

**PASSAIC COUNTY UTILITIES AUTHORITY**

**FINANCIAL STATEMENTS**

**FOR THE YEARS ENDED**

**DECEMBER 31, 2012 AND 2011**

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**PASSAIC COUNTY UTILITIES AUTHORITY**

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**Financial Section**

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## INDEPENDENT AUDITOR'S REPORT

Honorable Commissioners  
Passaic County Utilities Authority  
Passaic County, New Jersey

Ladies and Gentlemen:

### **Report on the Financial Statements**

We have audited the accompanying statement of net position of the Passaic County Utilities Authority as of December 31, 2012 and 2011, and the related statements of revenues, expenses, and changes in net position and cash flows for the year then ended, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"), and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the



circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Passaic County Utilities Authority as of December 31, 2012 and 2011, and the respective changes in financial position and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Other Matters***

#### ***Change in Accounting Principle***

As discussed in Note 13 to the financial statements, in 2012 the Authority adopted new accounting guidance, GASB Statement No. 65, *Items Previously Reported as Assets and Liabilities*. Our opinion is not modified with respect to this matter.

#### ***Going Concern***

The accompanying financial statements have been prepared assuming that the Passaic County Utilities Authority will continue as a going concern. As discussed in Note 10 to the financial statements, the Passaic County Utilities Authority has been affected by the outcome of litigation and/or governmental proceedings relative to waste flow control. The District Court has ruled among other things that New Jersey's Waste Flow Rules are unconstitutional to the extent that they discriminate against interstate commerce. As a result of the elimination of waste flow, the operations of the PCUA have been substantially impeded. Since there is no approved Authority plan directing waste flow and/or there is no Federal and/or State legislative remedy or State regulatory remedy, it is likely that the PCUA will be unable to meet its debt service repayments and the operations will be further impeded, thus raising substantial doubt about its ability to continue as a going concern. The County of Passaic is currently assisting the Authority with its debt obligation under the County Landfill Agreement described in Note 8. Management's plans in regard to regulatory waste flow are described in Note 10. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

#### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards



Board who considers it to be an essential part of the financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

*Other Information*

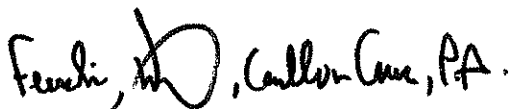
Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprises the Passaic County Utilities Authority's financial statements. The Supplemental Schedules are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplemental schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplemental schedules are fairly stated in all material respects in relation to the financial statements taken as a whole.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated March 26, 2013 on our consideration of the Passaic County Utilities Authority's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Passaic County Utilities Authority's internal control over financial reporting and compliance.

Very truly yours,



FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.  
Certified Public Accountants

March 26, 2013



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## Management Discussion and Analysis

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**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**

*As management of the Passaic County Utilities Authority, we offer the Authority's financial statements this narrative overview and analysis of the Authority's financial performance during the fiscal years ended December 31, 2012 and 2011. Please read this analysis in conjunction with the Authority's financial statements, which follow this section.*

**Financial Highlights**

- The Authority's liabilities and deferred inflows of resources exceeded its assets and deferred outflows of resources by \$60,525,177 (net position) for the fiscal year reported. This compares to the previous year when liabilities and deferred inflows of resources exceeded assets and deferred outflows of resources by \$62,000,424.
- Total net position is comprised of the following:
  - (1) Invested in Capital Assets (net of related debt) of \$(57,918,473).
  - (2) Unrestricted of \$(2,606,704) represent the portion available to maintain the Authority's continuing obligations to citizens and creditors.
- Total liabilities of the Authority increased by \$1,364,600 to \$63,415,963 during the fiscal year.

**Overview of the Financial Statements**

This annual report includes this management discussion, the independent auditor's report and the basic financial statements of the Authority. The financial statements also include notes that explain in more detail some of the information in the financial statements.

***Required Financial Statements***

The financial statements of the Authority report information of the Authority using accounting methods similar to those used by private sector companies. These statements offer short and long-term financial information about its activities. The *Statement of Net Position* includes all of the Authority's assets, deferred outflows of resources, liabilities and deferred inflows of resources, and provides information about the nature and amounts of investments in resources (assets), the consumption of net assets that is applicable to a future period (deferred outflows of resources), the acquisition of net assets that is applicable to a future reporting period (deferred inflows of resources) and the obligations to Authority creditors (liabilities). It also provides the basis for evaluating the capital structure of the Authority and assessing the liquidity and financial flexibility of the Authority.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

All of the current year's revenues and expenses are accounted for in the *Statement of Revenues, Expenses and Changes in Net Position*. This statement measures the results of the Authority operations over the past year and can be used to determine whether the Authority has recovered all its costs through its user fees and other charges, operational stability and credit worthiness.

The final required financial statement is the *Statement of Cash Flows*. This statement reports cash receipts and cash payments, and net changes in cash resulting from operations, investing and financing activities and provides answers to such questions as what operational sources provided cash, what was the cash used for, and what was the change in cash balance during the reporting period.

***Notes to the Financial Statements***

The accompanying notes to the financial statements provide information essential to a full understanding of the financial statements. The notes to the financial statements begin immediately following the basic financial statements.

***Other Information***

In addition to the basic financial statements and accompanying notes, this report presents certain required supplementary information. This supplementary information follows the notes to the financial statements.

**Financial Analysis of the Authority**

One of the most important questions asked about the Authorities finances is "Is the Authority as a whole better able to fulfill its mission as a result of this years activities?" The *Statement of Net Position* and the *Statement of Revenues, Expenses and Changes in Net Position* report information about the Authority's activities in a way that will help answer this question. These two statements report net position of the Authority and the changes in the position. The reader can think of the Authority's net position – the difference between assets, deferred outflows of resources, liabilities and deferred inflows of resources – as one way to measure financial health or financial position. Over time, increases or decreases in the Authority's net position are one indicator of whether its financial health is improving or deteriorating. However, one will need to consider the non-financial factors such as changes in economic conditions, population growth, development, and new or changed government regulation.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Net Position**

As year-to-year financial information is accumulated on a consistent basis, changes in net assets may be observed and used to discuss the changing financial position of the Authority as a whole.

The Authority's net position at fiscal year-end was \$(60,525,177). This is a \$1,475,247 increase over last year's restated net position of \$(62,000,424). A summary of the Authority's statement of net position is presented in the following table:

**Condensed Statement of Assets**  
**(000's)**

	<u>2012</u>	Restated <u>2011</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Assets:				
Current and Other Assets	<u>109</u>	<u>109</u>	<u>    0</u>	0.00%
Deferred Outflows of Resources:				
Deferred Debits	<u>3,064</u>	<u>237</u>	2,827	1192.83%
Liabilities:				
Current Liabilities	4,731	4,416	315	7.13%
Long-Term Liabilities	<u>58,685</u>	<u>57,635</u>	<u>1,050</u>	1.82%
	<u>63,416</u>	<u>62,051</u>	<u>1,365</u>	2.20%
Deferred Inflows of Resources:				
Unamortized Gain on Refunding	<u>282</u>	<u>295</u>	<u>(13)</u>	(4.41)%
Net Position:				
Invested in Capital Assets, Net				
of Related Debt	(57,918)	(59,138)	1,220	(2.06)%
Unrestricted	<u>(2,607)</u>	<u>(2,862)</u>	<u>255</u>	(8.91)%
	<u>(60,525)</u>	<u>(62,000)</u>	<u>1,475</u>	(2.38)%

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Net Position, continued**

A summary of the Authority's prior year statement of net assets is presented with comparative FY 2010 balances in the following table. This comparison has not been restated to reflect the financial reporting requirements of GASB No. 63 and the change in the classification of bond issuance costs required by GASB No. 65:

**Condensed Statement of Net Assets**  
**(000's)**

	<u>2011</u>	<u>2010</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>
Current and Other Assets	<u>742</u>	<u>768</u>	<u>(26)</u>	(3.39)%
Total Assets	<u>742</u>	<u>768</u>	<u>(26)</u>	(3.39)%
Long-term Debt Outstanding	57,930	59,388	(1,458)	(2.46)%
Other Liabilities	<u>4,416</u>	<u>4,367</u>	<u>49</u>	1.12%
Total Liabilities	<u>62,346</u>	<u>63,755</u>	<u>(1,409)</u>	(2.21)%
Invested in Capital Assets, Net of Related Debt	(58,742)	(60,129)	1,387	(2.31)%
Unrestricted	<u>(2,862)</u>	<u>(2,858)</u>	<u>(4)</u>	0.14%
Total Net Assets	<u>(61,604)</u>	<u>(62,987)</u>	<u>1,383</u>	(2.20)%

While the *Statement of Net Position* shows the change in financial position of nets assets, the *Statement of Revenues, Expenses and Changes in Net Position* provides answers as to the nature and source of these changes. As can be seen in the following table, net position increased by \$1,475,247.



**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Net Position, continued**

**Condensed Statement of Revenues, Expenses  
and Changes in Net Position  
(000's)**

	<u>2012</u>	<u>2011</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Non-operating Revenues	4,285	4,300	(15)	(0.35)%
Total Revenues	4,285	4,300	(15)	(0.35)%
Operating Expenses	37	52	(15)	(28.85)%
Interest Expense	2,535	2,839	(304)	(10.71)%
Other Nonoperating Expense	<u>238</u>	<u>9</u>	<u>229</u>	2544.44%
Total Expenses	<u>2,810</u>	<u>2,900</u>	<u>(90)</u>	(3.10)%
Change in Net Assets	1,475	1,400	75	5.36%
Beginning Net Assets	(62,000)	(62,987)	987	(1.57)%
Cumulative Effect of GASB				
No. 63 and 65	<u>          </u>	<u>(413)</u>	<u>413</u>	(100.00)%
Ending Net Position	<u>(60,525)</u>	<u>(62,000)</u>	<u>1,475</u>	(2.38)%

The Authority's Nonoperating Revenues decreased by \$14,493 to \$4,285,515 from \$4,300,008 due to the decrease in funds received from the County of Passaic for payment of current principal and interest due on debt and reduced interest expenses.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Net Position, continued**

A summary of the Authority's prior year statement of revenues, expenses and change in net assets is presented with comparative FY 2010 figures in the following table. This comparison has not been restated to reflect the financial reporting requirements of GASB No. 63 and the change in the classification of bond issuance costs required by GASB No. 65.

**Condensed Statement of Revenues, Expenses  
and Changes in Net Assets  
(000's)**

	<u>2011</u>	<u>2010</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Non-operating Revenues	<u>4,300</u>	<u>4,321</u>	<u>(21)</u>	(0.49)%
Total Revenues	<u>4,300</u>	<u>4,321</u>	<u>(21)</u>	(0.49)%
Operating Expenses	53	49	4	8.16%
Interest Expense	2,839	2,898	(59)	(2.04)%
Other Nonoperating Expense	<u>25</u>	<u>25</u>	<u>0</u>	0.00%
Total Expenses	<u>2,917</u>	<u>2,972</u>	<u>(55)</u>	(1.85)%
Change in Net Assets	1,383	1,349	34	2.52%
Beginning Net Assets	<u>(62,987)</u>	<u>(64,336)</u>	<u>1,349</u>	(2.10)%
Ending Net Assets	<u>(61,604)</u>	<u>(62,987)</u>	<u>1,383</u>	(2.20)%

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**

**Budgetary Highlights**

The Authority prepares and submits an annual budget to the State of New Jersey, which approves the budget for adoption by the Authority prior to the beginning of the fiscal year.

The following tables provides a FY 2012 and FY 2011 budget comparison:

<b>Budget vs. Actual</b>			
<b>FY 2012</b>			
<b>(000's)</b>			
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Revenues:			
Non-Operating	<u>4,390</u>	<u>4,273</u>	<u>(117)</u>
	<u>4,390</u>	<u>4,273</u>	<u>(117)</u>
Expenses:			
Operating	140	37	103
Non-Operating	<u>4,250</u>	<u>3,980</u>	<u>270</u>
	<u>4,390</u>	<u>4,017</u>	<u>373</u>
Income	<u>0</u>	<u>256</u>	<u>256</u>

<b>Budget vs. Actual</b>			
<b>FY 2011</b>			
<b>(000's)</b>			
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Revenues:			
Non-Operating	<u>4,400</u>	<u>4,287</u>	<u>(113)</u>
	<u>4,400</u>	<u>4,287</u>	<u>(113)</u>
Expenses:			
Operating	141	53	88
Non-Operating	<u>4,259</u>	<u>4,238</u>	<u>21</u>
	<u>4,400</u>	<u>4,291</u>	<u>109</u>
Income	<u>0</u>	<u>(4)</u>	<u>(4)</u>

Non-operating revenues consist primarily of money received from the County of Passaic as part of the County Landfill Agreement.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Capital Assets**

At the end of 2012, the Authority had no additional investments in capital assets. The Authority's net property, plant and equipment at fiscal year-end was \$-0-. A summary of the Authority's capital assets is presented in the following table:

<b>Capital Assets</b>			
	<u>2012</u>	<u>2011</u>	<u>Dollar Change</u>
Property and Equipment	13,331	13,331	-0-
Less:			
	<u>13,331</u>	<u>(13,331)</u>	<u>-0-</u>
Net Property, Plant and Equipment	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

**Debt Administration**

The Authority currently has issued and outstanding the principal amount of \$60,700,000 of solid waste indebtedness that has been issued from time to time for the purpose of financing the costs relating to its Solid Waste system. The May 1, 1997 opinion of the Third Circuit Court of Appeals in Atlantic Coast Demolition and Recycling Co, Inc. v. Board of Chosen Freeholders of Atlantic County, 112 F. 3<sup>rd</sup> 652 (1997), ultimately resulted in the demise of the County system of regulatory waste flow controls. The Authority subsequently ceased to operate the solid waste system. As a result, all constituent municipalities within the County have independently procured solid waste collection and disposal services. The County of Passaic is currently assisting the Authority with its debt service obligation under the terms of the County Landfill Agreement.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

***Solid Waste Indebtness Currently Secured by the County Landfill Agreement***

The Authority has issued several series of bonds since 1987 that are secured by the County Landfill Agreement on a parity basis with the Bonds, except as set forth below. There is currently outstanding the following debt secured by the County Landfill Agreement:

- \$1,795,000 in aggregate principal amount of its 2004A tax-exempt Solid Waste Disposal Revenue Bonds and \$8,260,000 in aggregate principal amount of its 2004B taxable Solid Waste Disposal Revenue Bonds, as amended and supplemented; and
- \$17,630,000 in aggregate principal amount of its 2008A tax-exempt Solid Waste Disposal Revenue Bonds, as amended and supplemented; and
- \$14,675,000 in aggregate principal amount of its 2012A tax-exempt Solid Waste Disposal Revenue Bonds and \$18,340,000 in aggregate principal amount of its 2012B taxable Solid Waste Disposal Revenue Bonds, as amended and supplemented.

***PenPac Settlement***

For some time, the Authority has been a party to certain litigation captioned, "In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. to Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services" and "PenPac, Inc. Vs. Passaic County Utilities Authority". The proceedings in this litigation ultimately resulted in a judgment in favor of the Plaintiff ("PenPac") that resulted in the turnover of monies from specifically designated bank accounts and the assignment of all future income from the Passaic Investors mortgage receivable to PenPac. The impact of this judgment is further described inn Note 12 in the Notes to Financial Statements.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS**  
**DECEMBER 31, 2012 AND 2011**  
**(continued)**

**Economic Factors, Future Years' Budgets and Rates**

The Commissioners and management of the Authority consider many factors when preparing each years budget. Two of the main factors are payment of the Authority's debt and new regulations issued by the State and Federal governments.

**Contacting the Authority**

This financial report is designed to provide our customers and creditors with a general overview of the Authority's finances and to demonstrate the Authority's accountability for the revenue it receives. If you have any questions about this report or need additional information, contact the Passaic County Utilities Authority, 401 Grand Street, Paterson, NJ 07505.

## **Basic Financial Statements**

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**PASSAIC COUNTY UTILITIES AUTHORITY  
STATEMENT OF NET POSITION  
DECEMBER 31, 2012 AND 2011**

<u>ASSETS</u>	<u>2012</u>	<u>Restated 2011</u>
Current Assets:		
Cash and Cash Equivalents	93,258	93,258
Accounts Receivable	16,001	16,001
Total Current Assets	109,259	109,259
Capital Assets:		
Property and Equipment	13,331	13,331
Accumulated Depreciation - Property and Equipment	(13,331)	(13,331)
Total Capital Assets		
<b>TOTAL ASSETS</b>	<b>109,259</b>	<b>109,259</b>
<b><u>DEFERRED OUTFLOWS OF RESOURCES</u></b>		
Deferred Debits:		
Bond Discount - Net	736,787	236,791
Costs in Excess of Advanced Refunding - Net	2,327,285	
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>3,064,072</b>	<b>236,791</b>

The accompanying "Notes to the Financial Statements" are an integral part of this report.

**PASSAIC COUNTY UTILITIES AUTHORITY  
STATEMENT OF NET POSITION  
DECEMBER 31, 2012 AND 2011**

<u>LIABILITIES</u>	<u>2012</u>	<u>Restated 2011</u>
Current Liabilities:		
Payable from Unrestricted Assets:		
Accounts Payable	205,695	191,520
PenPac Settlement	1,776,705	1,776,705
E.R.O. Deposits Payable	60,240	60,240
Total Current Liabilities (Payable from Unrestricted Assets)	<u>2,042,640</u>	<u>2,028,465</u>
Payable from Restricted Assets:		
Accrued Interest on Bonds and Notes	673,323	942,898
Revenue and Solid Waste Bonds and Notes Payable - Current Portion	<u>2,015,000</u>	<u>1,445,000</u>
Total Current Liabilities (Payable from Restricted Assets)	<u>2,688,323</u>	<u>2,387,898</u>
Long-Term Liabilities:		
Revenue and Solid Waste Bonds and Notes Payable - Long-Term Portion	<u>58,685,000</u>	<u>57,635,000</u>
Total Long-Term Liabilities	<u>58,685,000</u>	<u>57,635,000</u>
<b>TOTAL LIABILITIES</b>	<u>63,415,963</u>	<u>62,051,363</u>

The accompanying "Notes to the Financial Statements" are an integral part of this report.

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**STATEMENT OF NET POSITION**  
**DECEMBER 31, 2012 AND 2011**

	<u>2012</u>	<u>Restated 2011</u>
<b><u>DEFERRED INFLOWS OF RESOURCES</u></b>		
Unamortized Gain on Refunding	282,545	295,111
<b>TOTAL DEFERRED INFLOWS OF RESOURCES</b>	<u>282,545</u>	<u>295,111</u>
 <b><u>NET POSITION</u></b>		
Invested in Capital Assets, Net of Related Debt	(57,918,473)	(59,138,320)
Unrestricted	<u>(2,606,704)</u>	<u>(2,862,104)</u>
<b>TOTAL NET POSITION</b>	<u><u>(60,525,177)</u></u>	<u><u>(62,000,424)</u></u>

The accompanying "Notes to the Financial Statements" are an integral part of this report.

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**PASSAIC COUNTY UTILITIES AUTHORITY  
STATEMENT OF REVENUES, EXPENSES  
AND CHANGES IN NET POSITION  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011**

	<u>2012</u>	<u>Restated 2011</u>
Operating Expenses:		
Other Expenses	37,277	52,587
	<u>37,277</u>	<u>52,587</u>
Operating Income (Loss)	<u>(37,277)</u>	<u>(52,587)</u>
Nonoperating Revenue (Expenses):		
Interest Expenses	(2,535,272)	(2,838,867)
Bond Issuance Costs	(185,606)	
Amortization of Deferred Costs in Excess of Refunded Debt	(35,262)	
Amortization of Original Issue Discount	(16,851)	(9,137)
Amortization of Deferred Savings of Refunded Debt	12,566	12,566
County of Passaic Agreement	4,268,475	4,287,442
Miscellaneous Income (Expense)	4,474	
	<u>1,512,524</u>	<u>1,452,004</u>
Change in Net Position	1,475,247	1,399,417
Net Position, January 1	(62,000,424)	(62,987,025)
Cumulative Effect of Change in Accounting Principle (Implementation of GASB No. 65)		<u>(412,816)</u>
Net Position, December 31	<u>(60,525,177)</u>	<u>(62,000,424)</u>

The accompanying and "Notes to the Financial Statements" are an integral part of this report.

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**PASSAIC COUNTY UTILITIES AUTHORITY**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31,**

	<b>2012</b>	<b>2011</b>
<b>Cash Flows From Operating Activities:</b>		
Cash Paid to Vendors	(23,102)	(28,229)
Net Cash Provided (Used) by Operating Activities:	(23,102)	(28,229)
<b>Cash Flows From Capital and Related Financing Activities:</b>		
Proceeds from Refunding Bonds	33,015,000	
Payment of Refunded Debt	(29,950,000)	
Payment of Costs in Excess of Refunded Debt	(2,362,547)	
Payment of Debt Issuance Costs	(185,606)	
Payment of Original Issue Discount	(516,847)	
Proceeds from County of Passaic Deficiency Agreement	4,268,475	4,287,442
Principal Payments - Bonds and Notes	(1,445,000)	(1,400,000)
Interest Paid	(2,804,847)	(2,859,213)
Net Cash Provided (Used) by Capital and Related Financing Activities:	18,628	28,229
<b>Cash Flows From Investing Activities:</b>		
Miscellaneous Income Received	4,474	
Net Cash Provided (Used) by Investing Activities:	4,474	
 Net Increase (Decrease) in Cash and Cash Equivalents		
Cash, Beginning of Year	93,258	93,258
Cash, End of Year	93,258	93,258

The accompanying "Notes to the Financial Statements" are an integral part of this report.

PASSAIC COUNTY UTILITIES AUTHORITY  
STATEMENT OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31,

	<u>2012</u>	<u>2011</u>
<b>Reconciliation of Operating Income (Loss) to Net Cash Provided (Used) by Operating Activities:</b>		
Operating Income (Loss)	(37,277)	(52,587)
Adjustments to Reconcile Net Income to Net Cash Used by Operating Activities:		
Increase/(Decrease) in Accounts Payable	<u>14,175</u>	<u>24,358</u>
Total Adjustments	<u>14,175</u>	<u>24,358</u>
Net Cash Used by Operating Activities	<u>(23,102)</u>	<u>(28,229)</u>



**Notes to Financial Statements**

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**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Description of Reporting Entity

The Passaic County Utilities Authority (the "Authority") was organized by the County of Passaic (the "County") on March 18, 1987 and, by County resolution adopted May 6, 1987, charged it with the responsibility of implementing the disposal strategy set forth in the Passaic County Solid Waste Management District Plan (the "Plan"). Pursuant to the Solid Waste Utility Control Act of 1970, as amended, N.J.S. 48:13A-1, et seq., (the "Act"), the New Jersey Board of Public Utilities (the "BPU") has the authority to grant an exclusive franchise for the disposal of solid waste within a solid waste management district. On May 21, 1987, the BPU awarded (as confirmed and described in its Revised Order dated August 4, 1987) the exclusive franchise for the District (the "Franchise") to the Authority, as the implementing agent under the Plan. By its order dated June 22, 1987, the BPU also has awarded the Authority a Certificate of Public Convenience and Necessity to enable it to engage in solid waste disposal.

Basis of Presentation

The Authority's financial transactions are recorded in accounts that are created by various resolutions adopted by the Authority to meet bond covenant requirements (more fully defined in Note 2).

The financial statements of the Passaic County Utilities Authority have been prepared on the accrual basis of accounting in conformity with generally accepted accounting principles (GAAP) applicable to enterprise funds of state and local governmental units. Enterprise funds are used to account for operations that are financed and operated in a manner similar to private business enterprises - where the intent of the governing body is that the costs (expenses, including depreciation) of providing services to the general public on a continuing basis be financed or recovered primarily through user charges, or where the governing body has decided that the periodic determination of revenues earned, expenses incurred, and or net income is appropriate for capital maintenance, public policy, accountability or other purposes. The Governmental Accounting Standards Board GASB is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The Authority also applies Financial Accounting Standards Board (FASB) statements and interpretations issued on or before November 30, 1989, provided they do not conflict with or contradict GASB pronouncements. The significant Authority's accounting policies are as follows:

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)**

Basis of Presentation, (continued)

On January 1, 2012, the Authority adopted the provisions of Governmental Accounting Standards Board Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*, which amends the net asset reporting requirement of Statement No. 34, *Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments*, and other pronouncements by incorporating deferred outflows from resources and deferred inflows of resources into the definitions of the required components of the residual measure and by renaming that measure as net position, rather than net assets. The classifications of net position are defined as follows:

- *Invested in capital assets, net of related debt* - This component of net position consists of capital assets, including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are any significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds are not included in the calculation of invested in capital assets, net of related debt. Rather that portion of the debt is included in the same net assets component as the unspent proceeds.
- *Restricted* - This component of net position consists of constraints placed on net assets used through external constraints imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.
- *Unrestricted* - This component of net position consists of net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt."

Basis of Accounting

The Passaic County Utility Authority prepares its financial statements on the accrual basis of accounting in accordance with generally accepted accounting principles. Under the accrual basis of accounting, revenues are recognized when they are earned and expenses are recognized when the liability is incurred.

Cash and Cash Equivalents

The Authority considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. For the purposes of the cash flow statements, cash and cash equivalents includes cash in banks, petty cash and money market accounts with a maturity of three months or less.

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)**

Investments

For purposes of determining the value of any fund or account, investments shall be valued at fair market value. The Authority's investments are limited by the various Landfill Bond, Project Note and Revenue Bond resolutions.

Accounts Receivable

In general, holders of certificates of public convenience and necessity are required to establish a 12 day advance payment amount with the Authority under the terms of the approved Tariff. Municipalities are exempt from advance payments.

Allowance for Doubtful Accounts

There is no allowance for bad debts.

Inventory

The Authority does not record inventory on its balance sheets. The costs of inventory items are deemed immaterial and are recognized as expenditures when purchased.

Fixed Assets

All fixed assets acquired or constructed by the Authority are reported as expenditures in the account that finances the acquisition of the assets and are capitalized in the Operating Accounts.

Construction costs are charged to cost in progress until such time as they are completed and certified by the Authority's consulting engineers, at which time they are transferred to their respective asset category and are then depreciated over their useful lives.

All fixed assets are valued at historical cost and depreciated on the straight-line method based

<u>Class</u>	<u>Life</u>
Property and Equipment	5 Years

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011**  
**(continued)**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)**

Debt Issuance Costs/Original Issue Premium and Discount

In 2004, 2008 and 2012, the Authority issued Refunding Bonds and Notes. The Authority incurred certain legal, accounting, underwriter's discount and miscellaneous costs in connection with the sale. The debt issuance costs relating to the sale of the 2004, 2008 and 2012 Refunding Bonds and Notes has been increased by the original issue discount. These costs are expensed in the period incurred.

Recent Accounting Pronouncements

The Government Accounting Standards Board issued GASB Statement No. 65, *Items Previously Reported as Assets and Liabilities*. This Statement establishes accounting and financial reporting standards that reclassify, as deferred outflows of resources or deferred inflows of resources, certain items that were previously reported as assets and liabilities and recognizes, as outflows of resources or inflows of resources, certain items that were previously reported as assets and liabilities. The Authority has applied GASB No. 65 for the year ending December 31, 2012.

The Government Accounting Standards Board issued GASB Statement No. 66, *Technical Corrections - 2012 - an amendment of GASB Statement No. 10 and No. 62*. The objective of this Statement is to improve accounting and financial reporting for a government financial reporting entity by resolving conflicting guidance that resulted from the issuance of two pronouncements, Statement No. 54, *Fund Balance Reporting Guidance Contained in Pre-November 20, 1989 FASB and AICPA Pronouncements*. This Statement is effective for periods beginning after December 15, 2012. The Authority does not believe this Statement will materially affects its current practice.

The Government Accounting Standards Board issued GASB Statement No. 67, *Financial Reporting for Pension Plans - an amendment of GASB Statement No. 25*. The objective of this Statement is to improve financial reporting by state and local government pension plans. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for pensions with regard to providing decision - useful information, supporting assessments of accountability and inter-period equity, and creating additional transparency. This Statement replaces the requirements of Statements No. 25, *Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans*, and No. 50, *Pension Disclosures*, as they relate to pension plans that are administered through trusts or equivalent arrangements (hereafter jointly referred to as trusts)

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)**

Recent Accounting Pronouncements, (continued)

that meet certain criteria. The requirements of Statements 25 and 50 remain applicable to pension plans that are not administered through trusts covered by the scope of this Statement and to defined contribution plans that provide postemployment benefits other than pensions. This Statement is effective for financial statements for fiscal years beginning after June 15, 2013. The Authority is currently reviewing what effect, if any, this Statement might have on future financial statements.

The Government Accounting Standards Board issued GASB Statement No. 68, *Accounting and Financial Reporting for Pensions - an amendment of GASB Statement No. 27*. The primary objective of this Statement is to improve financial reporting by state and local government for pensions. It also improves information provided by state and local governmental employees about financial support for pensions that is provided by other entities. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for pensions with regard to providing decision-useful information, supporting assessments of accountability and inter-period equity, and creating transparency. This Statement is effective for financial statements for fiscal years beginning after June 15, 2014. The Authority is currently reviewing what effect, if any, this Statement might have on future financial statements.

The Government Accounting Standards Board issued GASB Statement No. 69, *Government Combinations and Disposals of Government Operations*. This Statement establishes accounting and financial reporting standards related to government combinations and disposals of government operations. As used in this Statement, the term "government combinations" includes a variety of transactions referred to as mergers, acquisitions, and transfers of operations. This Statement is effective for financial statements beginning after December 15, 2013. The Authority does not believe this Statement will materially affect its current practice.

Reclassifications

Certain reclassifications have been made to the 2011 amounts to conform to the 2012 financial statement presentation. With the exception to the adjustments mentioned in Note 13, these reclassifications had no effect on the previously reported results of operations for 2011.

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 2 - CREATION OF FUNDS**

The original Revenue Collection and Disbursement Agreement dated September 1, 1987, between the Authority and the Agent and System Trustee has been amended and supplemented at various times. Under the terms of the current Amended Revenue Agreement the following funds and accounts are required to be created and held by the System Trustee:

Revenue Account - To account for all revenues received by the Authority. The allocation of portions of Gross Revenue amounts are determined by applying thereto a percentage equal to the tipping fee component for debt resolution charges over the tipping fee, and to each other fund and account established under the revenue agreement an allocable portion of such tipping fees determined by applying thereto a percentage equal to the tipping fee component for such funds or accounts over the tipping fee.

Operating Account - To account for the allocable portion of the tipping fee component to be used for the operating administration and maintenance of the Solid Waste Management System.

Debt Services Accounts - To account for the accumulation of resources for the payment of the principal of, redemption premium, if any, or interest on the general long term debt and Project Notes that are outstanding from time to time.

Construction Accounts - To account for financial resources to be applied to pay project costs or to redeem notes that are consistent with the terms of the grant or loan pursuant to which such moneys were provided. All moneys that are on deposit in the Construction Account are hereby pledged to secure the payment of the principal of, redemption premium, if any, and the interest on the Project Notes.

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS**

The Authority is required by the bond resolutions and note resolutions to maintain each of its investments in the fund (account) in which the investment was made. In all accounts, except the Operating Account, the securities and the underlying collateral are held by the trustee and are within his care, custody and control. The type, quality and length of time of the investment are regulated by the bond resolution (see Note 2).

Under the Authority's Landfill Bond Resolutions and Revenue Bond Resolutions, the following investments are permitted:

1. Obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the United States of America;



**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)**

2. Obligations issued, or unconditionally guaranteed as to the payment of principal and interest, by the Bank of Cooperatives, the Federal Intermediate Credit Bank, the Federal Home Loan Bank System, the Export-Import Bank of the United States, the Federal Land Banks, the Government National Mortgage Association, the Federal Financing Bank, or any other agency or instrumentality of, or corporation wholly owned by, the United States of America.
3. Time deposits (which may be represented by certificates of deposit) and interest-bearing demand deposits or money-market accounts of any bank, trust company, or financial institution (including the Bond Trustee) which is a member of the Federal Deposit Insurance Corporation (the "FDIC") or the Federal Savings and Loan Insurance Corporation (the "FSLIC"), provided that such time or demand deposits, to the extent not fully and continuously insured by the FDIC or FSLIC, are fully secured by obligations of the type described in items (1) or (2) above, which shall have a market value (exclusive of accrued interest) at all time at least equal to the principal amount plus accrued interest or such deposits so secured, except that such deposits need not be so secured if the long-term debt of the bank, trust company or financial institution, or that of its parent corporation, is rated in either of the two highest credit rating categories of a nationally recognized rating agency;
4. Money-market funds customarily utilized by the corporate trust department of the Board Trustee for the investment of funds held in a fiduciary capacity;
5. Written repurchase contracts with financial institutions described in item (3) above (which may include the Bond Trustee) for obligations described in items (1) and (2) above, provided that the market value of such obligations is, at the time of entering into the contract, at least equal to the purchase price specified in the contract and such obligations are held by the Bond Trustee or by a depository satisfactory to the Bond Trustee in such manner as may be required to provide a perfected security interest in such obligations for the benefit of the Authority;
6. Shares of beneficial interest in an investment fund or trust substantially all of whose assets consist of securities described in items (1) or (2) above;
7. Written repurchase contracts, reverse repurchase contracts or securities lending agreements (collateralized by cash or securities) with any securities dealer that is registered as a dealer under the Securities Exchange Act of 1934, as amended, and is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York, having a net capital of at least \$200,000,000, for obligations of, or

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)**

unconditionally guaranteed as to the payment of principal and interest by, the United States of America or obligations issued, or unconditionally guaranteed as to the payment of principal and interest by the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Home Loan Bank System, the Export-Import Bank of the United States, the Federal Land Banks, the Farmer's Home Administration, the Government National Mortgage Association, the Federal Financing Bank, Student Loan Marketing Association, Federal National Mortgage Association or any agency or instrumentality of, or corporation wholly owned by the United States of America, provided that the time of entering into such contracts or agreements, the market value as determined by such primary dealer (the "market value") of the obligations subject to such repurchase contracts is at least equal to the purchase price specified in such reverse repurchase contracts is at least equal to the market value of the obligations subject to such contracts, or the market value of the collateral for such securities lending agreements is at least equal to the market value of the securities lent, and such obligations or collateral are held by the Bond Trustee or by a third-party depository satisfactory to the Bond Trustee in such manner as may be required to provide a perfected security interest in such obligations or collateral for the benefit of Bondholders;

8. Obligations rated in one of the two highest rating categories by a nationally recognized rating agency the interest on which is excludable from gross income for federal income tax purposes under Section 103 of the Code, or unit investment trusts investing exclusively in such obligations; and
9. The New Jersey Cash Management Fund and any similar trust fund under the administration of the New Jersey State Treasurer.

Investments - Under the Authority's Project Note Resolution, the following investments are permitted:

1. Any direct and general obligation of, or any obligation fully and unconditionally guaranteed by, the United States of America or the State of New Jersey;
2. Any bond, debenture, note or participation certificate issued by any of the following Federal agencies: Bank for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Bank System, Federal Land Banks, Export-Import Bank of the United States, Tennessee Valley Authority, Federal National Mortgage Association, Government National Mortgage Association, Farmers Home Administration;

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)**

3. Negotiable or non-negotiable certificates of deposit issued by any bank, trust company or national banking association, which certificates of deposit except in the case of certificates of deposit issued by a bank, trust company or national banking association located in New Jersey or if located outside of New Jersey having a capital stock and surplus of more than \$50,000,000 shall be continuously secured by direct obligations of the United States of America or the State of New Jersey which shall have at least equal to the principal amount of such certificates of deposit and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association issuing such certificates of deposit;
4. Full faith and credit obligations of any State, provided that at the time of purchase such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;
5. Any repurchase agreements with any bank, trust company or national banking association located in New Jersey or if located outside New Jersey, having a capital stock and surplus of more than \$50,000,000 with respect to any of the obligations described in subparagraphs (1) or (2) above; provided that such repurchase agreement is continuously secured or collateralized by obligations described in subparagraphs (1) or (2) above that shall have, on the date of the repurchase agreement, a fair market value equal to at least 100% of the amount of the repurchase obligation of the bank, the trust company or the national banking association;
6. Deposits in interest-bearing accounts in any bank, trust company or national banking association located in New Jersey or if located outside New Jersey, having a capital stock and surplus of more than \$50,000,000;
7. Money-market funds consisting of the investment obligations described in this Section;
8. Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the New Jersey State Treasurer is the custodian.

Deposits are carried at cost and investments are valued at fair market value, and are included on the balance sheet as "Cash and Investments." Accrued interest is separately stated on the balance sheet.

The Authority had no outstanding investments at December 31, 2012 and 2011.

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)**

The Authority held the following deposits which include cash on deposit, money-market accounts and certificates of deposit.

	<u>December 31, 2012</u>		<u>December 31, 2011</u>	
	<u>Carrying Amount</u>	<u>Bank Balance</u>	<u>Carrying Amount</u>	<u>Bank Balance</u>
Insured:				
Unrestricted Accounts (FDIC)	<u>\$93,258</u>	<u>\$93,258</u>	<u>\$93,258</u>	<u>\$93,258</u>

The New Jersey Governmental Unit Deposit Protection Act requires all banks doing business in the State of New Jersey to maintain additional collateral in the amount of 5% of the average public deposits and deposit these amounts with the Federal Reserve Bank for all deposits not covered by either FDIC or FSLIC.

**Custodial Credit Risk – Deposits**

Custodial credit risk is the risk that in the event of a bank failure, the government’s deposit may not be returned to it. The Authority’s policy is based on New Jersey statutes requiring cash be deposited only in New Jersey based on banking institutions that participate in New Jersey Governmental Depository Protection Act (GUDPA) or in a qualified investment established in New Jersey Statutes 40A:5-15.1(a) that are treated as cash equivalents. As of December 31, 2012, \$-0- of the Authority’s bank balance of \$93,258 was exposed to custodial risk.

**Interest Rate Risk**

The Authority does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. However, New Jersey Statutes 40A:5-15.1(a) limits the length of time for most investments to 397 days.

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)**

**Credit Risk**

New Jersey Statutes 40A:5-15.1(a) limits municipal investment maturities to those specified in the Statutes. The type of allowance investments are Bonds of the United States of America or the local unit or school districts of which the local unit is part of: obligations of federal agencies not exceeding 397 days; government money market mutual funds; the State of New Jersey Cash Management Plan; local government investment pools; or repurchase of fully collateralized securities.

**Concentration of Credit Risk**

The Authority places no limit on the amount it may invest in any one issuer.

**NOTE 4 - RESTRICTED ASSETS**

Bond covenants of the Authority require portions of the debt proceeds as well as other resources to be set aside for various purposes. These amounts are reported as restricted assets. The "revenue bond construction" account segregates cash and investments that are restricted for use in construction. Cash and investments restricted for debt service payment on bonds and notes are segregated in "current debt service" accounts. Cash and investments reserved to meet future debt service contingencies are segregated in "liquidity and bond reserve accounts. The haulers escrow account reflects cash from prepaid Tariff charges that will eventually be recognized as revenue or returned to customers.

**NOTE 5 - FIXED ASSETS**

The following is a summary of fixed assets:

	<u>Balance Dec.31, 2011</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance Dec. 31, 2012</u>
Property and Equipment	\$13,331	\$-0-	\$-0-	\$13,331
Less Accumulated Depreciation and Amortization	<u>13,331</u>	<u>-0-</u>	<u>-0-</u>	<u>13,331</u>
Net	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 6 - LONG-TERM DEBT**

Outstanding debt obligations consisted of the following:

	<u>Dec. 31, 2011</u>	<u>Issued</u>	<u>Refunded/ Retired</u>	<u>Dec. 31, 2012</u>
Solid Waste Disposal Revenue Refunding, Series 2004A Due March 31, 2014 4.50%-5.00%	\$32,600,000	\$	\$30,805,000	\$1,795,000
Solid Waste Disposal Revenue Refunding, Series 2004B Due March 31, 2034 5.75%-6.00%	8,450,000		190,000	8,260,000
Solid Waste System Project Refunding Notes, Series 2008A Due March 31, 2037 3.00%-5.00%	18,030,000		400,000	17,630,000
Solid Waste Disposal Revenue Refunding, Series 2012A Due March 1, 2034 1.50%-3.375%		14,675,000		14,675,000
Solid Waste Disposal Revenue Refunding, Series 2012B Due March 31, 2028 0.747%- 4.211%	<u>                    </u>	<u>18,340,000</u>	<u>                    </u>	<u>18,340,000</u>
Total	59,080,000	<u>33,015,000</u>	<u>31,395,000</u>	60,700,000
Less Current Portion	<u>1,445,000</u>			<u>2,015,000</u>
Net Long Term Debt Payable	<u>\$57,635,000</u>			<u>\$58,685,000</u>

The Bonds were authorized and issued under and pursuant to the Act, the resolution adopted by the Authority on August 12, 1987 entitled "General Bond Resolution Authorizing the Issuance of Solid Waste Disposal Revenue Bonds" (the "General Bond Resolution") and the Series 1987 Resolution adopted on September 11, 1987 (the "Series Resolution"). The General Bond Resolution and the Series Resolution are hereinafter referred to collectively as the "Resolutions".

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011**  
**(continued)**

**NOTE 6 - LONG-TERM DEBT, (continued)**

On February 26, 2004 the Authority issued \$44,825,000 of Solid Waste Disposal Revenue Bonds, Refunding Series 2004. The proceeds of the Bonds will be used to, among other things: (i) currently refund the March 1, 2004 maturity of the Solid Waste Disposal Revenue Bonds, Refunding Series 1996 (Capital Appreciation Bonds) (the "1996 Refunding Bonds") in the accreted principal amount at maturity of \$5,885,000 accreted; (ii) currently refund the March 1, 2004 payments of principal in the amount of \$100,000 and interest in the amount of \$129,525 on the Solid Waste Disposal Revenue Bonds, Refunding Series 1998 (the "1998 Refunding Bonds"); (iii) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$87,491.25 on the Solid Waste System Project Notes, Refunding Series 1999 (the "1999 Refunding Notes"); (iv) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$182,022.50 on the Solid Waste System Revenue Bonds (Tax-Exempt Series 1999A) (Current Interest Bonds) (the "1999A CIBs"); (v) currently refund the February 27, 2004 payments of principal in the amount of \$20,815,000 and interest in the amount of \$464,434.69 on the Solid Waste Disposal Revenue Bonds, Refunding Series 2003A (the "2003A Refunding Bonds"); (vi) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$225,843.75 on the Solid Waste System Revenue Bonds (Taxable Series 1999B) (the "1999B Bonds"); (vii) currently refund the February 27, 2004 payments of principal in the amount of \$2,815,000 and interest in the amount of \$61,413.92 on the Solid Waste Disposal Revenue Bonds, Refunding Series 2003B (the "2003B Refunding Bonds"); (viii) redeem on March 1, 2004 \$7,775,000 aggregate principal amount of 1999A CIBs at a redemption premium of 101%; (ix) redeem on March 1, 2004 \$6,405,000 aggregate principal amount of 1999B Bonds at a redemption premium of 101%; (x) advance refund the September 1, 2004 interest payment in the amount of \$127,375 on the 1998 Refunding Bonds and (xi) advance refund the September 1, 2004 interest payment in the amount of \$86,491.25 on the 1999 Refunding Notes (all of which payments are collectively referred to as the "Prior Obligations"); and (xii) pay the costs of issuance of the Bonds. In 2012, \$29,950,000 of the 2004A Bonds were refunded by the Solid Waste Disposal Revenue Bonds, Refunding Series 2012A and 2012B. At December 31, 2012, the amount of principal outstanding for the 2004A and 2004B Bonds were \$1,795,000 and \$8,260,000, respectively.

On February 20, 2008, the Authority issued \$19,720,000 of Solid Waste System Project Bonds and Notes, Refunding Series 2008. The proceeds of the 2008 Bonds were used to, among other things: (i) currently refund \$19,077,166.11 principal and interest payments of the Prior Obligations due on February 21, 2008 and March 1, 2008; (ii) pay the costs of issuance of the 2008 Bonds. The proceeds of the 2008 Notes were used to, among other things: (i) currently refund \$121,307.43 principal and interest payments of Prior Obligations due on February 21, 2008; and (ii) pay the costs of issuance of the 2008 Notes. At December 31, 2012, the amount of principal outstanding for the 2008A was \$18,030,000.

**PASSAIC COUNTY UTILITIES AUTHORITY  
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**NOTE 6 - LONG-TERM DEBT, (continued)**

On November 1, 2012, the Authority issued \$33,015,000 of Solid Waste Disposal Revenue Bonds, Refunding Series 2012. The proceeds of the 2012A Bonds were used to refund on an advanced basis, all or a portion of the \$13,140,000 aggregate principal amount of the Solid Waste Disposal Revenue Bonds, Refunding Series 2004A maturing on March 1 in each of the years 2028 through 2034, inclusive, at the Redemption Price of 101% of the par amount of the Tax-Exempt Refunded Bonds. Specifically, the proceeds of the 2012A Bonds will be used to pay (i) the Redemption Price of the Tax-Exempt Refunded Bonds on March 1, 2014; (ii) interest on the Tax-Exempt Refunded Bonds to the Redemption Date; and (iii) the costs of issuance of the 2012A Bonds. The proceeds of the 2012B Bonds were used to refund on an advanced basis, all or a portion of the \$16,810,000 aggregate principal amount of the Solid Waste Disposal Revenue Bonds, Refunding Series 2004A maturing on March 1 in each of the years 2015 through 2028, inclusive, at the Redemption Price of the Taxable Refunded Bonds. Specifically, the proceeds of the 2012B Bonds will be used to pay (i) the Redemption Price of the Taxable Refunded Bonds on the Redemption Date; (ii) interest on the Taxable Refunded Bonds to the Redemption Date; and (iii) the costs of issuance of the 2012B Bonds.

The Authority had the following debt service due and payable as of December 31, 2012:

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2013	\$2,015,000	\$2,159,654	\$4,174,654
2014	1,895,000	2,269,125	4,164,125
2015	1,915,000	2,216,240	4,131,240
2016	1,965,000	2,168,200	4,133,200
2017	2,020,000	2,114,433	4,134,433
2018	2,070,000	2,053,858	4,123,858
2019	2,130,000	1,986,018	4,116,018
2020	2,210,000	1,911,160	4,121,160
2021	2,290,000	1,829,528	4,119,528
2022	2,365,000	1,741,538	4,106,538
2023	2,465,000	1,646,766	4,111,766
2024	2,560,000	1,544,635	4,104,635
2025	2,670,000	1,435,058	4,105,058
2026	2,785,000	1,317,993	4,102,993
2027	2,900,000	1,192,983	4,092,983
2028	2,960,000	1,066,318	4,026,318
2029	3,030,000	944,700	3,974,700
2030	3,155,000	822,900	3,977,900
2031	3,280,000	691,156	3,971,156
2032	3,410,000	549,231	3,959,231
2033	3,565,000	400,913	3,965,913
2034	3,715,000	245,756	3,960,756
2035	1,055,000	140,125	1,195,125
2036	1,110,000	86,000	1,196,000
2037	<u>1,165,000</u>	<u>29,125</u>	<u>1,194,125</u>
	<u>\$60,700,000</u>	<u>\$32,563,413</u>	<u>\$93,263,413</u>



**PASSAIC COUNTY UTILITIES AUTHORITY  
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**NOTE 7 - COUNTY LANDFILL AGREEMENT**

The County and the Authority have entered into an agreement dated as of September 1, 1987 entitled the "1987 County Landfill Agreement", as amended and restated by the May 1, 1996 Amended and Restated 1987 County Landfill Agreement, as further amended and supplemented (collectively the "County Landfill Agreement"). Pursuant to the County Landfill Agreement, the County has agreed to pay to the Authority such sums of money as may be required to provide for monetary deficits of the Authority relating to: (a) the debt service on the Bonds, (b) maintaining reserve requirements under the Landfill Bond Resolution and the System Revenue Bond Resolution, and (c) paying the Authority's administrative expenses pertaining to the Project (as defined in the County Landfill Agreement).

The County and the Authority have determined that the County Landfill Agreement is in the best interest of County taxpayers, residents and ratepayers to assure the payment of debt service on the Authority's bonds.

The following is a summary of certain provisions of the County Landfill Agreement that relate to the Bonds and is not a complete restatement of the County Landfill Agreement as it currently exists. Such information is qualified in its entirety by reference to the County Landfill Agreement, as amended, copies of which are on file with the Authority and the Trustee and which should be read in full for a complete understanding of all terms and provisions thereof.

The County entered into the County Landfill Agreement in order to provide financial assistance to the Authority. Such assistance will be rendered upon the Authority's inability to pay debt service on the Bonds, in amounts designed to assure the Authority will have sufficient moneys to, among other things, meet its obligations to pay the principal of and interest on the Bonds.

The County Landfill Agreement provides that if the Authority has insufficient funds to meet its financial obligations during the next year, the Authority will make and deliver to the County a certificate (the "Certificate") stating: (a) the Authority will be unable to provide for the payments due of principal and interest on the Bonds; and (b) the amount of the Authority's expected shortfall (the "Annual Charges"). The Certificate must be delivered by the Authority or the Trustee to the County on or before December 15 of each fiscal year. The County shall pay the amount of annual charges set forth in such Certificate on or before the subsequent February 15.

**PASSAIC COUNTY UTILITIES AUTHORITY  
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(continued)**

**NOTE 7 - COUNTY LANDFILL AGREEMENT (continued)**

The County will make all budgetary and other provisions or appropriations necessary to provide for and authorize the payment by the County to the Authority of the amount stated in the Certificate delivered by the Authority as described above.

The County Landfill Agreement provides that failure on the part of the Authority in any instance or under any circumstance to observe or fully perform any obligation assumed by or imposed on it by the County Landfill Agreement or by law, shall not relieve the County from making any payment or fully performing any other obligation required of it under the County Landfill Agreement, nor make the Authority liable in damages to the County, but the County may have and pursue any and all other remedies provided by law for compelling performance by the Authority of said obligation assumed by or imposed upon the Authority.

The County may not delegate its duties under the County Landfill Agreement.

Every obligation assumed by or imposed upon the County by the County Landfill Agreement shall be enforceable by the Authority by appropriate action or proceeding, and the Authority may have and pursue any and all remedies provided by law for the enforcement of such obligation, including the remedies and processes provided by the Act.

The County agreed in the County Landfill Agreement that its obligation to pay to the Authority the deficiency in the debt service on the Bonds as and when due is an unconditional and unqualified obligation of the County independent of any other obligation of the County.

The County did make payments in 2012 and 2011 in the amount of \$4,268,475 and \$4,287,442, respectively, to fulfill its obligation under the County Landfill Agreement.

**NOTE 8 - SOLID WASTE MANAGEMENT PLAN**

Pursuant to and in accordance with the provisions of the Solid Waste Management Act, constituting Chapter 39 of the Pamphlet Laws of 1970 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Solid Waste Act"), the County has been designated as a "solid waste management district." As such, it was required, among other things, to develop and formulate a Solid Waste Management Plan (the "Plan") providing for the disposal of solid waste generated within the Passaic County Solid Waste Management District (the "Passaic County District"). The County ultimately designated the Authority to supervise the implementation of the Plan.

**PASSAIC COUNTY UTILITIES AUTHORITY  
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(continued)**

**NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)**

Pursuant to the provisions of the Solid Waste Act, the Plan and a franchise granted to the Authority by the New Jersey Board of Public Utilities (“BPU”) and under the authority of the New Jersey Department of Environmental Protection (“DEP”) pursuant to the Solid Waste Utilities Control Act, N.J.S.A. 48:13A-1 et seq. (the “Franchise”), the Authority had the power and authority to control the flow of solid waste through the County solid waste system (the “Solid Waste System”). In order to secure the repayment of its debt obligations and its administrative and operational expenses, the Authority relied primarily on a system of waste flow controls consisting of waste flow rules promulgated by the DEP pursuant to *N.J.A.C. 7:26-6.5* and the Franchise granted by the DEP to the Authority, which waste flow rules were declared unconstitutional by the Third Circuit Court of Appeals in Atlantic Coast Demolition and Recycling Co., Inc. v. Board of Chosen Freeholders of Atlantic County, 112 F. 3rd 652 (1997) (certiorari denied by the Supreme Court on November 10, 1997).

As a result of concerns regarding the validity and enforceability of the DEP waste flow rules and the Franchise due to the decisions in C&A Carbone v. Town of Clarkstown, 113 U.S. 2411 (1993), and an early unfavorable decision in Atlantic Coast in 1995, and the Authority’s resulting inability to direct certain classifications of solid waste through its Solid Waste System, the Authority was unable to collect the tipping fees necessary to satisfy its contractual obligations, including debt service, and to meet its administrative and operating expenses. On March 3, 1995, the Authority filed with the DEP a verified petition seeking to unbundle its solid waste rate in order to segregate the debt service component of that rate in a manner that would permit it to be paid from a separate stand-by assessment or user charge (referred to herein as the “Environmental Investment Charge” or “EIC”). The Authority applied to the Local Finance Board for approval of a Financial Plan to authorize, among other things, the assessment of an EIC. Following hearings in December, 1997, the LFB approved and ordered the implementation of a Financial Plan that included, among other things, the assessment, billing and collection of an EIC.

Prior to the implementation of the EIC, the City of Paterson filed three (3) lawsuits, challenging, among other things, the Authority’s legal authority to implement the Financial Plan, including the imposition and collection of the EIC. The Appellate Division of the New Jersey Superior Court found the EIC to be a valid charge under existing law in a decision issued on May 13, 1999. The City of Paterson filed a Notice of Petition for Certification with the New Jersey Supreme Court, which accepted the petition and reversed the decision of the Appellate Division, holding that the EIC was not authorized by the Act and its imposition and collection are unconstitutional and violative of the Commerce Clause. U.S.C.A. Const. Art. I, §8, cl. 3; City of Paterson v. Passaic County Board of Chosen Freeholders and Passaic County Utilities Authority, 164 N.J. 270 (2000).

**PASSAIC COUNTY UTILITIES AUTHORITY**  
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**(continued)**

**NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)**

As a result of the City of Paterson decision, the Authority worked with representatives of the governor's office and the Department of Treasury to discuss restructuring plans based upon a proposed legislative initiative. On January 7, 2002, this initiative became the Debt Restructuring Act. The State canceled its plans to go forward with the issuance of bonds by the EDA under the Debt Restructuring Act in response to the Supreme Court's decision in the matter of Lonegan v. State of New Jersey, supra. The Supreme Court directed that additional issues be briefed and argued, which, depending upon the Court's final decision in this matter, may enable the State to go forward with its proposed refinancing.

In response to the Third Circuit Court of Appeals Order and Judgment in Atlantic Coast, the State of New Jersey established the Solid Waste Partnership Program (the "Partnership Program"). Under the Partnership Program, in State budget language, the State has acknowledged the need to "subsidize county and county authority debt service payments for environmental investments incurred as of June 30, 1997 . . . in accordance with criteria and program guidelines established by the Commissioners of DEP, DCA and the State Treasurer . . ." Under the 1998 State Budget Appropriations Act, the New Jersey Legislature appropriated not to exceed \$20,000,000 for these purposes. The expenditure of State moneys pursuant to the Partnership Program for such purposes is conditioned upon the State Treasurer having conducted, or contracted for, an operational audit of the county or county authority (the "Audit"), and the county or county authority having implemented the audit recommendations to the satisfaction of the State Treasurer. In late 1997 or early 1998, the Authority issued a request to the State Treasurer to conduct an audit in order that the Authority could benefit from the Partnership Program. The State audit review team, consisting of representatives from the New Jersey Department of Treasury, the New Jersey Department of Community Affairs and the DEP completed the review and issued audit findings and recommendations in October, 1998.

The Authority has taken all appropriate steps to comply with the recommendations contained in the Audit report, including implementation of recommendations to effectuate operational savings to the Authority. The Authority next made application to the New Jersey Department of Treasury for financial assistance to subsidize a shortfall on its November 15, 1998 debt service payment on the System Revenue Bonds. On November 16, 1998, the State Treasurer and representatives of the Authority and the County executed a grant agreement (the "Grant Agreement") awarding the Authority \$950,000 to pay, together with other Authority moneys on hand, the November 15, 1998 debt service payment on the System Revenue Bonds. In May, 1999, the Grant Agreement was amended to provide an additional grant award in the amount of \$809,680.98 for debt service payments. In November 1999, the Grant Agreement

**PASSAIC COUNTY UTILITIES AUTHORITY  
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**NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)**

was further amended to provide an additional grant of \$3,065,450 to pay the November 15, 1999 debt service payment on the System Revenue Bonds. During 2000, an additional grant of \$3,680,600 was provided by the State to pay the May, 2000 and November, 2000 payments of principal and interest due on the System Revenue Bonds. The Grant Agreement was again amended in 2001 and 2002 to provide an additional grant of \$3,683,900 from the State to pay the May, 2001 and November, 2001 payments of principal and interest due on the System Revenue Bonds, an additional grant of \$3,680,650 to pay the May, 2002 and November, 2002, an additional \$3,680,650 to pay the May 2003 and November 2003 payments of principal and interest due on the System Revenue Bonds, \$3,682,400 to pay the May 2004 and November 2004 payments of principal and interest on the System Revenue Bonds, an additional grant of \$3,680,300 to pay the May 2005 and November 2005 payments of principal and interest due on System Revenue Bonds and an additional \$3,262,648 to pay the 2006 principal and interest payments. The conditions of the Grant Agreement remain the same. The Grant Agreement amended certain of the recommendations in the audit including the recommendation:

(i) regarding the adoption of Plan Amendment 2-1998; and (ii) regarding mandatory negotiations with the Bergen County Utilities Authority and American Ref-Fuel of Essex County. The Grant Agreement also provides that nothing in the Grant Agreement precludes the County from proposing to the State recommendations or plan amendments, inconsistent with the recommendations of the Audit, which may be adopted and implemented upon approval by the State. The failure of the Authority and/or the County to implement the recommendations contained in the Audit constitutes an event of default under the Grant Agreement. Upon the occurrence of an event of default the Authority is obligated to reimburse the grant amount.

Although the Authority received the grant to pay the debt service shortfall on the System Revenue Bonds, there is no assurance that the Authority will receive additional grant or loan funds under the Partnership Program.

**NOTE 9 - LITIGATION**

A discussion of certain pending litigation that could have an adverse impact on the financial condition of the Authority is set forth below and has been provided by McManimon, Scotland & Baumann, LLC, General Counsel and Bond Counsel to the Authority.

**PASSAIC COUNTY UTILITIES AUTHORITY  
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**NOTE 9 - LITIGATION, (continued)**

**In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. To Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services**, DEP Docket No. SR92101003J and OAL Docket No. 00788-93N; and,

**PenPac, Inc. v. Passaic County Utilities Authority**, Docket No. PAS-L-2040-05 (Superior Court of New Jersey, Law Division — Passaic County) (Appellate Docket No. A-3861-06T3) (Certification Denied, New Jersey Supreme Court Docket No. 62,832); and,

**PenPac, Inc. v. Passaic County Utilities Authority**, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division — Passaic County).

**Determination of Underrecovery**

From December 12, 1992 to approximately November 11, 1997, PenPac, Inc. (“PenPac”) provided solid waste transfer station services to the Authority pursuant to an interim rate, which was subject to eventual adjustment to account for over recovery by the Authority, or under recovery by PenPac. A Verified Petition in the administrative matter, which is the first case captioned above, was filed by the Authority on or about October 12, 1992 with DEP to establish the rates in question. Essentially, the Authority claimed that it was entitled to an over recovery in excess of \$5,000,000 from PenPac. PenPac in turn claimed that it was entitled to an under recovery in excess of \$20,000,000 (inclusive of interest) from the Authority. The administrative proceedings sought to establish a final rate for the transfer services in question for the years 1993, 1994, 1995 and 1996.

Hearings before an administrative law judge commenced in November, 1996 and concluded at the end of May, 1997. On April 12, 1999, the administrative law judge hearing the matter issued her Initial Decision, awarding approximately \$8,000,000 to PenPac as an under recovery for services rendered. The Initial Decision was a recommended decision, which was submitted to the Commissioner of the DEP for consideration and the issuance of a Final Decision.

On July 5, 2000, the Commissioner of the DEP issued his Summary Order memorializing the decision of the DEP. The Summary Order reduced the award to PenPac from the recommended award of \$8,000,000 to \$3,238,792. The Summary Order further provided that there would be no further rate proceedings for years after 1996. The Summary Order did not include a full list of findings of fact and conclusions of law, which were set forth in the Commissioner’s Final Decision. The Final Decision was appealed to the Appellate Division of the Superior Court by the Authority.

**PASSAIC COUNTY UTILITIES AUTHORITY  
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(continued)**

**NOTE 9 - LITIGATION, (continued)**

The Appellate Division entered a decision affirming the DEP Commissioner's Summary Order awarding PenPac \$3,238,792, plus interest in the amount of \$256,313.00. The Appellate Division also remanded the matter to the DEP for a determination of rate underrecovery for that portion of calendar year 1997 during which PenPac provided transfer station services, and for a determination of the overall rate of interest on the entire award<sup>1</sup>. Certification of that decision was sought to the New Jersey Supreme Court, and ultimately denied.

Entry of August 2005 Judgment and Post-Collection Efforts (1<sup>st</sup> of 2 PenPac Judgments)

PenPac thereafter filed a Complaint in Superior Court, captioned PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-1-2040-05 (Superior Court of New Jersey, Law Division - Passaic County, the second case listed above), seeking to have the administrative underrecovery decision, as affirmed by the Appellate Division, reduced to a judgment in the Superior Court. On August 15, 2005, the Passaic County Superior Court entered a judgment against the Authority in the amount of the Commissioner's Decision, as affirmed, plus interest (total judgment amount of \$3,495,105).

Since the entry of the August 15, 2005 judgment in PenPac's favor<sup>2</sup>, PenPac has engaged in various efforts to enforce the judgment and collect upon it from the Authority (and, as of 2012, against the County of Passaic as well - see *infra*). As a result of the Authority's financial condition, including the amount of outstanding debt, its inability to generate operating revenues in the wake of the judicial rulings in Atlantic Coast Demolition & Recycling, Inc. v. Atlantic County Bd. Of Chosen Freeholders, 112 F.3d 652 (3d Cir. 1997), amended, 135 F.3d 891 (3d Cir. 1998) (the "Atlantic Coast" decisions) and its obligations to the Authority's bondholders, the Authority has consistently taken the position that its limited monetary assets are pledged to the bondholders and should be applied to reduce debt service. Therefore, the Authority has maintained that PenPac's judgment for underrecovery may not be satisfied out of the Authority's monetary assets. The Authority has argued consistently in State court that State law clearly provides that the assets of a county or municipal utilities authority are exempt from levy and execution, and are otherwise pledged to its bondholders in either event. They are not available to satisfy unsecured judgment creditors. Stated simply, the Authority has argued that its assets are pledged to the superior priority of the bondholders, and are not subject to seizure by an unsecured judgment creditor such as PenPac.

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<sup>1</sup> On remand, the NJDEP determined that PenPac was entitled to an additional \$1.3 million of underrecovery for services rendered for portions of calendar year 1997, as well as for interest on the overall award (the "Remand Award"). The Remand Award was reduced to judgment on March 5, 2009 in the third matter listed above, PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division - Passaic County). Post-judgment efforts are ongoing, primarily and directly, against the County of Passaic at this time, discussed *infra*. Nonetheless, the unsatisfied portion of both judgments remain obligations of the Authority, despite its financial condition and regardless of collection efforts against the County.

<sup>2</sup> As well as since the entry of the Remand Award in 2009 constituting the Second Judgment against the Authority.

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**NOTE 9 - LITIGATION, (continued)**

Nonetheless, PenPac, as part of its collection efforts, in the Fall of 2006 made an application to the Superior Court for mandamus relief to compel the Authority to pay the judgment from its available monetary assets, or to otherwise provide for payment. The Authority resisted that application, and opposed it for the reasons set forth in the previous paragraph, focusing largely on the pledge of monetary assets first and foremost to the Authority's bondholders. The Court granted the relief sought by PenPac as a threshold matter, and thereafter held a plenary hearing on January 3-4, 2007 to establish the extent of the Authority's known assets, and the degree to which they are pledged to bondholders as argued by the Authority, or otherwise were potentially available to pay PenPac's 2005 Judgment. The Authority argued that PenPac was precluded from levying against the assets of the Authority, or otherwise obtaining an order to compel payment of the August, 2005 judgment from those assets. After the January, 2007 hearing, during which evidence and testimony were taken with respect to the Authority's assets and financial condition, the Court reserved decision.

March 12, 2007 Order Directing Turnover and Assignment of Assets to PenPac

On March 2, 2007, the Court issued a written opinion, which ordered the implementation of mandamus relief by way of ordering the Authority to 1) turnover \$701,230.41 in Bank of New York accounts to PenPac; 2) to turnover \$1,702,220.84 in Bank of America accounts to PenPac; and 3) to assign all future income derived from the Passaic Investors mortgage receivable, held by the Authority, to PenPac. That decision was memorialized by Order entered on March 12, 2007. The March 12, 2007 Order effectively transferred all of the Authority's known monetary assets to PenPac, excepting only certain Bank of New York accounts associated with the Authority's active and outstanding 1999 and 2004 Series Bonds (as well as any account associated with an active bond issue, such as the 2008 Bonds), which the trial court found were validly pledged to the bondholders and thus not subject to turnover. The rest of the assets were found to be free and available to satisfy PenPac's Judgment.

The Authority authorized appeal of this decision first to the Superior Court Appellate Division (which affirmed), and then to the New Jersey Supreme Court. The New Jersey Supreme Court refused to grant Certification to hear the case, rendering the trial court's March 2007 determination final as of September 5, 2008. At that point, the stay of the trial court's decision was dissolved.



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**NOTE 9 - LITIGATION, (continued)**

Compliance with the March 12, 2007 Order of the Trial Court: Turnover of Assets and Assignment of Mortgage Receivable Income

As a result of the finality of the March 12, 2007 Mandamus Order by exhaustion of available appellate review, the Authority adopted a resolution at a special meeting held on September 25, 2008 to comply with the terms of that Order, and; 1) turned over \$701,230.41 in bondholder restricted Bank of New York accounts to PenPac; 2) turned over \$1,702,220.84 in allegedly unrestricted Bank of America accounts to PenPac; and, 3) assigned all future income derived from the Passaic Investors mortgage receivable, held by the Authority, to PenPac<sup>3</sup>.

Future of PenPac Litigation - Collection Efforts directly against County of Passaic

As noted above, the Remand Award was also reduced to judgment in the amount of approximately \$1.3 million on March 5, 2009 in the third matter listed above, **PenPac, Inc. v. Passaic County Utilities Authority**, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division — Passaic County). PenPac, is still owed payment by the Authority with respect to the balance due on the 2005 judgment, and the entire 2009 Remand Award judgment. What is outstanding does not include post-judgment interest, which accrues pursuant to the New Jersey Rules of Court.

In 2010, PenPac undertook limited, additional post-judgment discovery against the Authority. However, no additional assets were discovered or found (as expected in the light of the 2008 turnover of assets), and no additional post-judgment activity has been taken against the Authority since. None is imminently anticipated.

In 2011, PenPac brought a direct legal action against the County of Passaic to collect on these Judgments. Since the Authority has no available assets, PenPac's collection efforts naturally turned to the County of Passaic - as had been long anticipated. PenPac's lawsuit had asserted various legal theories under which it maintained the County is responsible for the Judgments - contractual debts of the Authority - despite the absence of direct contractual privity with the County. Among them was a theory that the Authority should be dissolved by *de facto* merger with the County of Passaic, and all of its debts assumed by the County - including the PenPac Judgments. That suit was captioned PenPac, Inc. v. County of Passaic, Docket No. PAS-L-2635-11, and was brought in the Superior Court in Passaic County. The County had retained outside, separate counsel to defend against that action.

<sup>3</sup> That Mortgage has now been paid and amortized in full.

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**NOTE 9 - LITIGATION, (continued)**

After discovery, in August of 2012 both the County and PenPac moved for summary judgment. The parties fully briefed the issues in the case - including notably, the inability of the courts to independently dissolve a county utilities authority subject to State oversight, which has outstanding debt. Oral argument was heard in that case on October 23, 2012, on both summary judgment motions. On October 25, 2012, Judge Chiocca in Passaic County dismissed all Counts of PenPac's action against the County for the reasons delivered in an oral opinion. PenPac has since appealed that dismissal to the Appellate Division of the Superior Court, where the matter remains pending at this time. No outcome can be predicted at this point, and the case awaits further briefing before the appellate courts.

**NOTE 10 - OTHER MATTERS**

For the last several years, the Authority has utilized a series of repetitive, short-term financings to meet its debt service obligations. This strategy began as the result of the post-Atlantic Coast uncertainty surrounding the revenues securing payment on the Authority's outstanding debt. In late 1998, the State completed an audit of the Authority (the "Audit"). In the Audit, the State recommended that, upon passage of the relevant State legislation, the Authority should consider refinancing its debt. Accordingly, in reliance upon the progression of such legislation, the Authority continued the strategy of repetitive refundings. On July 15, 2002, the Authority filed an application (the "Application") with the New Jersey Economic Development Authority (the "NJEDA") pursuant to an act entitled "An Act Concerning the Restructuring of Certain Solid Waste Facility Bonds, and Providing for the Financing Thereof Through the New Jersey Economic Development Authority," P.L. 2001, C.401 (the "Restructuring Act"). Pursuant to the Restructuring Act, the NJEDA was authorized to make loans, through the purchase of bonds issued by eligible counties or public authorities, to effect the refunding or rescheduling of outstanding solid waste disposal bonds of such participants. However, the Restructuring Act expired on December 31, 2002, without any action being taken by the NJEDA.

The Authority has taken numerous other efforts to ensure it would have sufficient revenues to meet its debt service obligations. Such effects have included: (i) instituting legal challenges to the repeal of the Solid Waste Act, (ii) imposing an 'environmental investment charge' on municipalities within the County, (iii) complying with all State orders, (iv) participating in the State's Solid Waste Partnership Program and complying with the audit requirements and recommendations thereunder, (v) advocating, and participating in the drafting of, the relevant legislation and (vi) the filing of the Application pursuant to the Restructuring Act.

**PASSAIC COUNTY UTILITIES AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011  
(continued)**

**NOTE 10 - OTHER MATTERS, (continued)**

Despite the Authority's actions, the Authority has no operations and no system revenues with which to meet its debt service obligations. Accordingly, based upon the Authority's lack of any revenues, all of the Authority's outstanding solid waste bonds constitute stranded debt, incapable of being repaid without State assistance (except to the extent such debt is insured or secured by the County).

In light of these developments, the Authority has developed a plan (the "Refinancing Plan") to permanently retire its outstanding indebtedness secured by the Landfill Agreement. The Refinancing Plan involves: (i) the issuance of the Bonds; (ii) the issuance of short-term notes in 2005, 2006 and 2007 (the "Notes") to refund those obligations coming due in such years with respect to the Prior Bonds and the Notes; and (iii) the issuance of bonds in 2008 to refund those obligations coming due in 2008 with respect to the Prior Bonds and the Notes.

**NOTE 11 - RISK MANAGEMENT**

The Passaic County Utilities Authority is exposed to various risks of loss related to torts; theft of damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. During the course of our audit we noted no evidence of insurance on behalf of the Authority.

**NOTE 12 - PENPAC SETTLEMENT**

For some time, the Authority has been a party to certain litigation captioned, "In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. To Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services" and "PenPac, Inc. Vs. Passaic County Utilities Authority". The proceedings in this litigation ultimately resulted in a judgment in favor of the Plaintiff ("PenPac") against the Authority on August 15, 2005 in the amount of \$3,495,105 for certain solid waste underrecovery (the "Initial Judgment"). PenPac, in seeking to enforce payment of the Initial Judgment, obtained a Mandamus Order from the Superior Court of New Jersey, Passaic County - Law Division on March 12 2007, which ordered the Authority to (1) turn over monies in specifically designated accounts held by the Bank of New York to PenPac, (2) turn over monies in specifically designated accounts held by the Bank of America to PenPac and (3) to assign all future income which the Authority derived from the Passaic Investors mortgage receivable to PenPac (the "Turnover Order"). In order to fulfill its obligations to its bondholders, the Authority challenged the Turnover Order by way of an appeal to the Superior Court of New Jersey, Appellate Division. Upon affirmation of the

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2012 AND 2011**  
**(continued)**

**NOTE 12 - PENPAC SETTLEMENT, (continued)**

Turnover Order by that Court, the Authority sought Certification from the Supreme Court of the State of New Jersey to review the Turnover Order. On September 5, 2008, the Supreme Court of the State of New Jersey denied Certification to review the decision of the Appellate Division affirming the Turnover Order, effectively rendering the Turnover Order of March 12, 2007 a final order which must be complied with by the Authority as a matter of law. At that time, the Authority realized that it was constrained to comply with the Turnover Order as a final order of the Superior Court of New Jersey and turned over all specified assets accordingly in the 2008 fiscal year.

On March 19, 2009, a supplemental judgment was awarded to PenPac with respect to the Appellate Division's 2004 remand to the NJDEP, and the underrecovery award to PenPac for services rendered for the balance of calendar year 1997, along with NJDEP's award of interest on the entire underrecovery to PenPac for services rendered from 1993 to 1997. The total amount of this supplemental judgment is \$1,336,580.

**NOTE 13 - PRIOR PERIOD ADJUSTMENTS**

On January 1, 2012, the Authority adopted the provisions of Governmental Accounting Standards Board Statement No. 65, *Items Previously Reported as Assets and Liabilities*. This statement requires, among other things, debt issuance costs, except any portion related to prepaid issuance costs, to be recognized as an expense in the period incurred. As a result, all previously unamortized bond issuance costs have been adjusted retroactively and are shown as a prior period adjustment on the 2011 financial statements.

**Supplementary Schedules**

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PASSAIC COUNTY UTILITIES AUTHORITY  
 SCHEDULE OF REVENUES, EXPENSES AND CHANGES IN  
 NET ASSETS - RESERVED AND UNRESERVED  
 FOR THE YEAR ENDED DECEMBER 31,

	Invested in Capital Assets, Net of Related Debt	Unrestricted	Total (Memo)	
			2012	Restated 2011
Operating Expenses:				
Other Expenses		37,277	37,277	52,587
Total Operating Expenses		37,277	37,277	52,587
Operating Income (Loss)		(37,277)	(37,277)	(52,587)
Non-Operating Revenue (Expenses):				
Interest Expense		(2,535,272)	(2,535,272)	(2,838,867)
Bond Issuance Costs	(185,606)		(185,606)	
Amortization of Deferred Costs in Excess of Refunded Debt	(35,262)		(35,262)	
Amortization of Original Issue Discount	(16,851)		(16,851)	(9,137)
Amortization of Loss on Refunding	12,566		12,566	12,566
County of Passaic Agreement	4,268,475		4,268,475	4,287,442
Miscellaneous Income	4,474		4,474	
Total Non-Operating Revenues and (Expenses)	(225,153)	1,737,677	1,512,524	1,452,004
Net Income (Loss) Before Transfers	(225,153)	1,700,400	1,475,247	1,399,417
Transfers:				
To / (From) Restricted Assets	1,445,000	(1,445,000)		
Increase/(Decrease) in Net Position	1,219,847	255,400	1,475,247	1,399,417
Net Position - January 1,	(59,138,320)	(2,862,104)	(62,000,424)	(62,987,025)
Prior Period Adjustments:				
Cumulative Effect of Change in Accounting Principle				(412,816)
Net Position - December 31,	(57,918,473)	(2,606,704)	(60,525,177)	(62,000,424)

**PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF CASH RECEIPTS, CASH DISBURSEMENTS AND  
CHANGES IN CASH AND INVESTMENTS  
FOR THE YEAR ENDED DECEMBER 31, 2012**

	Revenue Debt Service Account	2004 Project Account	2004A Cost of Issuance	2004B Cost of Issuance	2004A Debt Service
Cash, Cash Equivalents and Investments - January 1, 2012	22,782	10,197	47,119	8	26
<b>Cash Receipts:</b>					
County of Passaic Transfers					4,249,847
Total Cash and Cash Equivalents Available					4,249,847
<b>Cash Disbursements:</b>					
Bond Principal					855,000
Interest on Bonds					1,505,941
Transfers					1,888,906
Total Cash Disbursements					4,249,847
Cash, Cash Equivalents and Investments - December 31, 2012	22,782	10,197	47,119	8	26
<b>Balance Comprised of:</b>					
Cash and Cash Equivalents	22,782	10,197	47,119	8	26
Cash and Investments - December 31, 2012	22,782	10,197	47,119	8	26
Unrestricted					26
Restricted					26



**PASSAIC COUNTY UTILITIES AUTHORITY**  
**SCHEDULE OF CASH RECEIPTS, CASH DISBURSEMENTS AND**  
**CHANGES IN CASH AND INVESTMENTS**  
**FOR THE YEAR ENDED DECEMBER 31, 2012**

	2004B Escrow Fund	2004B Debt Service	2008 Working Capital Expense Account	2008A Cost of Issuance	2008B Cost of Issuance
Cash, Cash Equivalents and Investments - January 1, 2012	1,047	7	2,909	6,158	3,005
<b>Cash Receipts:</b>					
County of Passaic Transfers		673,512			
Total Cash and Cash Equivalents Available		673,512			
<b>Cash Disbursements:</b>					
Bond Principal		190,000			
Interest on Bonds		483,512			
Transfers					
Total Cash Disbursements		673,512			
Cash, Cash Equivalents and Investments - December 31, 2012	1,047	7	2,909	6,158	3,005
<b>Balance Comprised of:</b>					
Cash and Cash Equivalents	1,047	7	2,909	6,158	3,005
Cash and Investments - December 31, 2012	1,047	7	2,909	6,158	3,005
Unrestricted					
Restricted	1,047	7	2,909	6,158	3,005

**PASSAIC COUNTY UTILITIES AUTHORITY**  
**SCHEDULE OF CASH RECEIPTS, CASH DISBURSEMENTS AND**  
**CHANGES IN CASH AND INVESTMENTS**  
**FOR THE YEAR ENDED DECEMBER 31, 2012**

	2008	2012A	2012B	Total
	Debt	Debt	Debt	
	Service	Service	Service	
<b>Cash, Cash Equivalents and Investments - January 1, 2012</b>				93,258
<b>Cash Receipts:</b>				
County of Passaic				4,249,847
Transfers	1,215,394			1,888,906
<b>Total Cash and Cash Equivalents Available</b>	1,215,394			6,138,753
<b>Cash Disbursements:</b>				
Bond Principal	400,000			1,445,000
Interest on Bonds	815,394			2,804,847
Transfers				1,888,906
<b>Total Cash Disbursements</b>	1,215,394			6,138,753
<b>Cash, Cash Equivalents and Investments - December 31, 2012</b>				93,258
<b>Balance Comprised of:</b>				
Cash and Cash Equivalents				93,258
<b>Cash and Investments - December 31, 2012</b>				93,258
Unrestricted				93,258
Restricted				93,258

PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF OPERATING REVENUE COMPARED TO BUDGET  
FOR THE YEAR ENDED DECEMBER 31, 2012 WITH  
COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED DECEMBER 31, 2011

	<u>2012 Budget</u>	<u>2012 Budget After Modification</u>	<u>2012 Actual</u>	<u>2011 Actual</u>
<b>Non-Operating Revenues:</b>				
County of Passaic Agreement	4,390,000	4,390,000	4,268,475	4,287,442
Miscellaneous Income			4,474	
<b>Total Revenues</b>	<u>4,390,000</u>	<u>4,390,000</u>	<u>4,272,949</u>	<u>4,287,442</u>

**SCHEDULE 4**

**PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF OPERATING EXPENSES COMPARED TO BUDGET  
FOR THE YEAR ENDED DECEMBER 31, 2012 WITH  
COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED DECEMBER 31, 2011**

	<u>2012 Budget</u>	<u>2012 Budget After Modification</u>	<u>2012 Actual</u>	<u>Restated 2011 Actual</u>
<b>Administrative and General:</b>				
Office Supplies	2,000	2,000		
Communications	1,000	1,000		
County of Passaic - Administration Fees	21,000	21,000		12,918
Sub-total Administrative and General	<u>24,000</u>	<u>24,000</u>		<u>12,918</u>
<b>Cost of Providing Services:</b>				
Trustee and Fiscal Agent Agreement	30,000	30,000		
Legal Fees	36,153	36,153	10,777	7,169
Financial Advisory Services	50,000	50,000	26,500	32,500
Sub-total Cost of Providing Services	<u>116,153</u>	<u>116,153</u>	<u>37,277</u>	<u>39,669</u>
<b>Debt Service:</b>				
Bond Principal	1,445,000	1,445,000	1,445,000	1,400,000
Bond Interest	2,804,847	2,804,847	2,535,272	2,838,867
Sub-total Debt Service	<u>4,249,847</u>	<u>4,249,847</u>	<u>3,980,272</u>	<u>4,238,867</u>
<b>Total Appropriations</b>	<u><u>4,390,000</u></u>	<u><u>4,390,000</u></u>	<u><u>4,017,549</u></u>	<u><u>4,291,454</u></u>
<b>Excess of Revenues Over Expenses:</b>	-	-	255,400	(4,012)
<b>Reconciliation of Budgetary Basis to GAAP:</b>				
Amortization of Deferred Costs in Excess of Refunded Debt			(35,262)	-
Debt Issuance Costs			(185,606)	-
Amortization of Original Issue Discount			(16,851)	(9,137)
Amortization of Deferred Loss on Refunding Bonds			12,566	12,566
Bond Principal			1,445,000	1,400,000
Total Adjustments			<u>1,219,847</u>	<u>1,403,429</u>
<b>Change in Net Assets</b>			<u><u>1,475,247</u></u>	<u><u>1,399,417</u></u>

PASSAIC COUNTY UTILITIES AUTHORITY  
 SCHEDULE OF BONDS AND NOTES PAYABLE  
 FOR THE YEAR ENDED DECEMBER 31, 2012

Bond Issue	Date Issued	Amount	Rate	Balance December 31, 2011	Increase	Decrease	Balance December 31, 2012
<b>Solid Waste System Revenue Bonds:</b>							
Solid Waste Disposal Revenue Ref. Series 2004A-Tax-Exempt	03/01/2004	35,680,000	4.50-5.00%	32,600,000		30,805,000	1,795,000
Solid Waste Disposal Revenue Ref. Series 2004B-Taxable	03/01/2004	9,145,000	5.75-6.00%	8,450,000		190,000	8,260,000
Solid Waste Disposal Revenue Ref. Series 2008A-Tax-Exempt	02/20/2008	19,145,000	3.00-5.00%	18,030,000		400,000	17,630,000
Solid Waste Disposal Revenue Ref. Series 2012A-Tax-Exempt	11/01/2012	14,675,000	1.500-3.375%		14,675,000		14,675,000
Solid Waste Disposal Revenue Ref. Series 2012B-Taxable	11/01/2012	18,340,000	0.747-4.211%		18,340,000		18,340,000
<b>Total Debt</b>				<u>\$9,080,000</u>	<u>33,015,000</u>	<u>31,395,000</u>	<u>60,700,000</u>
					Principal Refunded	29,950,000	
					Principal Paid	1,445,000	
						<u>31,395,000</u>	
<b>Less: Current Portion of Long Term Debt</b>							
<b>Solid Waste System Revenue Bonds:</b>							
Solid Waste Disposal Revenue Ref. Series 2004A-Tax-Exempt				855,000			885,000
Solid Waste Disposal Revenue Ref. Series 2004B-Taxable				190,000			200,000
Solid Waste Disposal Revenue Ref. Series 2008A-Tax-Exempt				400,000			415,000
Solid Waste Disposal Revenue Ref. Series 2012A-Tax-Exempt							195,000
Solid Waste Disposal Revenue Ref. Series 2012B-Taxable							320,000
<b>Total Current Portion</b>				<u>1,445,000</u>			<u>2,015,000</u>
<b>Total Long Term Portion</b>				<u>57,635,000</u>			<u>58,685,000</u>

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**PASSAIC COUNTY UTILITIES AUTHORITY**

**ROSTER OF OFFICIALS**

**DECEMBER 31, 2012**

Member

Raymond Egatz  
Michael Hanrahan  
Catherine Kazan  
Gary Marchese  
Clark Okun  
Haresh Shah

Chairman  
Vice Chairperson  
Secretary/Treasurer  
Commissioner  
Commissioner  
Commissioner

McManimon, Scotland & Baumann, LLC  
Ferraioli, Wielkotz, Cerullo & Cuva, P.A.

General/Bond Counsel  
Auditor

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**PASSAIC COUNTY UTILITIES AUTHORITY**

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**PART II**

**LETTER ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS**

**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**

**COMMENTS AND RECOMMENDATIONS**

**YEAR ENDED DECEMBER 31, 2012**

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# Ferraioli, Wielkotz, Cerullo & Cuva, P.A.

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## INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

Honorable Commissioners  
Passaic County Utilities Authority  
Passaic County, New Jersey

Ladies and Gentlemen:

We have audited, in accordance with auditing standards generally accepted in the United States of America; audit requirements as prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey; and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the Passaic County Utilities Authority, as of and for the year ended December 31, 2012 and 2011, and the related notes to the financial statements, and have issued our report thereon dated March 26, 2013.

### Internal Control Over Financial Reporting

In planning and performing our audit on the financial statements, we considered the Passaic County Utilities Authority's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Passaic County Utilities Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Passaic County Utilities Authority's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.



Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies in internal control, described in the accompanying schedule of findings and questioned costs, that we consider to be significant deficiencies (Finding 2012-1 and 2012-2).

#### Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Passaic County Utilities Authority's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that we have reported to management in the schedule of findings and questioned costs (Finding 2012-3).

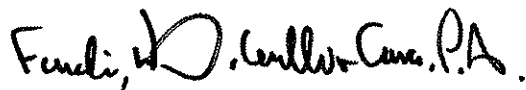
#### Passaic County Utilities Authority's Response to Findings

The Passaic County Utilities Authority's response to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. The Authority's response was not subject to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

#### Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

This report is intended solely for the information of the governing body, management, The Division of Local Government Services, Department of Community Affairs, State of New Jersey, Federal Awarding Agencies and Pass Through Entities and is not intended to be and should not be used by anyone other than these specified parties.



FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.  
Certified Public Accountants

March 26, 2013



**Comments and Recommendations**

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**PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
FOR THE YEAR ENDED DECEMBER 31, 2012**

This section identifies the reportable conditions, material weaknesses, and instances of noncompliance related to the general-purpose financial statements that are required to be reported in accordance with Chapter 5.18 of *Government Auditing Standards*.

**FINDING: 2012-1\***

**STATEMENT OF CONDITION**

Inadequate procedures for appropriately assessing and applying accounting principles.

**CRITERIA**

Procedures for assessing and applying accounting principles should be established in order to ensure the financial statements are presented fairly and in accordance with generally accepted accounting principles.

**EFFECT**

Transactions are often subject to risk of misclassification (e.g. assets, liabilities, net assets, revenues, expenditures).

**CAUSE**

Unknown.

**RECOMMENDATION**

The proper classification of expenditures should be carefully reviewed prior to entering into the check register.

**MANAGEMENT'S RESPONSE**

Management plans to review and correct it's procedures for assessment and applying accounting principles.

**PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
FOR THE YEAR ENDED DECEMBER 31, 2012  
(continued)**

**FINDING: 2012-2\***

**STATEMENT OF CONDITION**

Evidence of failure to perform tasks that are part of internal control, such as reconciliations not prepared or not timely prepared.

**CRITERIA**

Transactions of all Authority bank accounts should be properly recorded and reconciled on a timely basis. Additionally, the records and customer payment histories should be recorded and maintained throughout the year.

**EFFECT**

Transactions in the Authority's bank accounts not being properly recorded and identified during the fiscal year.

**CAUSE**

Unknown.

**RECOMMENDATION**

That transactions of the Authority bank accounts be properly recorded on a timely basis.

**MANAGEMENT'S RESPONSE**

Management recognizes the importance of properly recording transactions on a timely basis and is working to resolve this finding in the 2012 fiscal year.



**PASSAIC COUNTY UTILITIES AUTHORITY  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
FOR THE YEAR ENDED DECEMBER 31, 2012  
(continued)**

**FINDING: 2012-3**

**STATEMENT OF CONDITION**

The Authority has old accounts receivable and account payable balances on their system that have not been reviewed for accuracy by management.

**CRITERIA**

Account receivables should represent obligations due to the Authority while account payables should represent obligations due from the Authority at the closing date of a financial statement.

**EFFECT**

Assets and liabilities are possibly overstated.

**CAUSE**

Unknown.

**RECOMMENDATION**

The Authority should review all old accounts receivable and account payable balances.

**MANAGEMENT'S RESPONSE**

Management will review and correct old account receivable and account payable balances.

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**PASSAIC COUNTY UTILITIES AUTHORITY  
SUMMARY SCHEDULE OF PRIOR YEAR AUDIT FINDINGS  
AND QUESTIONED COSTS AS PREPARED BY MANAGEMENT  
FOR THE YEAR ENDED DECEMBER 31, 2012**

This section identifies the status of prior-year findings related to the general-purpose financial statements and federal state awards that are required to be reported in accordance with Chapter 6.12 of *Government Auditing Standards*.

**Status of Prior Year Findings**

A review was performed on prior year's recommendations and corrective action was taken on all items, except those noted with an asterisk "\*".

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**PASSAIC COUNTY UTILITIES AUTHORITY  
GENERAL COMMENTS**

**Contracts and Agreements**

N.J.S.A. 40A:11-4 states "Every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law."

Effective July 1, 2010 and thereafter the bid thresholds in accordance with N.J.S.A. 40A:11-3 (as amended) is \$36,000.

N.J.S.A. 40A:11-2 contains definitions for terms used throughout N.J.S.A. 40A:11-1 et seq. and was amended under P.L. 1999, c.440. It includes as subsection (23) the term 'competitive contracting', which is defined as "the method described in sections 1 through 5 of P.L. 1999, c.440 (C.40:11-4.1 through C.40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors' formal proposals are evaluated by the purchasing agent or counsel; and the governing body awards a contract to a vendor or vendors from among the formal proposals received."

N.J.S.A. 40A:11-3 was amended with P.L. 1999, c.440 to raise the bid threshold and require award by governing body resolution. "When the cost or price of any contract awarded by the purchasing agent in the aggregate does not exceed in a contract year the total sum of \$36,000, the contract may be awarded by a purchasing agent when so authorized by ordinance or resolution as appropriate to the contracting unit, of the governing body of the contracting unit without public advertising for bids and bidding therefore, except that the governing body may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations."

N.J.S.A. 40A:11-15 was amended with P.L. 1999, c.440 to extend the base contract period. "Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection (a) of N.J.S.A. 40A:11-5 may be awarded for a period not exceeding 12 consecutive months."

The governing body has the responsibility of determining whether the expenditures in any category will exceed the statutory thresholds within the contract year. Where question arises as to whether any contract or agreement might result in violation of the statute, the opinion of the Authority's attorney should be sought before a commitment is made.

Inasmuch as the system of records did not provide for an accumulation of payments for categories for the performance of any work or the furnishing or hiring of any materials or supplies, the results of such an accumulation could not reasonably be ascertained. Disbursements were reviewed, however, to determine whether any clear-cut violations existed.

**PASSAIC COUNTY UTILITIES AUTHORITY  
GENERAL COMMENTS, (CONTINUED)**

**Contracts and Agreements, (continued)**

Our examination of expenditures did not reveal any individual payments, contracts, or agreements "for the performance of any work or the furnishing or hiring of any materials or supplies," in excess of the statutory thresholds other than those where bids had been previously sought by public advertisement or where a resolution had previously been adopted under the provisions of N.J.S.A. 40A:11-6.

Our review of the Authority's minutes indicated that resolutions were adopted authorizing the awarding of contracts or agreements for "Professional Services" per N.J.S.A. 40A:11-5.

Resolutions were adopted authorizing the awarding of contract or agreements for "Professional Services" per N.J.S.A. 40A:11-5.

**Appreciation**

We desire to express our appreciation of the assistance of the Authority staff during the course of our audit.

Respectfully submitted,

*Ferraioli, Wielkocz, Cerullo & Cuva, P.A.*

FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.  
Certified Public Accountants