



Legislation Text

File #: 14-0225, Version: 1

Dept/ Agency: Finance

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

Purpose: Approving loan and escrow agreements for Combined Sewer Overflow Solids/Floatables Control Facilities; Screening Facilities at Clay Street Outfall and Freeman Street Outfall; Construction of end of pipe netting; rehabilitation by cured-in-place pipe of approximately 6,154 linear feet of brick combined sewers

Amount to be financed: \$15,000,000.00

Source of Appropriation: Bonds

Project Information:

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

Combined Sewer Overflow Solids/Floatables Control Facilities; Screening facilities at Clay Street Outfall and Freeman Street Outfall - \$2,500,000.00

Sewer utility improvements, including but limited to, rehabilitation by cured-in-place pipe of approximately 6,154 linear feet of brick combined sewers - \$12,500,000.00

Additional Information:

Invitation: Acting Finance Director, March 18, 2014

WHEREAS, the City of Newark, in the County of Essex, New Jersey (the "Local Unit"), has determined that there exists a need within the Local Unit to acquire, construct, renovate or install the Project (the "Project") as defined in each of that certain Loan Agreement (the "Trust Loan Agreement") to be entered into by and between the Local Unit and the New Jersey Environmental Infrastructure Trust (the "Trust") and that certain Loan Agreement (the "Fund Loan Agreement", and together with the Trust 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 New Jersey Environmental Infrastructure Trust Financing Program (the "Program"); and

WHEREAS, the Local Unit may be entitled to some principal forgiveness on one or more loans (which may not be confirmed until escrow closing), there are 2 separate Trust and Fund Loan Agreements and Escrow Agreements that need to be approved; and

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

WHEREAS, to evidence the Loans, each of the Trust and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit's Sewer Utility Bonds, Series 2014A, to the (the "Trust Loan Bond") and Sewer Utility Bonds, Series 2014B, to the State (the "Fund Loan Bond", and together with the Trust Loan Bond, the "Local Unit Bonds") in an aggregate principal amount not to

exceed \$15,000,000 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 Trust and the State have expressed their desire to close in escrow the making of the Loans, the issuance of the Local Unit Bonds and the execution and delivery of the Loan Agreements, all pursuant to the terms of an Escrow Agreement (the "Escrow Agreement") to be entered into by and among the Trust, the State, the Local Unit and the escrow agent named therein.

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

1. The Trust Loan Agreements, the Fund Loan Agreements and the Escrow Agreement (collectively, the "Financing Documents") are hereby authorized to be executed and delivered on behalf of the Local Unit by either the Mayor, the Director of Finance or the Acting Chief Financial Officer in substantially the forms attached hereto as Exhibits A-1 and A-2 (principal forgiveness), B-1 and B-2 (principal forgiveness) and C-1 and C-2 (principal forgiveness), respectively, and related Schedules A thereto, with such changes as the Mayor, the Acting Director of Finance or the Acting 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 Trust, 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 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 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 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 immediately.

4. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to Gluck Walrath LLP, Bond Counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, Bond Counsel to the Trust.

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 Environmental Infrastructure Trust 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 by the City of Newark and each of the New Jersey Environmental Infrastructure Trust and the State of New Jersey, acting by and through the Department of Environmental Protection.