



## Legislation Text

File #: 24-0295, Version: 1

**Dept/ Agency:** Finance

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

**Purpose:** Approving loan and escrow agreements for Small Diameter Sewer Project

**Amount to be Financed:** \$20,547,036.00

**Source of Appropriation:** New Jersey Infrastructure Bank

**Project Information:**

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

RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$20,547,036.00 QUALIFIED BONDS OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, PURSUANT TO THE STATE FISCAL YEAR 2024 NEW JERSEY WATER BANK FINANCING PROGRAM FOR FUNDING THE CITY'S SMALL DIAMETER SEWER EVALUATION AND REHABILITATION PROJECT.

**Additional Information:**

To permanently finance temporary construction loans through the NJIB.

**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 the City's Small Diameter Sewers Evaluation and Rehabilitation project (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 (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 2024 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 Bonds, Series 2024, to the I-Bank (the "I-Bank Loan Bond") and Qualified General Obligation Bonds, Series 2024, 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 \$20,547,036, 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**, in accordance with the Municipal Qualified Bond Act (N.J.S.A. 40A:3-1 et seq.), on March 8, 2017 and July 14, 2021, the Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey approved the issuance of the Local Unit Bonds as “Qualified Bonds” under the Municipal Qualified Bond Act; and

**WHEREAS**, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the I-Bank Loan Bond and the Fund Loan Bond to the I-Bank and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the I-Bank Loan Bond to the I-Bank without any public offering, all under the terms and conditions set forth herein.

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

1. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Local Unit hereby sells and awards its (a) I-Bank Loan Bond to the I-Bank in accordance with the provisions hereof and (b) Fund Loan Bond to the State in accordance with the provisions hereof, said Local Unit Bonds to be issued in the aggregate principal amount not to exceed \$20,547,036.00. The Local Unit Bonds have been authorized by bond ordinance number 6PSF-c 080311 of the Local Unit, as amended by bond ordinance number 6PSF-a 031517, and as supplemented by bond ordinance number 6PSF-a(s) 072021 (collectively, the “Bond Ordinances”), which Bond Ordinances are entitled “A BOND ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR SEWER UTILITY CAPITAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$10,350,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$10,350,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME”, “AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AMENDING ORDINANCE NUMBER 6PSF-c OF THE CITY FINALLY ADOPTED AUGUST 3, 2011, PROVIDING FOR EVALUATION AND REHABILITATION OF SMALL DIAMETER SEWERS AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$20,000,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$20,000,000 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME” and “AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$20,000,000 FOR EVALUATION AND REHABILITATION OF SMALL DIAMETER SEWERS IN AND FOR THE CITY AND APPROPRIATING \$20,000,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$20,000,000.00 IN BONDS OR NOTES OF THE CITY TO FINANCE THE SAME”, respectively, and which Bond Ordinances were finally adopted by the Local Unit at meetings duly called and held on August 3, 2011, March 15, 2017 and July 20, 2021, at which times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

2. The Chief Financial Officer of the Local Unit (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the I-Bank and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the I-Bank Loan Bond and the Fund Loan Bond:

(a) The aggregate principal amounts of the I-Bank Loan Bond and the Fund Loan Bond to be issued, provided that the aggregate principal amount of the Local Unit Bonds shall

not exceed \$20,547,036.00;

- (b) The maturity and annual principal installments of the Local Unit Bonds, which maturity shall not exceed thirty (30) years;
- (c) The date or dates of the Local Unit Bonds;
- (d) The interest rates of the Local Unit Bonds;
- (e) The purchase price for the Local Unit Bonds; and
- (f) The terms and conditions under which the Local Unit Bonds shall be subject to redemption prior to their stated maturities.

3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Local Unit Bonds by the parties authorized under Section 4(c) hereof.

4. The Local Unit hereby determines that certain terms of the Local Unit Bonds shall be as follows:

- (a) The I-Bank Loan Bond shall be issued in a single denomination and shall be numbered as shall be specified by the Chief Financial Officer. The Fund Loan Bond shall be issued in a single denomination and shall be numbered as shall be specified by the Chief Financial Officer;
- (b) The Local Unit Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Local Unit Bonds shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

5. The I-Bank Loan Bond and the Fund Loan Bond shall be substantially in the forms set forth in the I-Bank Loan Agreement and the Fund Loan Agreement, respectively.

6. The law firm of DeCotiis, FitzPatrick, Cole & Giblin, LLP, is hereby authorized to arrange for the printing of the Local Unit Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank and the State for the Program, to arrange for same. The Local Unit auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Local Unit Bonds. The Mayor, the Chief Financial Officer and the Local Unit Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information.

7. The terms of the Local Unit Bonds authorized to be determined by the Chief Financial Officer in accordance with Section 2 hereof may be ratified and confirmed by a resolution adopted by

the affirmative vote of not less than 2/3rds of the full membership of the governing body of the Local Unit; provided that it is understood and agreed that the Chief Financial Officer has been delegated complete authority to determine the final terms of the Local Unit Bond in accordance with the terms and conditions established by the I-Bank and the State under the Loan Agreements and the terms and conditions hereof.

8. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Local Unit Bonds and are further authorized to deliver same to the I-Bank and the State upon delivery of the Local Unit Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

9. The Local Unit Bonds shall be issued as “qualified bonds” under, and shall be entitled to the benefits of, the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 et seq., and the Local Unit shall comply in all respects with the Resolutions of the Local Finance Board adopted on March 8, 2017 and July 14, 2021 in connection therewith. The City hereby acknowledges and recognizes that the provisos as contained in said Local Finance Board resolutions shall constitute binding obligations upon all officials of the City. The Chief Financial Officer of the City is hereby authorized and directed to certify to the State Treasurer the name and address of the Paying Agent, the maturity schedules, the interest rate(s) and the dates of payment of debt service on the Local Unit Bonds within ten (10) days after the issuance of the Local Unit Bonds.

10. This Resolution shall take effect upon adoption.

11. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this Resolution to DeCotiis, FitzPatrick, Cole and Giblin, LLP, bond counsel to the Local Unit, and Richard Nolan, Esq., McCarter and English, LLP, bond counsel to the I-Bank.

### **STATEMENT**

Resolution determining the form and other details of not to exceed \$20,547,036.00 Qualified General Obligation Bonds of the City of Newark and providing for their sale to the New Jersey Infrastructure Bank pursuant to the State Fiscal Year 2024 New Jersey Water Bank Financing Program for funding the City’s Small Diameter Sewers Evaluation and Rehabilitation Project.