Application No.(s) 89-0120D
- Any previous enforcement action for this site? Yes ___ No Provide File No(s) _____
- Amount of wetland area to be altered, if any:

Palustrine wetland	<u>3,098</u>	square feet
Riverbank or perimeter wetland	<u>1,831</u>	square feet
Watercourse:		linear feet
- Check here if any floodplain alteration is proposed
- Fee category per Rule 7.11 (example 7.11(D)(6) 2-lots sub. Pre-Dev. - \$900) 7.11 (D)(3) App. to Alt. \$600 Check No. _____
- Check here if the project has a Certificate of Critical Economic Concern (CEC) and attach copy of certification.

PART D For Application Renewal (if applicable):

- Name of Original or Subsequent Permittee: _____

PART E For Application For Permit Transfer (if applicable):

- Name of Original Permittee: _____
- Application/Permit No. _____ Permit Expiration Date: _____
Note: A certified copy of the deed of transfer must be enclosed with application.
- Statement of Applicant: I hereby certify that I have reviewed the permit letter issued under Application/Permit No. _____ and hereby agree to comply with all conditions of the permit, including any time limitations imposed.
- Applicant's name: (print) _____ (signature) _____ Date: _____

PART F For Change in Owner During Application Processing (if applicable):

- Name of Original Applicant: _____ Application No. _____
Note: A certified copy of the deed of transfer must be enclosed for Applications to Alter only.

PART G Certification of Professional(s) (if applicable): *Note: Any professional (e.g. engineer, biologist, landscape architect, etc.) who participated in the submission and/or preparation of this Application and supporting documentation must sign below.*

- I hereby certify that I have been authorized by the applicant to prepare documentation to be submitted in support of this Application; that such documentation is in accordance with the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act; and that such documentation is true, accurate and complete to the best of my knowledge.
- Name of professional (print): Jason P. Clough, PE Title: Senior Project Engineer
Address: Two Stafford Court, Cranston, RI 02929 d/b/a: DiPrate Engineering
Signature of professional: *[Signature]* Date: 11/17/12 Tel: (401) 943-1000
- Check this box if the above named is the project manager or project lead for the applicant.

If more than one professional:

- Name of professional (print): Eric Simpson, P.G. LSP Title: _____
Address: 16 Chestnut St., Foxborough, MA 02035 d/b/a: Sovereign Consulting, Inc.
Signature of professional: *[Signature]* Date: 11/21/12 Tel: (508) 339-3200
- Name of professional (print): _____ Title: _____
Address: _____ d/b/a: _____
Signature of professional: _____ Date: _____ Tel: _____
- Name of professional (print): _____ Title: _____
Address: _____ d/b/a: _____
Signature of professional: _____ Date: _____ Tel: _____

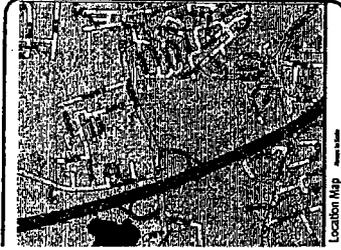
PART H Certification/Authorization of Applicant:

- I hereby certify that I have requested and authorized the investigation, compilation, and submission of all the information, in whatever form, contained in this Application; that I have personally examined and am familiar with the information submitted herein; and that such information is true, accurate and complete to the best of my knowledge. I hereby authorize RIDEM personnel access to the property for purposes of observing conditions pertinent to this application and assessing compliance with any permit or determination resulting from this application, including any sampling, monitoring or surveying that may be deemed appropriate, consistent with the RIDEM Administrative Inspection Guidelines. (See DEM website - Office of Compliance and Inspection for copy). Note any special concerns for access here: *[Signature]*

Application to Alter a Freshwater Wetland

Plainfield Pike

Old Pike
Hode Island
2 Lot 117



Sheet Index

1. Cover Sheet
2. 200' Radius
3. Ex Conditions with Wetland Line
4. Site Plan
5. Details

Also Provided in this Set:

1. Existing Conditions Plan (by Express Surveying)

SWPPP / O&M
The Stormwater Pollution Prevention Plan (SWPPP) and Operations and Maintenance Plan (O&M) are required for this project. The SWPPP and O&M must be maintained by the contractor and owner onsite.

Cover Sheet
2050 Plainfield Pike
DBP Engineers, LLC
1000 Plainfield Pike, Suite 100
Plainfield, NJ 07060
Phone: 908.406.1111
Fax: 908.406.1112
www.dbpengineers.com

Direkte Engineering
1000 Plainfield Pike, Suite 100
Plainfield, NJ 07060
Phone: 908.406.1111
Fax: 908.406.1112
www.direkte.com

PROJECT NO. 2050

Scale: 1" = 100'

North Arrow

DATE: 08/11/2011

PROJECT: 2050 Plainfield Pike

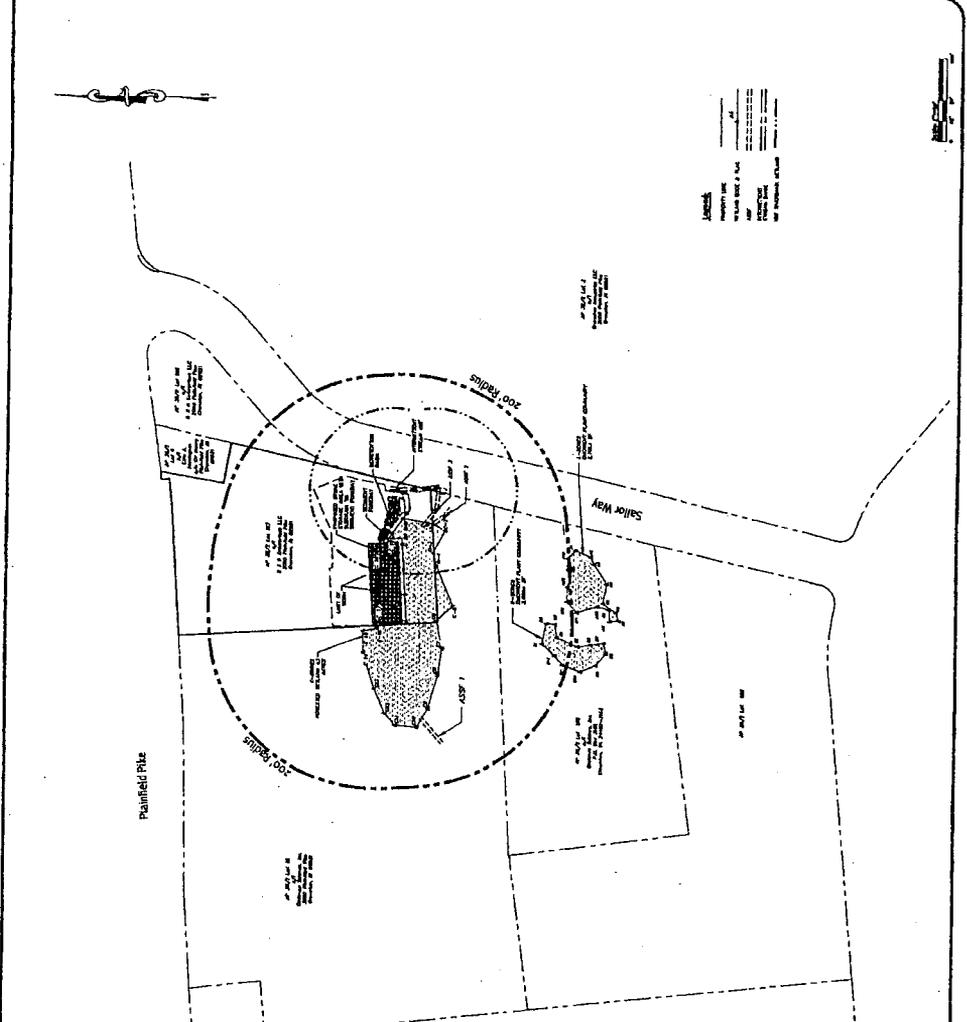
DATE: 08/11/2011

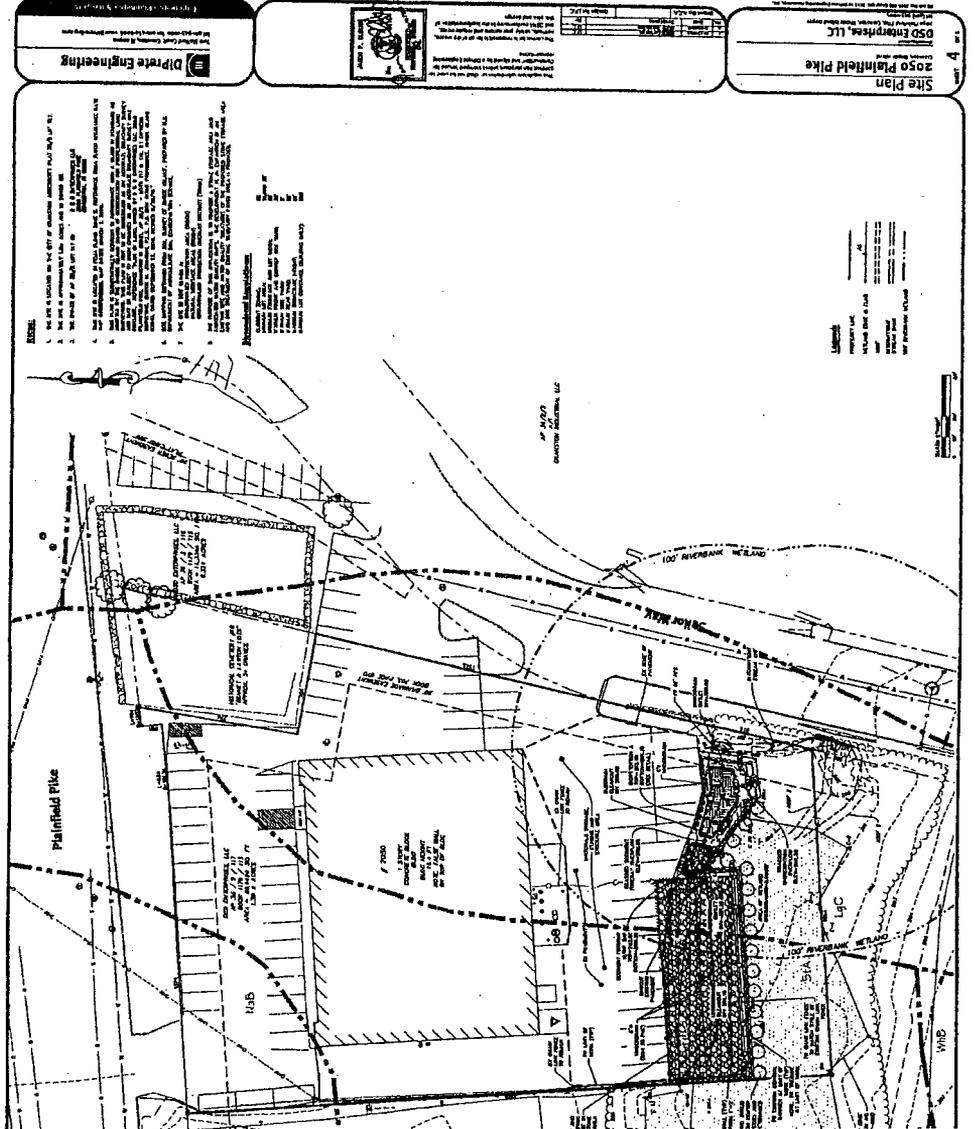
PROJECT: 2050 Plainfield Pike

200' Radius
2050 Plainfield Pike
DSO Enterprises, LLC
 2050 Plainfield Pike, Suite 100, Plainfield, NJ 07060
 Phone: 908.406.1234
 Fax: 908.406.1235
 Email: info@dsos.com
 Website: www.dsos.com

This drawing is a site plan for the proposed development. It shows the location of the proposed building and parking lot within the 200-foot radius of the intersection of 2050 Plainfield Pike and Sailor Way. The drawing is prepared in accordance with the applicable zoning ordinance and the site plan submitted for review.

Diprete Engineering
 1000 Plainfield Pike, Suite 100, Plainfield, NJ 07060
 Phone: 908.406.1234
 Fax: 908.406.1235
 Email: info@diprete.com
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Site Plan
 2050 Plainfield Pike
 DSD Enterprises, LLC
 100' RIVERSIDE MC LAD



Diprite Engineering
 100' RIVERSIDE MC LAD

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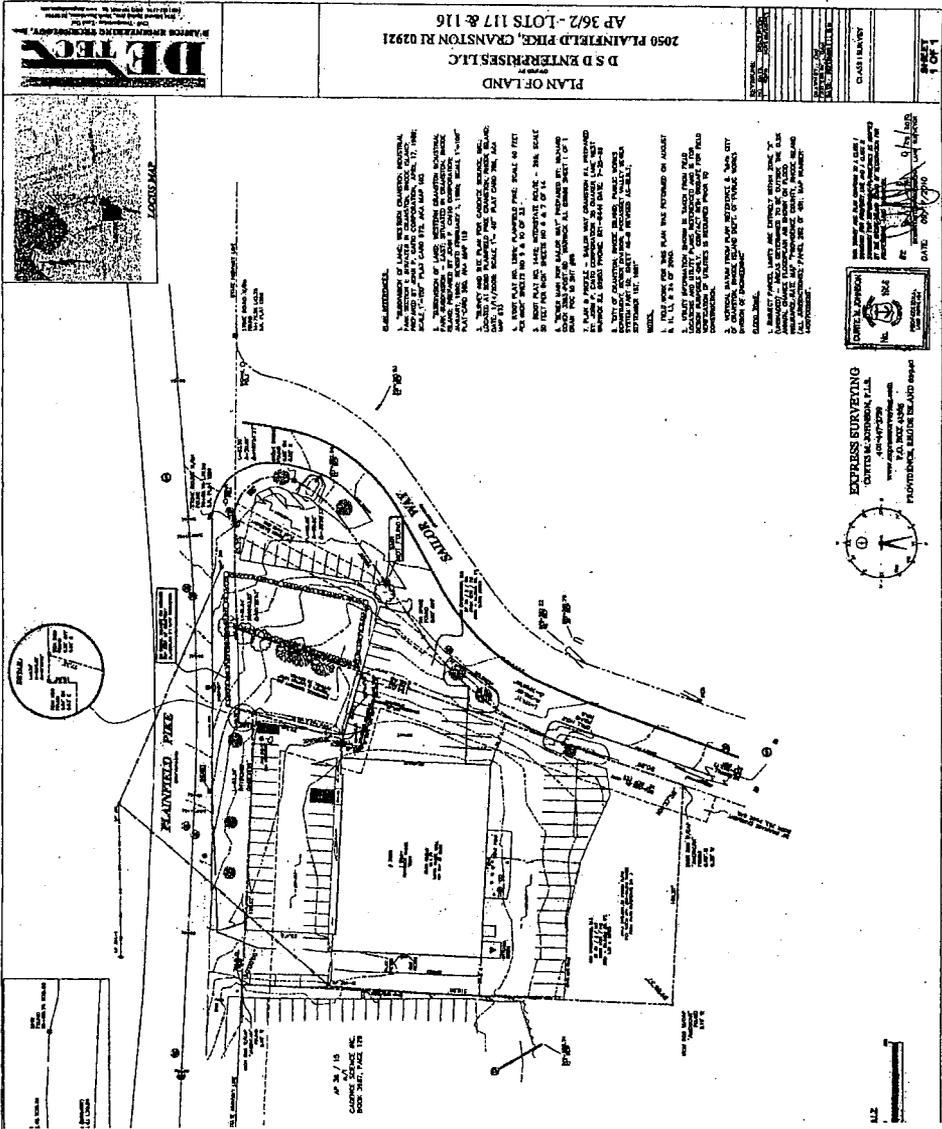
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Legend
 1. Proposed Building Footprint
 2. Proposed Parking Lot
 3. Proposed Driveway
 4. Proposed Easement
 5. Proposed Right-of-Way
 6. Proposed Utility Lines
 7. Proposed Survey Lines
 8. Proposed Property Lines
 9. Proposed Setback Lines
 10. Proposed Zoning Lines



DETECK
 PLANNING ENGINEERING SURVEYING, INC.
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 CRANSTON, RI 02921
 TEL: 401-942-1100
 FAX: 401-942-1101
 WWW.DETECK.COM

PLAN OF LAND
 D S D ENTERPRISES, LLC
 2050 PLAINFIELD PIKE, CRANSTON RI 02921
 AP 36/2 - LOTS 117 & 116

DATE	1/20/11
SCALE	AS SHOWN
PROJECT	2050 PLAINFIELD PIKE, CRANSTON RI 02921
CLIENT	D S D ENTERPRISES, LLC
PREPARED BY	DETECK
CHECKED BY	DETECK
APPROVED BY	DETECK

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- 1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
- 2. EXISTING UTILITIES ARE SHOWN AS DOTTED LINES.
- 3. ALL SETBACKS ARE TO THE CENTERLINE OF THE ADJACENT PROPERTY UNLESS OTHERWISE NOTED.
- 4. ALL DISTANCES ARE TO THE CENTERLINE OF THE ADJACENT PROPERTY UNLESS OTHERWISE NOTED.
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