

**File of the
Council of the City of Easton, Pa.**

Ordinance No.

SESSION 2011

Bill No. 24

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Introduced by: Elinor Warner – July 27, 2011

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Enacted by Council:

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AN ORDINANCE:

THE CITY OF EASTON HEREBY ORDAINS:

SECTION 1. The following street within the area south of Kleinhans Street extending to Grant Street, and west of Frederick Street extending to James Street, including Charles Street, Ann Street, Terry Street, "C" Alley 1, "D" Alley 1, Jones-Houston Way, East Bird Street and Lincoln Street, and all utility easements as shown on the plans sheet numbers 2, 3, 4, 5 and 6 as prepared by T&M Associates, dated June 10, 2008, and revised on July 14, 2010, entitled Final Plan – Hope VI Redevelopment Project Easton Housing Authority, have been accepted for public use by Ordinance N. 5146 on December 22, 2008.

SECTION 2. The utility easements shown on the above named plans are hereby accepted for use by the City of Easton.

SECTION 3. The storm water collection system and sanitary sewer collection system within the above named streets and utility easements, and as shown on the plans sheet numbers 18, 19 and 20 as prepared by T&M Associates, dated June 10, 2008, and revised on July 14, 2010, subtitled Utility Plan A, Utility Plan B and Utility Plan C, are hereby accepted as a part of the City of Easton's collection systems.

SECTION 4. All Ordinances or parts of ordinances inconsistent herewith be, and the same are hereby repealed.

SECTION 5. This ordinance shall take effect 30 days following adoption by Council.

Signed the day of , 2011

ATTEST: _____
City Clerk

Mayor

**File of the
Council of the City of Easton, Pa.**

Ordinance No.

SESSION 2011

Bill No. 25

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Introduced by: Kenneth Brown - July 27, 2011
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Enacted by Council:
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AN ORDINANCE:

OF THE COUNCIL OF THE CITY OF EASTON, NORTHAMPTON COUNTY, PENNSYLVANIA, AUTHORIZING THE ISSUANCE OF ITS TAXABLE GENERAL OBLIGATION NOTE, SERIES OF 2011 (THE "NOTE"), IN THE STATED PRINCIPAL AMOUNT NOT TO EXCEED \$6,165,000; SETTING FORTH THE PURPOSE OF THE ISSUANCE OF THE NOTE, TO FUND CERTAIN CAPITAL PROJECTS OF THE CITY OF EASTON PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT; DETERMINING THAT THE NOTE SHALL BE SOLD AT PRIVATE SALE; DETERMINING THE PROJECTS AND ESTABLISHING THEIR USEFUL LIFE; DETERMINING THAT THE DEBT EVIDENCED BY THE NOTE SHALL BE NONELECTORAL DEBT; SETTING FORTH THE INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES AND FINAL MATURITY OF THE NOTE AND THE PREPAYMENT PRIVILEGES; ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE NOTE; DESIGNATING A PAYING AGENT FOR THE NOTE; SETTING FORTH THE METHOD AND PLACE OF PAYMENT OF THE NOTE; APPROVING THE FORM OF THE NOTE; AUTHORIZING THE EXECUTION OF THE NOTE; ENTERING INTO A COVENANT WITH RESPECT TO THE NOTE AND PLEDGING THE CITY'S FULL FAITH, CREDIT AND TAXING POWER THEREFORE, AND ESTABLISHING A SINKING FUND FOR THE NOTE; DESIGNATING A SINKING FUND DEPOSITORY; SETTING FORTH CERTAIN ADDITIONAL TERMS WITH RESPECT TO THE NOTE; AUTHORIZING APPROPRIATE OFFICERS TO FILE UNDER SECTION 8110 OF THE LOCAL GOVERNMENT UNIT DEBT ACT WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, INCLUDING PROCEEDINGS UNDER SECTION 8024 OR 8026 OF THE ACT; DECLARING THE DEBT EVIDENCED BY THE NOTE TO BE WITHIN THE LIMITATIONS OF THE LOCAL GOVERNMENT UNIT DEBT ACT; AUTHORIZING DELIVERY OF THE NOTE; AUTHORIZING INVESTMENT OF THE PROCEEDS OF THE NOTE; PROVIDING FOR INVALID PROVISIONS; PROVIDING FOR

INCONSISTENT ORDINANCES; PROVIDING WHEN THE ORDINANCES SHALL BECOME EFFECTIVE.

WHEREAS, the City of Easton, Northampton County, Pennsylvania (the "City"), is a Local Government Unit, as defined in the Pennsylvania Local Government Unit Debt Act, as codified by the Act of December 19, 1996, P.L. 1158, No. 177 constituting Title 53, Part VII, Subpart B of the Pennsylvania Consolidated Statutes, as amended (the "Act"); and

WHEREAS, the City and its Parking Authority intend to undertake the development of an intermodal facility in the City of Easton ("Intermodal Project") consisting of a parking garage, an area for interstate and intra city bus service, a public park and building space for governmental and commercial uses; and

WHEREAS, in furtherance of the Intermodal Project, the Council of the City (the "Council") has determined to undertake a preliminary project (the "Preliminary Intermodal Project" or "Preliminary Project") consisting of the acquisition of land for the Intermodal Facility, design work for land use approvals, preliminary cost estimates, demolition and/or other planning, acquisition, design, construction or equipping of the Intermodal Project; and

WHEREAS, in order to finance the costs of the Preliminary Project, or the reimbursement to the City for payment of costs already paid, the Council has determine to issue and sell the City's Taxable General Obligation Note, Series of 2011 (the "Note"), in a stated principal amount not to exceed \$6,125,000 (sometimes referred to herein as the "Financing Program"); and

WHEREAS, the proceeds of the Note will be used to finance the costs of the Preliminary Project, including capitalized interest and costs of issuance for the Note, on an interim basis until financing for the construction of Intermodal Project is obtained, at which time the Preliminary Project costs will be refinanced on a long term basis as well on a tax-exempt and/or taxable basis depending on the anticipated uses of the Intermodal Project; and

WHEREAS, prior to authorization of the issuance of the Note, the Council has obtained from registered architects, professional engineers or other persons qualified by experience, and reviewed, realistic preliminary costs estimates for the Intermodal Project in its entirety, which estimated costs are not less than \$27,000,000, and more specifically for the Preliminary Project, which costs are not less than \$6,125,000; and

WHEREAS, the estimated date for completion of construction for the Intermodal Project is not earlier than September 15, 2013; and

WHEREAS, the Council anticipates that part of the Note may be paid through reimbursement grants related to the Intermodal Project; and

WHEREAS, the Council, in contemplation of the authorization, issuance and sale of the Note, has determined that the Note shall be offered for private sale, by invitation, in accordance with Section 8161 of the Act, which it believes is in the best interest of the City, and has designated VALCO Capital, Ltd., its Financial Consultant (the "Financial Consultant") to obtain quotations from banking institutions for the prospective purchase of the Note; and

WHEREAS, the Council has received and reviewed a written proposal, which shall constitute a Loan Agreement (the "Loan Agreement"), for the purchase of the Note, at private sale in accordance with the Financing Program, from _____ (the "Bank"), which it desires, upon the recommendation of the Financial Consultant to accept; and

WHEREAS, the Council desires to award the Note to the Bank at private sale and to accept the Loan Agreement in the form submitted; to authorize issuance of nonelectoral debt in the stated principal amount of the Note in connection with the Financing Program; to approve the financing study presented by the Financial Consultant; and to take appropriate action and to authorize such action in connection with the Financing Program, all in accordance with and pursuant to provisions of the Act.

THE CITY OF EASTON HEREBY ORDAINS:

SECTION 1. The Council of the City of Easton does authorize and direct the issuance of the Taxable General Obligation Note, Series of 2011, pursuant to this Ordinance, in the stated principal amount not to exceed \$6,125,000, for the purpose of the Financing Program. The Note will be an obligation of the City payable from its general revenues.

SECTION 2. The purpose of the issuance and sale of the Note shall be to provide sufficient funds, in addition to those available, to carry out the Financing Program described in the Preamble to this Ordinance, in order to finance the costs of the Preliminary Project, which are to be incurred in furtherance of the completion of the Intermodal Project. The Intermodal Project is a "Project" as defined in Section 8002 of the Act, with a useful life of not less than 30 years. The maturity date of the Note does not exceed the useful life of the project being financed. The payment of principal of the

Note has not been deferred beyond one year after the estimated completion of construction.

SECTION 3. The Note shall be sold at private sale by invitation, which the Council hereby determines is in the best interests of the City.

SECTION 4. The Council has determined that the debt, of which the Note shall be evidence, shall be nonelectoral debt of the City.

SECTION 5. (a) The Council shall issue, execute and deliver the Note to the Bank under the terms and conditions set forth in the Loan Agreement at a closing (the "Closing") in the stated principal amount of [not to exceed \$6,125,000] in fully registered form, bearing interest at a rate of _____, with a maximum rate not to exceed 12% per annum, payable semi-annually on March 15 and September 15, beginning March 15, 2012, and principal payable at maturity on September 15, 2014, at which time the entire principal amount shall be due and payable to the Bank in full. Maximum debt service payments with respect to the Note shall be as attached hereto as Exhibit A.

(b) The Note shall be issued on a draw down basis. Draws may be taken at any time and on one or more occasions; however, proceeds of the Note once drawn down may not be drawn again. Interest shall only be payable on the amount of principal outstanding. Interest shall accrue on the basis of a 360 day year of twelve thirty-month days.

(c) The Note shall be subject to prepayment in whole or part at any time without penalty or premium.

SECTION 6. The Council shall and does accept the proposal of the Bank for purchase of the Note, which Note shall be and is awarded to the Bank, in accordance with terms and conditions of the Loan Agreement, at private sale by invitation, at a dollar price of

100% of the principal amount thereof at Closing, together with accrued interest from the date thereof to the date of delivery thereof, if any, the Bank having submitted its proposal in accordance with provisions of the Act. The Financing Study prepared and presented by the Financial Consultant is approved and adopted. Appropriate officers of the City are authorized and directed to execute the Loan Agreement.

SECTION 7. The Council does hereby designate, the Bank, a banking institution having trust offices in _____, Pennsylvania, or its successor or nominee-affiliate, as the "Paying Agent" for purposes of the Note.

SECTION 8. The principal of and premium, if any, and interest on the Note shall be payable by account transfer, check or draft of the Paying Agent mailed or delivered to the registered owner at the address shown on the registration books as of the close of business on the fifth (5th) day prior to the payment dates, in lawful monies of the United States of America.

SECTION 9. The Note shall be substantially in the following form, with such changes therein as may be made and approved by the City's Solicitor and the officers of the City executing the same pursuant to the authority of this Ordinance:

CITY OF EASTON

Northampton County, Pennsylvania

Taxable General Obligation Note, Series of 2011

CITY OF EASTON (the "City"), a local government unit under and pursuant to the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, as hereinafter defined, for value received, hereby promises to pay to _____, a banking institution registered to do business within the Commonwealth of Pennsylvania with its principal corporate offices in _____, Pennsylvania (the "Bank"), or its successors or assigns, on or before the 15th day of September, 2014 upon surrender hereof, the principal sum of _____ Dollars (\$_____), and to pay interest on

said principal sum at a rate of _____ with a maximum rate not to exceed 12% per annum, payable semi-annually on the 15th day of March and the 15th day of September, commencing March 15, 2012, either until maturity hereof or, if this Note shall be prepaid, until the date of such prepayment, principal due in full on or before September 15, 2014.

The principal of and interest on this Note shall be payable at the principal office of the Bank, or any successor or assignee, in any coin or currency of the United States of America which, at time of payment, is legal tender for payment of public and private debts, to the registered owner on the fifth (5th) day prior to each payment date.

The Note has been authorized for issuance in accordance with provisions of the Local Government Unit Debt Act (the "Act") of the Commonwealth and by virtue of a Ordinance of the City duly enacted _____, 2011 (the "Ordinance "). The Act, as such shall have been in effect when the Note was authorized, and the Ordinance shall constitute a contract between the City and registered owner, from time to time, of the Note.

The Note constitutes a general obligation of the City payable from its general revenues. The Note is issued for the purpose of providing monies, in addition to those available, to fund the costs of certain capital projects (the Projects as defined in the Ordinance), as such costs are defined in Section 8007 of the Act.

The City has covenanted, in the Ordinance, to and with registered owners, from time to time, of the Note that shall be outstanding, that the City: (i) shall include the amount of the debt service for the Note, for each fiscal year of the City in which such sums are payable, in its budget for that fiscal year, (ii) shall appropriate such amounts from its general revenues for the payment of such debt service, and (iii) shall duly and punctually pay or cause to be paid from the sinking fund established under the Ordinance or any other of its revenues or funds, the principal of the Note and the interest thereon on the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, the City has pledged and does pledge, irrevocably, its full faith, credit and taxing power.

The City shall have the right to, without penalty or premium, prepay any amount hereunder at any time and from time to time, in whole or in part. Any prepayment in whole or in part shall include accrued interest and all other sums then due under the Note.

If the Bank shall merge or change its identity or assign this Note, the Bank shall give written notice of such action to the City, which notice shall direct the City to make payments hereunder henceforth to the appropriate successor or assignee. Such notice

shall be effective if given not less than fifteen (15) days prior to any date for the payment of principal and interest thereunder, or for the prepayment of principal, if notice of prepayment shall have been given to the Bank.

Reference is hereby made to the Ordinance and to the Loan Agreement between the City and the Bank for a statement of the nature, extent and manner of enforcement of the security, the terms and conditions under which the Ordinance may be amended or modified, the rights of the holder of the Note in respect to such security, and the terms and conditions under which the Note is issued. The City has established with the Bank a sinking fund for the Note and has made provision for the deposit therein from its general revenues, of amounts sufficient to pay, and from which the Bank, as paying agent and sinking fund depository, is required to pay, the principal of and interest on the Note as the same shall become due and payable.

It is hereby certified that: (i) All acts, conditions and things required to be done, to happen or to be performed as conditions precedent to and in issuance of this Note or in creation of the debt of which this Note is evidence have been done, have happened or have been performed in due and regular form and manner, as required by law; and (ii) the debt represented by this Note, together with any other indebtedness of the City, is not in excess of any limitation imposed by the Act upon the incurring of debt by the City.

IN WITNESS WHEREOF, the City has caused this Note to be executed in its name by the signature of the Mayor or Deputy Mayor of the City, and its seal to be affixed hereto, attested by the City Clerk or Assistant City Clerk, all as of _____, 2011.

CITY OF EASTON

BY: _____
(Deputy) Mayor

ATTEST:

(Asst.) City Clerk

(SEAL)

CERTIFICATE OF REGISTRATION NOTICE.
NO WRITING HEREON EXCEPT
BY PAYING AGENT ON BEHALF OF THE MAKER

It is hereby certified that the foregoing Note is registered as to principal and interest as follows:

<u>Name of Registered Owner</u>	<u>Address of Registered Owner</u>	<u>Date of Registration</u>	<u>Paying Agent's Authorized signature</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the within Note, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer said Note on the books of the within named Maker, with full power of substitution in the premises.

Tax Identification No.

Dated: _____

NOTICE: The signature on this assignment must correspond with the name as it appears upon the fact of the within note in every particular, without alteration or any change whatsoever.

SECTION 10. The Note shall be executed in the name of and in behalf of this City by the signatures or facsimile signatures of the Mayor or Deputy Mayor of the City, and the official seal of this City or a facsimile thereof shall be affixed thereunto, attested by the signature or facsimile signature of the City Clerk or Assistant City Clerk.

SECTION 11. This City covenants to and with the holder or registered owner of the Note, from time to time, pursuant to this Ordinance, that this City shall include the amount of the debt service thereon for each fiscal year of this City in which such sums are payable, in its budget for each such fiscal year, shall appropriate such amounts to the payment of such debt service, and duly and punctually shall pay or shall cause to be paid the principal of the Note and the interest thereon on the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, this City shall and does pledge, irrevocably, its full faith, credit and taxing power. As provided in the Act, the foregoing covenant of this City shall be enforceable specifically.

Furthermore:

(a) There are created pursuant to Section 8221 of the Act, a sinking fund for the Note, to be known as the "Sinking Fund, Taxable General Obligation Note, Series of 2011", or the "2011 Note Sinking Fund", which sinking fund shall be administered in accordance with applicable provisions of the Act.

(b) From the funds deposited in the appropriate sinking fund, the Paying Agent, without further action of the City, is hereby authorized and directed to pay the principal of and interest on the respective Note, and the City hereby covenants that such monies, to the extent required, will be applied to such purpose, as follows: the

Paying Agent shall pay all interest and principal on each Note, as and when the same shall become due and payable.

SECTION 12. The City appoints the Bank as the Sinking Fund Depository with respect to the Sinking Fund created pursuant to Section 11 of this Ordinance.

SECTION 13. The Mayor or Deputy Mayor of this City is authorized and directed to contract with the Bank for its services as Sinking Fund Depository and as Paying Agent in connection with the Note, and is authorized and directed to execute on behalf of the City at the appropriate time, a Paying Agent Agreement with the Bank in its capacity as Paying Agent for the Note. The Mayor, Deputy Mayor, the Director of Finance and/or Controller are authorized to approve payment at closing on the sale of the Note of all costs and expenses incidental to such issuance and sale and consummation of the Financing Program.

SECTION 14. The following additional terms and conditions shall apply, as appropriate, to the Note:

(a) Should the City fail to provide the Paying Agent with sufficient funds, payable to the Sinking Fund, at appropriate intervals, so as to enable the Paying Agent to pay the principal and interest on the Note as and when due, or should the City, through the Paying Agent, fail to make such payments as and when due, or should the City fail to perform any other covenant or condition contained in this Ordinance and running to the benefit of the holder or registered owner of the Note, or contained in the Act as applicable to the Note, such failure shall constitute a default by the City, and the registered owner of the Note shall be entitled to all the rights and remedies provided by the Act in the event of default. If any such default occurs, the Paying Agent may, and upon written request of the registered owner of the Note accompanied by indemnity in

such form and in such amount as the Paying Agent shall designate or a Court of competent jurisdiction shall set and establish, shall bring suit upon the Note, or by other appropriate legal or equitable action restrain or enjoin any acts by the City which may be unlawful or in violation of the rights of the owner of the Note.

(b) With respect to the Note hereunder, when such Note shall be paid by the City or the Paying Agent pursuant to the terms and provisions of this Ordinance, it shall be cancelled and cremated or otherwise destroyed by the Paying Agent, which shall then furnish the City with a Certificate of Cremation or Destruction, if requested.

(c) The Note hereunder shall be deemed to be no longer outstanding if provision for payment at maturity or at redemption, such redemption having been irrevocably undertaken, shall have been made in a manner authorized under Section 8250(b) of the Act.

(d) With respect to the Note hereunder, the City may, from time to time and at any time, enact a supplemental ordinance in order to: (1) cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance, or (2) grant to or confer upon the owner of the Note any additional rights, remedies, powers, authority, or security that may be lawfully granted to or conferred upon it. This Ordinance may also be amended or modified from time to time, except with respect to the interest payable upon the Note, or with respect to the date of payments and maturity of the Note, and in the case of any such permitted amendment or modification, a certified copy of the same shall be filed with the Paying Agent following approval in writing by the owner of the Note, unless provision for payment or redemption of the Note has been made prior to the effective date thereof as provided in subsection (c) above.

SECTION 15. The Mayor, Deputy Mayor, Controller, Finance Director and/or the City Clerk of this City, which shall include their duly qualified successors in office, if applicable, are authorized and directed as appropriate; (a) to prepare, to certify and to file the debt statement required by Section 8110 of the Act; (b) to prepare and file, as required with the Department of Community and Economic Development (the "Department") of the Commonwealth, statements required by Section 8024 or 8026 of the Act, which are necessary to qualify certain nonelectoral and lease rental debt of this City and, if necessary, the debt which will be evidenced by the Note to be issued hereunder, as subsidized or self-liquidating debt; (c) to prepare, execute and to file the application with the Department, together with a complete and accurate transcript for the proceedings relating to the incurring of debt, of which debt the Note, upon issue, will be evidence, as required by Section 8111 of the Act; (d) to pay or to cause to be paid to the Department all proper filing fees required by the Act in connection with the foregoing; and (e) to take other required, necessary and/or appropriate action.

SECTION 16. It is declared that the debt to be incurred by the issuance of the Note hereby, together with any other indebtedness of the City, is not in excess of any limitation imposed by the Act upon the incurring of debt by the City.

SECTION 17. Reserved.

SECTION 18. The Mayor or Deputy Mayor is authorized to execute a continuing disclosure agreement or certificate for the benefit of the Bank, as approved by Note Counsel. The City shall comply with the continuing disclosure requirements contained in the agreement or certificate as long as the Note is outstanding.

SECTION 19. Proper officers of this City are authorized and directed to deliver the Note, upon execution thereof as provided for herein, to the Bank, but only upon receipt of proper payment of the balance due or the amount then to be drawn thereon, and only

after the Department has certified its approval pursuant to Section 8111 of the Act, and to pay or direct the payment of the costs of issuance and comply with the Loan Agreement requirements, including fees due and payable to the Bank.

SECTION 20. The proceeds of the sale of the Note, after payment of the costs of issuance, shall be invested, pending application to the payment of costs of the Preliminary Project, in investments (the "Investments"), which are legal investments for City under the laws and statutes of the Commonwealth of Pennsylvania, and further, to the extent not invested in direct obligations of the United States, such Investments shall be adequately collateralized by such obligations. The Director of Finance is hereby authorized and directed to make appropriate arrangements for the Investments.

SECTION 21. The Mayor and Deputy Mayor, the City Controller, the Director of Finance, the City Clerk (or any Acting City Clerk or Assistant City Clerk appointed for such purpose), and City Solicitor, or any duly appointed successors, as the case may be, in the name of and on behalf of the City are hereby authorized to execute any agreements, instruments or documents and to do or cause to be done any and all acts and things deemed necessary or appropriate for the carrying out of the purposes of this Ordinance and to comply with the Act.

SECTION 22. In the event the City receives any grant funds related to the Preliminary Project for costs previously paid through proceeds of the Note, the City shall use the grant funds to pay down the balance of the Note. The payment shall be made within thirty (30) days of receipt of the grant funds. No investment of the grant funds shall be made, except for a limited time prior to payment on the Note.

SECTION 23. In the event that any provision, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any

remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

SECTION 24. All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

SECTION 25. This Ordinance shall be effective in accordance with the City Charter.

ENACTED this _____ day of _____, 2011.

(Deputy) Mayor

ATTEST:

(Assistant) City Clerk

[SEAL]

EXHIBIT "A"

MAXIMUM DEBT SERVICE SCHEDULE

<u>Date</u>	<u>Principal</u>	<u>Coupon</u>	<u>Interest</u>	<u>Total P+I</u>
09/15/2011			369,900.00	369,900.00
03/15/2012			369,900.00	369,900.00
09/15/2012			369,900.00	369,900.00
03/15/2013			369,900.00	369,900.00
09/15/2013			369,900.00	369,900.00
03/15/2014			369,900.00	369,900.00
09/15/2014	6,165,000.00	12.000%	369,900.00	6,534,900.00
Total	\$6,165,000.00		\$2,219,400.00	\$8,384,400.00