



Legislation Text

File #: 22-1325, Version: 1

Dept/ Agency: Finance

Action: () Ratifying (X) Authorizing () Amending

Purpose: Approving loan and escrow agreements for Lead Service Lines.

Amount to be Financed: \$89,203,472.00

Source of Appropriation: Bonds

Project Information:

(Description/ Project No./Amount Appropriated/Ordinance No.)

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS TO BE EXECUTED BY THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY AND EACH OF THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, ALL PURSUANT TO THE STATE FISCAL YEAR 2023 WATER BANK FINANCING PROGRAM FOR FUNDING PHASES 5 THROUGH 10 OF THE CITY'S LEAD SERVICE LINE REPLACEMENT PROGRAM.

Additional Information:

To permanently finance Phase 5 through 10 of the Lead Service Line Replacement Program.

The City will receive \$27,783,075.00 in principal forgiveness.

WHEREAS, the City of Newark (the "Local Unit"), in the County of Essex, New Jersey, determined that there existed a need within the Local Unit for Phases 5 through 10 of the Local Unit's lead service line replacement program (the "Project"), as said Project is more particularly defined in each of that certain Loan Agreement (the "I-Bank Loan Agreement") to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (formerly known as the New Jersey Environmental Infrastructure Trust) (the "I-Bank") and that certain Loan Agreement (the "Fund Loan Agreement", and together with the I-Bank Loan Agreement, the "Loan Agreements") to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State"), all pursuant to the State Fiscal Year 2023 New Jersey Water Bank Financing Program (the "Program"); and

WHEREAS, the Local Unit has determined to permanently finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the "I-Bank Loan") and the State (the "Fund Loan", and together with the I-Bank Loan, the "Loans") pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively; and

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit's Qualified General Obligation Bond, Series 2022, to the I-Bank (the "I-Bank Loan Bond") and Qualified General Obligation Bond, Series 2022, to the State (the "Fund Loan Bond", and together with the I-Bank Loan Bond, the "Local Unit Bonds"), said Local Unit Bonds to be issued in an aggregate principal amount not to exceed \$89,203,472.00, pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of

Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), other applicable law and the Loan Agreements; and

WHEREAS, the I-Bank and the State have expressed their desire to close in escrow the making of one or more of the Loans, the issuance of one or more of the Local Unit Bonds and the execution and delivery of one or more of the Loan Agreements, all pursuant to the terms of an Escrow Agreement (the “Escrow Agreement”) to be entered into by and among the I-Bank, the State, the Local Unit and the escrow agent to be named therein.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

By not less than a majority of the full membership of the Governing Body.

1. The I-Bank Loan Agreement, the Fund Loan Agreement and the Escrow Agreement (collectively, the “Financing Documents”) are hereby authorized to be executed and delivered on behalf of the City of Newark (“Local Unit”) by either the Mayor of the City of Newark or the Chief Financial Officer in substantially the forms to be distributed by the I-Bank and the State, with such changes as the Mayor of the City of Newark or the Chief Financial Officer (each an “Authorized Officer”), in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit (collectively, the “Local Unit Consultants”) and after further consultation with the I-Bank, the State and their representatives, agents, counsel and advisors (collectively, the “Program Consultants”, and together with the Local Unit Consultants, the “Consultants”), shall determine, such determination to be conclusively evidenced by the execution of such Financing Documents by an Authorized Officer as determined hereunder. The Local Unit Acting City Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Local Unit as determined hereunder and to affix the corporate seal of the Local Unit to such Financing Documents.

2. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Acting City Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Local Unit Acting City Clerk, as applicable, in their respective sole discretion, after consultation with the Consultants, to be executed in connection with the execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.

3. This Resolution shall take effect upon the adoption hereof.

4. Upon the adoption hereof, the Local Unit Acting City Clerk shall forward certified copies of this Resolution to DeCotiis, FitzPatrick, Cole & Giblin, LLP, Bond Counsel to the Local Unit, and Richard Nolan, Esq., McCarter & English, LLP, Bond Counsel to the I-Bank.

STATEMENT

This Resolution authorizes the execution and delivery of loan agreements to be executed by the City of Newark and each of the New Jersey Infrastructure Bank and the State of New Jersey, acting through the Department of Environmental Protection, and further authorizing the execution and delivery of and escrow agreement, all pursuant to the State Fiscal Year 2023 Water Bank Financing Program for Funding Phases 5 through 10 of the City's Lead Service Line Replacement Program.