

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION #2012-04

**TITLE: APPOINTMENT OF BOND COUNSEL FOR THE YEAR 2012  
WITHOUT PUBLIC BIDDING**

WHEREAS, the Township of Lower ("Township") has a need to acquire bond counsel as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Township has determined and certified in writing that the value of the acquisition will not exceed \$17,500, and Mc Manimon & Scotland has submitted a proposal indicating that they will provide the goods or services described above; and

WHEREAS, the term of this contract is one year; and the CFO has determined sufficient funds will be available in the current budget as follows:

Appropriation # Applicable Bond Ordinances

Signature 

WHEREAS, Mc Manimon & Scotland has completed and submitted a Business Entity Disclosure Certification which certifies that Mc Manimon & Scotland has not made any reportable contributions to a political or candidate committee in the Township of Lower in the previous one year, and that the contract will prohibit the Mc Manimon & Scotland from making any reportable contributions through the term of the contract.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Lower hereby approves a contract with Mc Manimon & Scotland for the goods and services herein described and that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution and that a notice of Award of Professional Contract for the above appointment shall be published in the Township's Official paper.

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Township Council at a meeting held on January 4, 2012.

  
Claudia R. Kammer, Township Clerk

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS		X	X			
LARE			X			
BECK			X			

## A G R E E M E N T

THIS AGREEMENT ("Agreement"), made as of this 4<sup>th</sup> day of January, 2012, by and between the TOWNSHIP OF LOWER, in the County of Cape May, a body politic of the State of New Jersey, herein designated as the "Client" and McMANIMON & SCOTLAND, L.L.C., Attorneys at Law with offices at 1037 Raymond Boulevard, Suite 400, Newark, New Jersey, hereinafter designated as "Counsel":

### WITNESSETH:

The Client desires to engage the services of Counsel for one or more of the services described herein which may consist of (i) services related to public finance and (ii) services related to redevelopment, environmental, litigation or other non-public finance services. To the extent that the Client requests such services of Counsel for any of such services, they shall be billed as follows:

#### **I. Public Finance**

1. Counsel, in consideration of the making and the signing of this Agreement, agrees to render the following services:

A. Counsel will prepare or review all bond ordinances adopted or to be adopted by the governing body.

B. Counsel will assemble a certified record of proceedings to evidence the proper adoption of each bond ordinance in accordance with the provisions of the Local Bond Law and other applicable New Jersey statutes.

C. When the Client determines to issue bonds or notes, Counsel will prepare the necessary resolutions or other operative documents to set up the bond or note sale and will submit them to the Client's general counsel for review. Counsel will seek the advice of the Client's financial advisor and/or auditor in connection with the appropriate maturity schedule for the bonds or notes to be sold and will review legal issues relating to the structure of the bond or note issue. Counsel will assist the Client in seeking from other governmental authorities such approvals, permissions and exemptions as Counsel determines are necessary or appropriate in connection with the authorization, issuance and delivery of bonds or notes. Counsel will review those sections of the official statement, private placement memorandum or other form of offering or disclosure document to be disseminated in connection with the sale of the bonds or notes and will arrange for the printing and the distribution of such offering or disclosure document. Counsel will prepare and review the notice of sale pertaining to the competitive sale of the bonds or notes and will arrange for the printing of such notice of sale in The Bond Buyer, as applicable, and will answer inquiries made by the investment community concerning the bond or note sale. Counsel will assist the Client in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the issuance of bonds or notes. Counsel will render legal advice as necessary concerning the submission of bids for the bonds or notes in accordance with the notice of sale and the requirements of law. After the bond or note

sale, Counsel will prepare the bonds or notes for execution, will prepare and see to the execution of the necessary closing certificates, including the continuing disclosure undertaking of the Client, and will establish the time and the place for the delivery of the bonds or notes to the successful bidder. Counsel will coordinate the closing, at which time the bonds or notes will be delivered, payment will be made for the bonds or notes, and Counsel will issue a final approving legal opinion with respect to the validity and binding effect of the bonds or notes, the source of payment and security for the bonds or notes and the excludability of interest on the bonds or notes from gross income for federal and New Jersey income tax purposes, if applicable.

D. Counsel will provide basic advice in regard to the effect of the federal arbitrage regulations on the issuance of bonds or notes and the investment of the proceeds thereof.

E. Counsel will provide such other services as may be requested from time to time by the Client including any referendum, validation proceedings or other action relating to the Client or the authorization and issuance of a financing instrument by the Client.

2. The Client will make payment to Counsel for services rendered in accordance with the following schedule:

A. For services rendered in connection with each bond sale, a fee of \$3,500, plus \$1.00 per thousand dollars of bonds issued for the first \$15,000,000 of bonds issued and \$.75 per thousand dollars of bonds issued in excess of \$15,000,000. If there is more than 1 series of bonds issued, there will be an additional charge of \$1,000 for each such additional series.

B. For services rendered in connection with the preparation or review of each bond ordinance and the compiling of a certified record of proceedings in connection therewith, a fee of \$600.

C. For services rendered in connection with each note sale, a fee equal to the hourly rates reflected in paragraph I(2)(G), with a minimum fee of \$.50 per thousand dollars of notes issued up to \$15,000,000 of notes issued and \$.40 per \$1,000 of notes in excess of \$15,000,000, but not less than \$800. If more than one series of notes are issued, there will be an additional charge of \$500 for each such additional series.

D. For services rendered in connection with arbitrage compliance and related tax analysis, a fee of \$250.

E. In the event that a letter of credit, bond insurance, or similar credit enhancement facility is used in connection with either a bond or note issue, an additional fee of \$1,000 will be charged.

F. In the event of a refunding bond issue consistent with the provisions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will be an additional fee of \$5,000 for each refunded issue.

G. Services rendered on an hourly basis, including preparation of an application to and an appearance before the Local Finance Board, attendance at meetings, litigation, continuing disclosure undertakings and preliminary and final official statement or other offering or disclosure document work, will be billed at the blended hourly rate of \$215 per hour for attorneys and \$135 per hour for legal assistants.

H. Counsel's fee is usually paid at the closing of the bonds or notes, and Counsel customarily does not submit any statement until the closing unless there is a substantial delay in completing the financing. In the event that legal services described herein are provided in connection with a bond or note sale and the bond or note sale is not consummated or is completed without the delivery of Counsel's bond opinion as bond counsel, or this Agreement is terminated prior to the sale of bonds or notes, the fee for services to be charged shall be based on the hourly rates as set forth in paragraph I(2)(G).

I. Reasonable and customary out of pocket expenses and other charges, including but not limited to, photocopying, express delivery charges, travel expenses, telecommunications, telecopy, filing fees, computer-assisted research, book binding, messenger service or other costs advanced on behalf of the Client, shall be added to the fees referred to in this Agreement.

## **II. Redevelopment, Environmental, Litigation and Non-Public Finance Services**

1. To the extent that the Client desires to engage Counsel for general legal services in connection with (i) redevelopment projects (the "Redevelopment Projects"), (ii) environmental issues including the giving of advice or preparation of work product at the direction of the Client related to or concerning the identification, investigation, remediation or preparing of grant applications to assist the Client in responding to potential or actual environmental conditions ("Environmental Services"), (iii) litigation, including representation in any and all action authorized by the Client and relating to a threatened, pending or actual legal proceeding or any condemnation or alternate dispute resolution matters ("Litigation Services") or (iv) any other legal services, such services shall be billed as follows:

2. The Client will make payment to Counsel for such general legal services at the blended hourly rates set forth in paragraph I(2)(G). Services rendered to the Client the cost of which is reimbursed by a developer through a developer-funded escrow account pursuant to an escrow agreement between the developer and the Client shall be billed at the blended hourly rate of \$325 for attorneys and \$180 for legal assistants. In addition to the hourly time charges described above, Counsel will be reimbursed for out-of-pocket expenses as set forth in paragraph I(2)(I).

3. Services rendered in connection with the issuance of bonds pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq., or the Revenue Allocation District Financing Act, N.J.S.A. 52:27D-459 et seq., will be billed in accordance with the fee schedule set forth in paragraph I(2)(D) through (G).

### **III. General Provisions**

1. Upon execution of this Agreement, the Client will be Counsel's client and an attorney-client relationship will exist between Client and Counsel. Counsel assumes that all other parties will retain such counsel, as they deem necessary and appropriate to represent their interests in the transactions contemplated hereby. Counsel's services are limited to those contracted for in this Agreement; the Client's execution of this Agreement will constitute an acknowledgment of those limitations. Counsel's representation of the Client will not affect, however, our responsibility to render an objective bond opinion. Counsel's representation of the Client and the attorney-client relationship created by this Agreement will be concluded upon termination of this Agreement.

2. At the request of the Client, papers and property furnished by the Client will be returned promptly upon receipt of payment for outstanding fees and Client charges. Counsel's own files, including lawyer work product, pertaining to the transactions contemplated hereby will be retained by Counsel. For various reasons, including the minimization of unnecessary storage expenses, Counsel reserves the right to dispose of any documents or other materials retained by Counsel after the termination of this Agreement.

3. Counsel and the Client hereby incorporate into this contract the mandatory language of N.J.A.C. 17:27-3.4(a) and the mandatory language of N.J.A.C. 17:27-3.6(a) promulgated pursuant to N.J.S.A. 10:5-31 to 38 (P.L. 1975, c. 127, as amended and supplemented from time to time), and Counsel agrees to comply fully with the terms, the provisions and the conditions of N.J.A.C. 17:27-3.4(a) and N.J.A.C. 17:27-3.6(a), provided that N.J.A.C. 17:27-3.4(a) shall be applied.

4. Counsel and the Client hereby incorporate into this contract the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 USC S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated thereunder.

5. Counsel hereby represents that it has filed with the Client proof of professional liability insurance with coverage amounts acceptable to the Client.

6. This Agreement shall be in full force and effect until such time as either party gives written notice to the other of termination.

### POLITICAL CONTRIBUTION DISCLOSURE

This contract has been awarded to McManimon & Scotland, L.L.C. based on the merits and abilities of McManimon & Scotland, L.L.C. to provide the goods or services as described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that the principals of McManimon & Scotland, L.L.C. controlling in excess of 10% of the company have neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded, or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded.

IN WITNESS WHEREOF, the TOWNSHIP OF LOWER has caused this agreement to be duly executed by its proper officers and has caused its corporate seal to be hereto affixed, and Counsel has caused this agreement to be duly executed by the proper party as of the day and year first above written.

TOWNSHIP OF LOWER

ATTEST:

By: Michael E Beck

Claudia R Kommer  
Clerk

McMANIMON & SCOTLAND, L.L.C.

By: Edward J McManimon, III  
Edward J McManimon, III

**BUSINESS ENTITY DISCLOSURE CERTIFICATION  
FOR NON-FAIR AND OPEN CONTRACTS  
Required Pursuant To N.J.S.A. 19:44A-20.8  
TOWNSHIP OF LOWER**

**Part I - Vendor Affirmation**

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that the firm of McManimon & Scotland, L.L.C. has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c. 19 would bar the award of this contract in the one year period preceding January 1, 2011 to any of the following named candidate committee, joint candidates committee; or political party committee representing the elected officials of the Township of Lower as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r).

<b>NO CONTRIBUTIONS HAVE BEEN MADE.</b>	

**Part II - Ownership Disclosure Certification**

I certify that the list below contains the names and home addresses of all owners holding 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business entity:

- Partnership     
  Corporation     
  Sole Proprietorship     
  Subchapter S Corporation  
 Limited Partnership   
  Limited Liability Corporation     
  Limited Liability Company

Name of Stock or Shareholder	Home Address
Edward J. McManimon, III	115 Laning Avenue, Pennington, NJ 08534
Glenn F. Scotland	95 Central Avenue, Montclair, NJ 07042
Joseph P. Baumann, Jr.	123 Central Avenue, Madison, NJ 07940
Andrea L. Kahn	7 Blythewood Court, North Brunswick NJ 08902

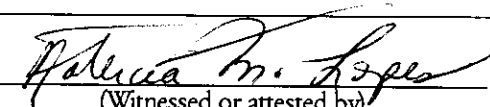
**Part 3 - Signature and Attestation:**

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity: McManimon & Scotland, L.L.C.

Signature of Affiant: *Edward J. McManimon, III* Title: Member

Printed Name of Affiant: Edward J. McManimon, III Date: October 31, 2011

Subscribed and sworn before me this 31 day of October, 2011.	 (Witnessed or attested by)
My Commission expires:	
<b>WATERCIA M. LOPES</b> A Notary Public of New Jersey My Commission Expires June 25, 2014	

08/18/04

Taxpayer Identification# 222-837-091/000

Dear Business Representative:

Congratulations! You are now registered with the New Jersey Division of Revenue.

Use the Taxpayer Identification Number listed above on all correspondence with the Divisions of Revenue and Taxation, as well as with the Department of Labor (if the business is subject to unemployment withholdings). Your tax returns and payments will be filed under this number, and you will be able to access information about your account by referencing it.

Additionally, please note that State law requires all contractors and subcontractors with Public agencies to provide proof of their registration with the Division of Revenue. The law also amended Section 92 of the Casino Control Act, which deals with the casino service industry.

We have attached a Proof of Registration Certificate for your use. To comply with the law, if you are currently under contract or entering into a contract with a State agency, you must provide a copy of the certificate to the contracting agency.

If you have any questions or require more information, feel free to call our Registration Hotline at (609)292-1200.

I wish you continued success in your business endeavors.

Sincerely,

*John E. Tully*  
John E. Tully, CPA  
Acting Director

STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE

DEPARTMENT OF TREASURY/  
DIVISION OF REVENUE  
PO BOX 282  
TRENTON, NJ 08646-0282

TAXPAYER NAME:  
MCKIMMON & SCOTLAND, L.L.C.

TRADE NAME:

TAXPAYER IDENTIFICATION#:  
222-837-091/000

SEQUENCE NUMBER:  
0075601

ADDRESS:  
ONE RIVERFRONT 4TH FL  
NEWARK NJ 07102

ISSUANCE DATE:  
08/18/04

EFFECTIVE DATE:  
01/03/88

FORM-BRC(08-01)

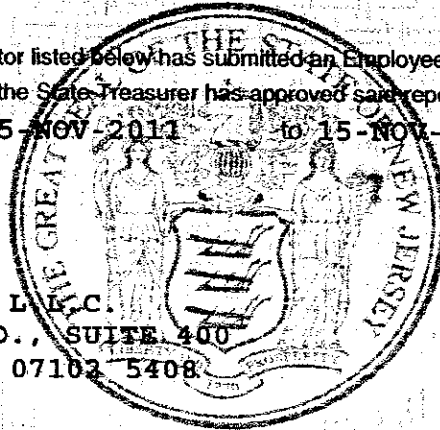
*John E. Tully*  
Acting Director

This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.

# CERTIFICATE OF EMPLOYEE INFORMATION REPORT RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of **15-NOV-2011** to **15-NOV-2018**

**MCMANIMON & SCOTLAND, L.P.C.**  
**1037 RAYMOND BOULEVARD., SUITE 400**  
**NEWARK NJ 07103 5408**



A handwritten signature in black ink, appearing to read "Andrew P. Sidamon-Eristoff".

**Andrew P. Sidamon-Eristoff**  
State Treasurer

# Jamison Risk Services



A DIVISION OF HERBERT L. JAMISON & CO., L.L.C.  
INSURANCE GROUP

100 Executive Drive, West Orange, New Jersey 07052-3362  
973-731-0806 • 800-JAMISON • Fax 973-731-3035 •  
[www.jamisongroup.com](http://www.jamisongroup.com)

NEW JERSEY  
NEW YORK  
PENNSYLVANIA

## CONFIRMATION OF PLACEMENT OF COVERAGE

**NAMED INSURED AND ADDRESS**

**ACCOUNT NO.**

MCMAN-1001

McManimon & Scotland, L.L.C.  
1037 Raymond Boulevard, Suite 400  
Newark, NJ 07102-5408

**EFFECTIVE DATE**

**EXPIRATION DATE**

**POLICY NUMBER**

**INSURER**

09-20-2010\*

09-20-2011\*

Renewal of:  
WLA300009923600

Westport Insurance Corporation

**COVERAGE DESCRIPTION AND AMOUNT / LIMITS**

### LAWYERS PROFESSIONAL LIABILITY INSURANCE

**Limit of Liability:** \$10,000,000 per claim / \$10,000,000 annual aggregate

**Deductible:** \$100,000 per claim

**Annual Premium:** \$142,584 plus NJ PLIGA Surcharge of \$1,283

**Terms and Conditions:** As provided in our report to you dated August 10, 2010. Underwriters did agree to amend the clauses in the new policy we discussed in our August 12<sup>th</sup> meeting. They were item 1. dealing with retiring partners and item 5. dealing with Personal Injury coverage found on page 2. of our Executive Summary of our report.

**Subject To:** Signed Coverage Order Request Form.

\*The current Policy No. WLA300009923600 has been extended to September 20, 2010 at no additional premium.

We discussed our ability to obtain quotes for higher limits in our report. We understand the firm is not interested at this time.

Accepted by: Joseph P. Bieniowski Dated: 8/30/10

BY

Joseph F. Bieniowski, Director

8-27-10

DATE

In accordance with your instructions we have taken the action as described above. Please review this confirmation to be sure that it accurately reflects those instructions. The policy and / or amendment is being prepared and will be forwarded to you along with the invoice or credit memorandum in due course. Thank you for this opportunity to be of service. Subject to Underwriters Approval and Terms and Conditions of the Policy.

**STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
SHORT FORM STANDING**

**MCMANIMON & SCOTLAND, L.L.C.**

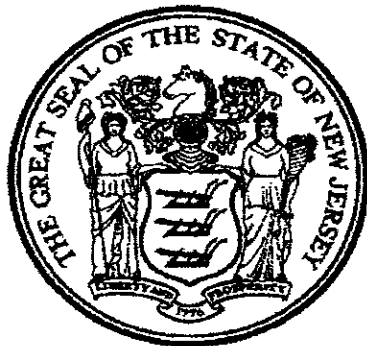
0600036776

*I, the Treasurer of the State of New Jersey, do hereby certify that the above-named New Jersey Domestic Limited Liability Company was registered by this office on March 13, 1997.*

*As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.*

*I further certify the registered agent and registered office are:*

*John V. Cavaliere  
1037 Raymond Boulevard  
Suite 400  
Newark, 07102 5408*



*IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed  
my Official Seal at Trenton, this  
22nd day of September, 2009*

*R. David Rousseau  
State Treasurer*

Certificate Number: 115344600

Verify this certificate online at

[http://www1.state.nj.us/TYTR\\_StandingCert/ISP/Verify\\_Cert.jsp](http://www1.state.nj.us/TYTR_StandingCert/ISP/Verify_Cert.jsp)