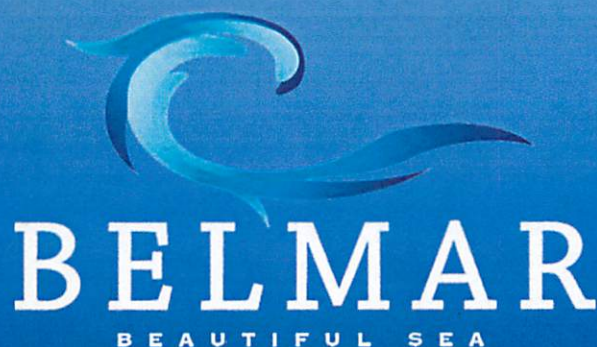


The Borough of Belmar

Ordinance 2013-11 Assessment

An Assessment of Ordinance 2013-11
Charges for the Borough of Belmar



Ordinance Overview

Ordinance Purpose & Allowable Use of Funds:

Bond Ordinance 2013-11 provides for various water and sewer infrastructure improvements throughout the Borough, including all work and materials necessary therefor and incidental thereto.

Financials:

\$5,000,000 worth of appropriations were authorized for Ordinance 2013-11, of which, \$238,100 served as a down payment. The remaining \$4,761,900 was made available for financing purposes. Of the \$5,000,000 in appropriations authorized to fulfill the ordinance's purpose, an aggregate amount not exceeding \$1,000,000 was available for expenditure items permitted under N.J.S.A. 40A:2-20 for the intended ordinance purpose (i.e., soft costs).

Period of Usefulness:

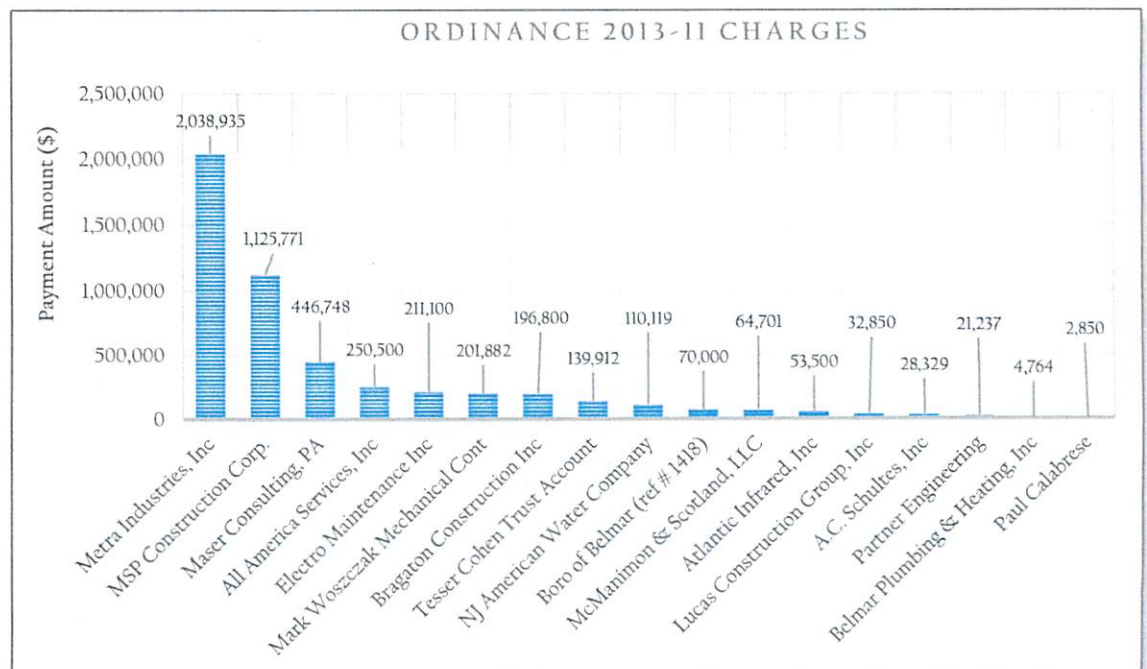
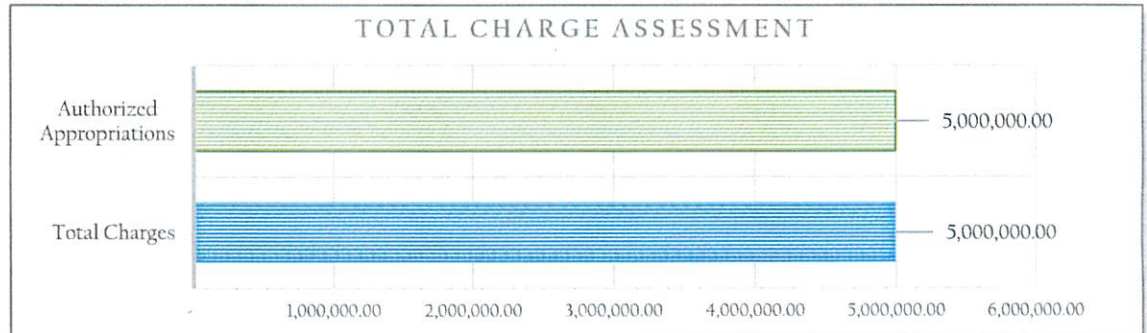
The period of usefulness of the improvement or purpose authorized by Ordinance 2013-11 is 40 years.

Fiscal Assessment

A total appropriation amount of \$5M was charged against the ordinance, with an allowable limit of \$5M. While the appropriation amount as an aggregate did not exceed the threshold, expenditures charged against the ordinance proved to violate adherence to the ordinance's purpose and allowable use of funds. See "Ordinance 2013-11 Findings" for detail.

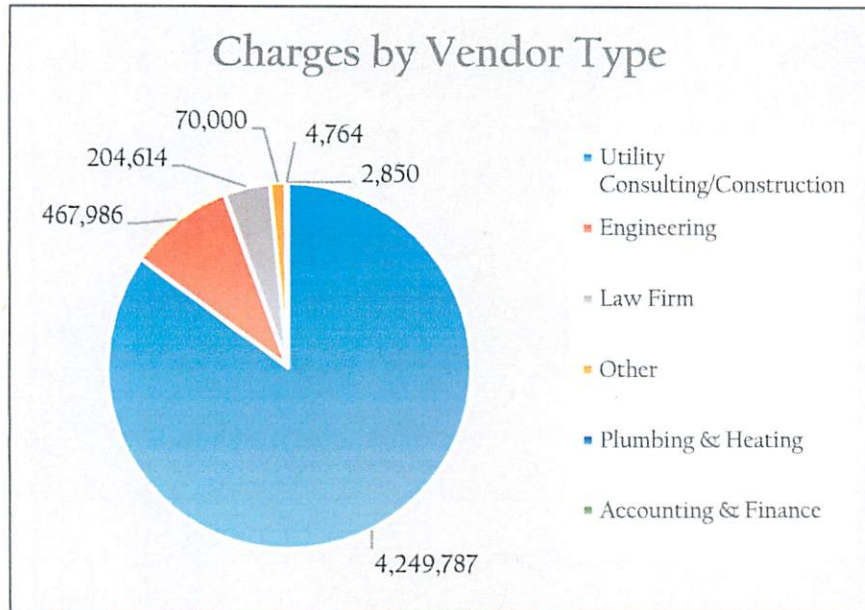
Exhibit I: Total Ordinance Charges by Vendor

Vendor	Total Charges
Metra Industries, Inc	2,038,935
MSP Construction Corp.	1,125,771
Maser Consulting, PA	446,748
All America Services, Inc	250,500
Electro Maintenance Inc	211,100
Mark Woszczak Mechanical Cont	201,882
Bragaton Construction Inc	196,800
Tesser Cohen Trust Account	139,912
NJ American Water Company	110,119
Boro of Belmar (ref # 1418)	70,000
McManimon & Scotland, LLC	64,701
Atlantic Infrared, Inc	53,500
Lucas Construction Group, Inc	32,850
A.C. Schultes, Inc	28,329
Partner Engineering	21,237
Belmar Plumbing & Heating, Inc	4,764
Paul Calabrese	2,850
Grand Total	5,000,000



Fiscal Assessment Continued

Exhibit 2: Total Ordinance Charges by Vendor Type



Summary:

There was a total of \$4,249,787 charged to Utility Consulting/Construction vendors. A total of \$467,986 was charged to Engineering vendors. There was a total of \$204,614 in Law Firm expenditures charged to the ordinance. There was a total of \$70,000 charged to Other. A total of \$4,764 was charged to Plumbing & Heating vendors. Lastly, a total of \$2,850 was charged to Accounting & Finance professional services vendors. A total of \$5,000,000 was charged to the ordinance out of \$5,000,000 in allowable appropriations.

Vendor Type	Total Charges
Utility Consulting/Construction	4,249,787
Metra Industries, Inc	2,038,935
MSP Construction Corp.	1,125,771
All America Services, Inc	250,500
Electro Maintenance Inc	211,100
Mark Woszczak Mechanical Cont	201,882
Bragaton Construction Inc	196,800
NJ American Water Company	110,119
Atlantic Infrared, Inc	53,500
Lucas Construction Group, Inc	32,850
A.C. Schultes, Inc	28,329
Engineering	467,986
Partner Engineering	446,748
Maser Consulting, PA	21,237
Law Firm	204,614
Tesser Cohen Trust Account	139,912
McManimon & Scotland, LLC	64,701
Other	70,000
Boro of Belmar (ref # 1418)	70,000
Plumbing & Heating	4,764
Belmar Plumbing & Heating, Inc	4,764
Accounting & Finance	2,850
Paul Calabrese	2,850
Grand Total	5,000,000

Exhibit 3: Charges by Contract & Soft Costs

There were two contracts that appear to have violated Local Public Contracts Law rules and regulations (red box). See "Ordinance 2013-11 Findings" for a thorough findings report. Total soft costs did not exceed the \$1M allowable threshold.

Vendor	Total Charges	Contract
Metra Industries, Inc	2,038,935	2,038,935
MSP Construction Corp.	1,125,771	1,125,771
Maser Consulting, PA	446,748	446,748
All America Services, Inc	250,500	250,500
Electro Maintenance Inc	211,100	177,850
Mark Woszczak Mechanical Cont	201,882	138,425
Bragaton Construction Inc	196,800	196,800
Atlantic Infrared, Inc	53,500	53,500
A.C. Schultes, Inc	28,329	28,329
Grand Total	4,553,566	4,456,858

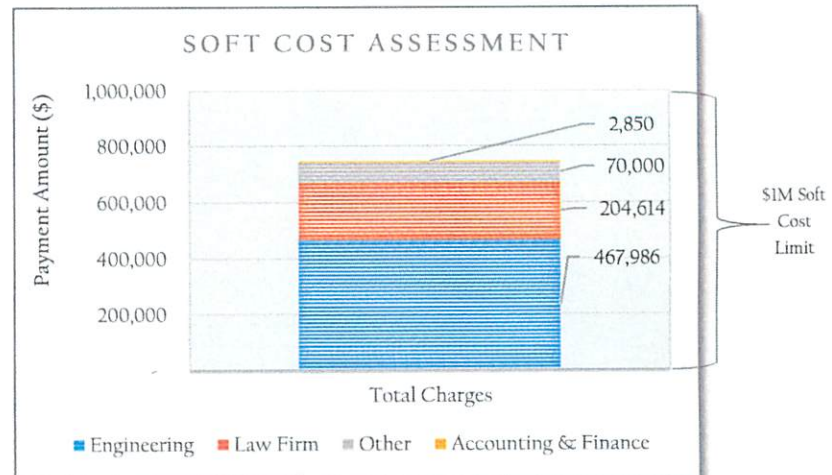
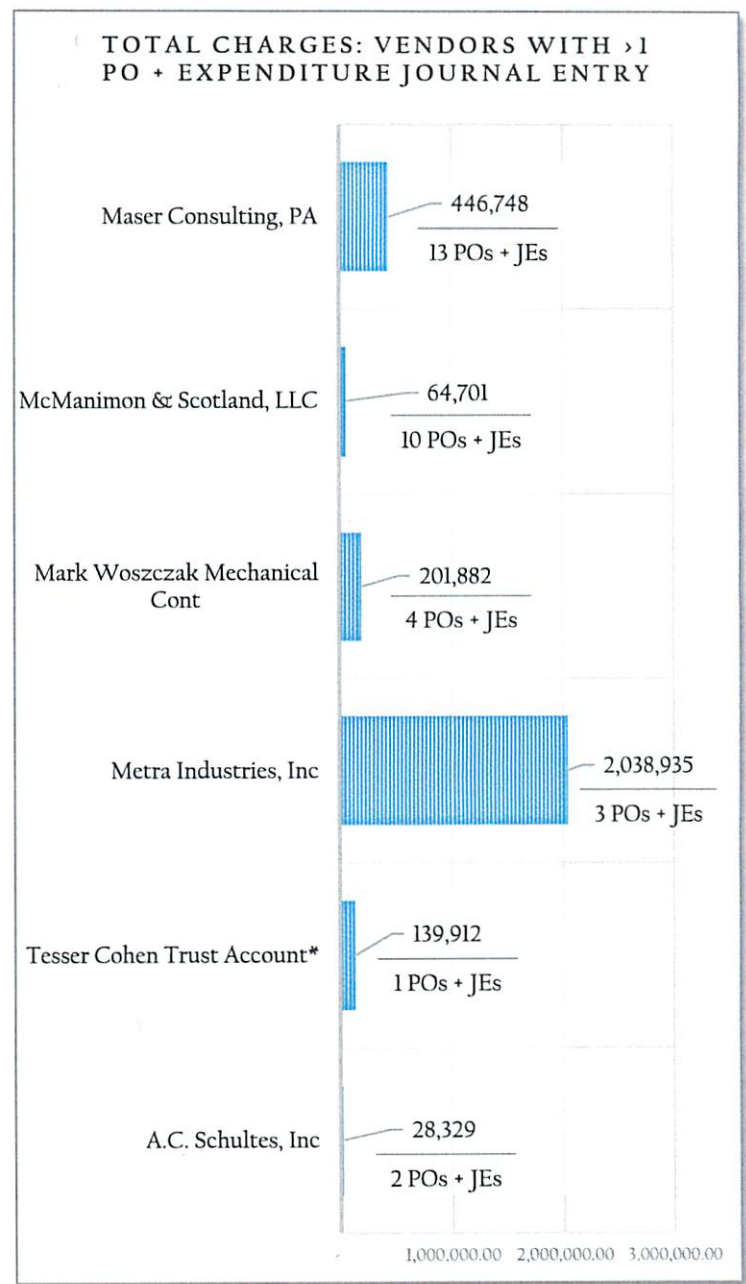


Exhibit 4: Vendors with Multiple Purchase Orders Charge Assessment

Vendor (PO + Expenditure Journal Entry Count)	Total Charges
Maser Consulting, PA (13)	446,748.41
00065918	63,255.91
00066355	77,882.50
00067043	16,425.00
00067229	43,452.50
00067483	45,660.00
00067886	45,660.00
00068071	131,516.25
00068423	4,537.50
15-00675	3,518.75
15-01436	935.00
16-00452	2,072.50
16-00997	340.00
16-02177	1,492.50
McManimon & Scotland, LLC (10)	64,701.48
00065919	10,674.60
00069007	4,300.05
16-00245	3,001.34
16-00256	172.00
16-00656	15,441.77
16-00952	215.00
16-00996	5,529.59
17-00715	2,915.63
17-00716	6,024.24
17-00719	16,427.26
Mark Woszczak Mechanical Cont (4)	201,882.46
00066166	5,800.00
00066230	17,222.00
00068831	40,435.46
17-00918	138,425.00
Metra Industries, Inc (3)	2,038,934.92
00065843	1,098,504.54
00066164	877,129.40
EXPENDITURE	63,300.98
Tesser Cohen Trust Account*	139,912.05
17-02177	139,912.05
A.C. Schultes, Inc. (2)	28,329.21
00064031	1,085.00
00065839	27,244.21
Grand Total	2,920,508.53



Reference:

* While \$139,912.05 was paid to the Tesser Cohen Trust Account, this charge amount is connected to the \$230,000.00 Metra Industries, Inc. settlement. With this, it could be posited that a total of \$2,178,846.97 was charged to Metra Industries, thereby overcharging the contracted amount of \$2,038,934.92 by \$139,912.05 without a formal change order or resolution approving the same. See Findings 8 and 10 for additional detail on the Tesser Cohen Trust Account charge / Metra Industries, Inc. settlement payments charged to Ordinance 2013-11.

Ordinance 2013-11 Findings

Finding 1

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	00065919	11/21/2013	Nov	2013	60624	McManimon & Scotland, LLC	Law Firm	Professional Services/April-Oct	10,674.60

Of the \$10,674.60 total charge amount, an amount totaling \$600.00 (INV 124844) was associated with legal services rendered in connection with Ordinance 2013-11. The remaining \$10,074.60 was associated with services rendered for legal council that occurred prior to the ordinance's adoption date of June 19, 2013, and therefore should not be charged to the ordinance.

Finding 2

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	00069007	12/29/2014	Dec	2014	62967	McManimon & Scotland, LLC	Law Firm	Professional Services 2013-14	4,300.05

The invoice associated with this charge amount – INV 128310 – totaled \$14,300.05. The fee was for professional services rendered in connection with the issuance of \$17,280,000 of Notes. There were three notes associated with the invoice, and three budgetary accounts charged (one per Ordinance and Note). The Notes totaled \$4,640,000 for a Gen Cap BAN, \$6,500,000 for a Beach Utility BAN, and \$6,140,000 for a Water/Sewer Utility BAN. Fees associated with the Gen Cap and Beach BAN issuance were each \$5,000.00. Legal fees for the issuance of the Water/Sewer Utility BAN were \$4,300.05. This \$4,300.05 was charged against Ordinance 2013-11, in-full. Being that the allowable financing amount for Ordinance 2013-11 was \$4,761,900, the fact that \$4,300.05 in its entirety was charged to Ordinance 2013-11 for the issuance of BANs totaling \$6,140,000 was not appropriate (i.e., professional services were charged to Ordinance 2013-11 for the issuance of BANs associated with other projects). With this, the ordinance was over-charged, being that fees associated with a BAN issuance amount of \$6.14M were being charged to an ordinance with a maximum allowable financing limit of \$4.76M. In addition, there appears to be no rationalization behind the invoice split of \$5K, \$5K, and \$4.3K.

Finding 3

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	EXPENDITURE	12/31/2015	Dec	2015		Boro of Belmar (ref # 1418)	Unknown	to Trust - Outside Employment-Police	70,000.00

This appropriation item was extrapolated into the findings report due to its lack of inherent clarity. It was found that the charge amount is associated with a journal entry booked to the ordinance for police labor in connection with patrol and other services rendered for Ordinance 2013-11. This is a soft cost that was charged to the regular construction portion of the ordinance sub-account. This is an allowable soft-cost in connection with N.J.S.A. 40A:2-20.

Finding 4

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	EXPENDITURE	12/31/2015	Dec	2015		Partner Engineering	Engineering	Actual expense Partner ck 63190(2/17/15) Feb 2015 Mutual Settlement and Release - org chgd B-25- -017-219 Ord 12-12 (PO 00069377)	21,237.38

There was a legal settlement reached in connection with the acquisition of Birdsall Engineering by Partner Engineering. This settlement totaled, \$1,362,337.93. (Continued on subsequent page).

 Ordinance 2013-11 Findings Continued

Finding 4 (Continued)

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	EXPENDITURE	12/31/2015	Dec	2015		Partner Engineering	Engineering	Actual expense Partner ck 63190(2/17/15) Feb 2015 Mutual Settlement and Release - org chgd B-25 -017-219 Ord 12-12 (PO 00069377)	21,237.38

The \$1,362,337.93 settlement amount was due to Birdsall from the Borough for various engineering fees, including fees associated with Ordinance 2013-11. Birdsall experienced a wind-down and was acquired by Partner Engineering. Thereafter, Partner Engineering applied an approximate 32% discount to all charges associated with the outstanding \$1.362M. With the discount applied, the Borough's obligation to Partner Engineering totaled \$925,000. Of this amount, there were two charges associated with Ordinance 2013-11: the *12th Ave Water Tank Rehab* in the amount of \$4,646.25 (pre-discount) and *Sewer Cleaning* in the amount of \$26,632.11 (pre-discount). The summation of these two items totaled, \$31,278.36 (pre-discount). With the Partner Engineering -32% discount applied to these related expenditures, the charge amount due to the firm from the Borough totaled, \$21,237.38. This was charged to the ordinance and is an allowable soft-cost expenditure item.

Finding 5

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	16-00656	4/19/2016	Apr	2016	65383	McManimon & Scotland, LLC	Law Firm	Derouville	10,784.31

This McManimon & Scotland, LLC legal fee was associated with a lawsuit brought on by John Derouville against the Borough in connection with a cease and desist ordered by the Borough with respect to his Superstorm Sandy debris removal deal. Being that the inherent nature (lawsuit-associated legal fees) and scope of the legal services rendered by McManimon & Scotland for this expenditure (Superstorm Sandy) are dissociated from Ordinance 2013-11, the fee should not have been charged against the ordinance.

Finding 6

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	16-00245	2/16/2016	Feb	2016	65074	McManimon & Scotland, LLC	Law Firm	Metra Industries	3,001.34
2013-11	16-00256	2/16/2016	Feb	2016	65074	McManimon & Scotland, LLC	Law Firm	Metra Industries	172.00
2013-11	16-00656	4/19/2016	Apr	2016	65383	McManimon & Scotland, LLC	Law Firm	Metra Industries	4,657.46
2013-11	16-00952	6/8/2016	Jun	2016	65600	McManimon & Scotland, LLC	Law Firm	Metra Industries	215.00
2013-11	17-00715	5/4/2017	May	2017	192	McManimon & Scotland, LLC	Law Firm	January Metra	2,915.63
2013-11	17-00716	5/4/2017	May	2017	192	McManimon & Scotland, LLC	Law Firm	February Metra	2,183.08
2013-11	17-00719	5/4/2017	May	2017	192	McManimon & Scotland, LLC	Law Firm	Legal August-December 16 Metra	16,427.26

The Borough awarded a \$900,000 contract in 2013 to Metra Industries, Inc. to clean and reline water pipelines running throughout the Borough. It was later found that the brown water residing within the pipelines was not caused by aging lines. Instead, the valves on the underground pipelines had been shut-off, causing them to be dead-ended. This resulted in a lack of a need for Metra's work, which in turn, resulted in a \$230,000 settlement paid by the Borough to Metra for the lost work. The McManimon & Scotland, LLC legal fees associated with this settlement are not applicable attorney-oriented soft-cost charges against this Ordinance.

Ordinance 2013-11 Findings Continued

Finding 7

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	16-00996	6/8/2016	Jun	2016	65600	McManimon & Scotland, LLC	Law Firm	Professional Svcs/Notes	5,529.59
2013-11	17-00716	5/4/2017	May	2017	192	McManimon & Scotland, LLC	Law Firm	February Note Sale	3,841.16

The invoice associated with PO 16-00996 (INV 139559) totaled \$11,059.19. The fee was for professional services rendered in connection with the issuance of \$19,925,000 of Notes. There were three notes associated with the invoice, however, only two budgetary accounts were charged (Ordinance 2013-11 and Beach). The Notes totaled \$5,805,000 for a Gen Cap BAN, \$6,000,000 for a Beach Utility BAN, and \$8,120,000 for a Water/Sewer Utility BAN. Legal fees charged to the Beach Utility ordinance budget account totaled, \$5,529.60. Legal fees charged to Ordinance 2013-11 totaled, \$5,529.59. Firstly, the legal fees associated with the issuance of the three bans should have been split in a pro-rata fashion across the Gen Cap, Beach, and Water / Sewer ordinances for which the BAN financing was associated. Instead, the total fee was split evenly between the Beach Ordinance and Ordinance 2013-11. Secondly, being that the allowable financing amount for Ordinance 2013-11 was \$4,761,900, the fact that \$5,529.59 in its entirety was charged to Ordinance 2013-11 for the issuance of BANs totaling \$8,120,000 is not appropriate (i.e., professional services were charged to Ordinance 2013-11 for the issuance of BANs associated with other projects). With this, the ordinance is being over-charged, being that fees associated with a BAN issuance amount of \$8.12M (and a share of the Gen Cap BAN legal fees) are being charged to an ordinance with a maximum allowable financing limit of \$4.76M. The ordinance is being over-charged on two fronts.

The invoice associated with PO 17-00716 (INV 146151) totaled \$13,718.43. The fee was for professional services rendered in connection with the issuance of \$26,595,000 of Notes. There were three notes associated with the invoice. The Notes totaled \$11,310,000 (42%) for a Gen Cap BAN, \$7,885,000 (30%) for Beach Utility BAN, and \$7,400,000 (28%) for a Water/Sewer Utility BAN. The total invoice amount of \$13,718.43 was charged to the Gen Cap Account, Beach Account, and Ordinance 2013-11 account in the following manner: Gen Cap BAN percentage of 42%, Beach Utility BAN percentage of 30%, and Water/Sewer Utility BAN percentage of 28%. With this, \$3,841.16 was charged to Ordinance 2013-11 (28% of the total invoice). Being that the allowable financing amount for Ordinance 2013-11 was \$4,761,900, allocating 28% of the legal fees associated with the issuance of a \$7,400,000 Water/Sewer Utility BAN effectively overcharges the ordinance. This is due to the fact that these legal fees are connected to Water/Sewer Utility financing associated with projects outside of Ordinance 2013-11, however, only Ordinance 2013-11 was charged for legal fees in connection with the issuance of the entire \$7.4M Water/Sewer Utility BAN.

Finding 8

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	17-02177	11/8/2017	Nov	2017	1308 VOID	Tesser Cohen Trust Account	Law Firm	Metra Release Water Project	(139,912.05)
2013-11	17-02177	11/8/2017	Nov	2017	1308	Tesser Cohen Trust Account	Law Firm	Metra Release Water Project	139,912.05
2013-11	17-02177	11/8/2017	Nov	2017	1309	Tesser Cohen Trust Account	Law Firm	Metra Release Water Project	139,912.05

The Borough awarded a \$900,000 contract in 2013 to Metra Industries, Inc. to clean and reline water pipelines running throughout the Borough. It was found that the brown water residing within the pipelines was not caused by aging lines. Instead, the valves on the underground pipelines had been shut off, causing them to be dead-ended. This resulted in a lack of a need for Metra's work, which in turn, resulted in a \$230,000 settlement for the lost work. In accordance with the Settlement and Mutual Release, dated October 11, 2017, the Borough agreed to pay the Plaintiff (Metra) a lump sum total of \$230,000.00, no later than November 14, 2017. Of this \$230,000.00, \$139,912.05 was charged against Ordinance 2013-11 (\$30,087.95 was charged to account number 7-11-053-284 and \$60,000.00 was charged to account number 7-11-001-238). The portion of the settlement payment charged against the ordinance is not an allowable expenditure. *Note: The voided check and reissue was due to a misspelling of the vendor's name "Tesser Cohen Trust Account" (initially spelled "Tesser Choen Trust Account").*

Ordinance 2013-11 Findings Continued

Finding 9

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	17-00921	6/7/2017	Jun	2017	367	Paul Calabrese	Accounting & Finance	Belmar vs. Metra Industries	2,850.00

This is an accounting consulting fee associated with the Metra Industries, Inc. settlement. As a result, this is not an applicable soft cost in connection with Ordinance 2013-11.

Finding 10

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	EXPENDITURE	12/31/2017	Dec	2017		Metra Industries, Inc	Utility Consulting/Construction	Ref #1817: Correct Pymt on Metra s/b with Ord.	63,300.98

This was a journal entry made to charge \$63,300.98 to Ordinance 2013-11 for the Metra Industries, Inc. settlement. There had already been a charge of \$139,912.05 made against the ordinance for the \$230,000 settlement (see Finding 8 for more detail). The \$63,300.98 was previously charged to the operating fund but was repurposed to Ordinance 2013-11. As described in "Finding 8," the Metra Industries settlement payment charged against the ordinance is not an allowable expenditure. Consequently, this expenditure does not adhere to Ordinance 2013-11's guidelines. *Note: Between the \$139,912.05 charge made against the ordinance for the Metra Industries settlement and the \$63,300.98 charged to the ordinance through the adjusting entry listed above, a total of \$203,213.03 out of the \$230,000.00 settlement was allocated to Ordinance 2013-11.*

Finding 11

Ordinance	PO Number	Date	Month	Year	Check Number	Vendor	Vendor Type	Description	Dollar Amount
2013-11	15-00334	6/16/2015	Jun	2015	63848	NJ American Water Company	Utility Consulting/Construction	Water Usage/November 2014	27,348.06
2013-11	15-00334	6/16/2015	Jun	2015	63848	NJ American Water Company	Utility Consulting/Construction	Water Usage/December 2014	27,028.82
2013-11	15-00334	6/16/2015	Jun	2015	63848	NJ American Water Company	Utility Consulting/Construction	Water Usage/January 2015	27,460.63
2013-11	15-00334	6/16/2015	Jun	2015	63848	NJ American Water Company	Utility Consulting/Construction	Water Usage/February 2015	28,281.79

These expenditures are associated with the Borough's water usage from November 2014 to February 2015. These charges are outside the scope of allowable expenditures under Ordinance 2013-11.

Finding 12

Vendor	Total Charges	Contract
Mark Woszczak Mechanical Cont	201,882	138,425

While there was a contract in place for the \$138,425, a total amount of \$63,457 was charged above the contracted amount. According to Local Public Contracts Law, the total number of change orders executed for a particular contract shall not cause the originally awarded contract price to be exceeded by more than 20 percent unless otherwise authorized by the rules. Due to the fact that the overcharge amount exceeds the statutory change order threshold of 20 percent without a town having to rebid the change order work, the \$63,457 worth of utility consulting/construction services should have gone out for competitive bidding. Being that the bidding did not occur, these charges were made against the ordinance without following proper rules and regulations.

 Ordinance 2013-11 Findings Continued

Finding 13

Vendor	Total Charges	Contract
Electro Maintenance Inc	211,100	177,850

The Borough of Belmar awarded Electro Maintenance Inc. a contract in the amount of \$177,850.00. According to Local Public Contracts Law, the total number of change orders executed for a particular contract shall not cause the originally awarded contract price to be exceeded by more than 20 percent unless otherwise authorized by the rules. With this, being that the over-expenditure of the contract was \$33,250 (18.7% of the total contract price), a change order could have been executed without having to re-bid. However, there is no resolution authorizing the change order associated with the Electro Maintenance Inc. contract. As such, payment was made without the execution of a change order or going out for competitive bidding, thereby violating rules and regulations.

Finding 14

Finding Reference	Vendor	Total Charge Amount	Misuse Charge Amount
1	McManimon & Scotland, LLC	10,674.60	10,074.60
2	McManimon & Scotland, LLC	4,300.05	4,300.05*
3	Borough of Belmar	70,000.00	0.00
4	Partner Engineering	21,237.38	0.00
5	McManimon & Scotland, LLC	10,784.31	10,784.31
6	McManimon & Scotland, LLC	29,571.77	29,571.77
7	McManimon & Scotland, LLC	9,370.75	9,370.75*
8	Tesser Cohen Trust Account	139,912.05	139,912.05
9	Paul Calabrese	2,850.00	2,850.00
10	Metra Industries, Inc	63,300.98	63,300.98
11	NJ American Water Company	110,119.30	110,119.30
12	Mark Woszczak Mechanical Cont	63,457.00	63,457.00
13	Electro Maintenance Inc	33,250.00	33,250.00
Grand Total		568,828.19	476,990.81

Note: While the - \$140K was paid to the Tesser Cohen Trust Account, both charges are associated with Metra Industries, Inc. See Pg. 3, Finding 8, and Finding 10.

In total, there was an aggregate amount of \$476,990.81 charged against Ordinance 2013-11 that was either dissociated from the purpose of the ordinance, or was expended with a concern (i.e., charging above a contracted amount without a change order or resolution approving the same). There are two expenditure items with an asterisk (*) accompanying them in the "Misuse Charge Amount" column in the table above. Both items are related to McManimon & Scotland, LLC's legal services for the issuance of BANs. As can be seen in both charge amounts' respective Findings report, there was a disproportionate share of professional service charges allocated to Ordinance 2013-11 for the associated BAN issuances. With this, the entirety of the charge amount is being considered as a "misuse" for the purposes of the calculated total in the table above.