



## Legislation Text

File #: 14-0043, Version: 2

**Dept/ Agency:** Finance

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

**Purpose:** Approving loan and escrow agreements for 2014 Trust Loan Program

**Amount to be Financed:** \$15,000,000.00

**Source of Appropriation:** NJEIT Infrastructure Loan Program

**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; and construction of end of pipe netting, including all work and services necessary therefor or incidental thereto, and Sewer Utility Improvements, including but limited to, rehabilitation by cured-in-place pipe of approximately 6,154 linear feet of brick combined sewers.

**Additional Information:**

**Invitation:** Acting Finance Director, March 18, 2014

### **RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$15,000,000 SEWER UTILITY BONDS, SERIES 2014, OF THE CITY OF NEWARK IN THE COUNTY OF ESSEX, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING PROGRAM**

**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");

**WHEREAS**, the Local Unit has determined to finance the acquisition, construction, renovation or installation 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;

**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 Trust in an aggregate principal amount not to exceed \$4,500,000 (the "Trust Loan Bonds") and Sewer Utility Bonds, Series 2014B, to the State in an aggregate principal amount not to exceed \$12,000,000 (the "Fund Loan Bonds", and together with the Trust Loan Bonds, the "Local Unit Bonds")(the

aggregate amount of Series 2014A and 2014B Bonds 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**, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the Trust Loan Bonds and the Fund Loan Bonds to the Trust and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the Trust Loan Bonds to the Trust without any public offering, all under the terms and conditions set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by a 2/3 vote of the full membership of the governing body of the Local Unit as follows:

**Section 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 Trust Loan Bonds to the Trust and its Fund Loan Bonds to the State, in a total aggregate principal amount not to exceed \$15,000,000, all in accordance with the provisions hereof, in two or more series as determined by the Chief Financial Officer. The Local Unit Bonds have been referred to and are described in bond ordinance (A) #6F&SA07252005 of the Local Unit, which bond ordinance is entitled "BOND ORDINANCE PROVIDING FOR SEWER UTILITY IMPROVEMENTS IN THE CITY OF NEWARK APPROPRIATING \$29,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$29,500,000 OF BONDS AND/OR NOTES OF THE CITY OF NEWARK FOR FINANCING SAID PURPOSES SET FORTH HEREIN AND AUTHORIZED TO BE UNDERTAKEN IN AND BY THE CITY OF JEWARK, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY" and was finally adopted by the Local Unit at a meeting duly called and held on July 25, 2005, (B) #6PSFD11072013 of the Local Unit, which bond ordinance is entitled "BOND ORDINANCE OF THE CITY OF NEWARK AMENDING CERTAIN OF THE PURPOSES OF BOND ORDINANCE NO. 6F&SA07252005, PREVIOUSLY ADOPTED BY THE CITY OF NEWARK" and was finally adopted by the Local Unit at a meeting duly called and held on November 7, 2013 and (C) #6PSFA11072013 of the Local Unit, which bond ordinance is 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 \$17,750,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$17,750,000 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME" and was finally adopted by the Local Unit at a meeting duly called and held on November 7, 2013, at which times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

**Section 2.** The Chief Financial Officer of the Local Unit (collectively, 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 Trust and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the Trust Loan Bonds and the Fund Loan Bonds:

- (a) The aggregate principal amounts of the Trust Loan Bonds and the Fund Loan Bonds to be issued and the number of series of each to be issued;
- (b) The maturity and annual principal installments of the Local Unit Bonds, which maturity shall not exceed 20 years;

- (c) The date 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.

**Section 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.

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

- (a) The Trust Loan Bonds shall be issued in a single denomination and shall be numbered R-T1 and upwards in such denominations as determined by the Chief Financial Officer. The Fund Loan Bonds shall be issued in a single denomination and shall be numbered R-F1 and upwards in such denominations as determined 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.

**Section 5.** The Trust Loan Bonds and the Fund Loan Bonds shall be substantially in the form set forth in the Trust Loan Agreement and the Fund Loan Agreement, respectively.

**Section 6.** The law firm of GluckWalrath 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 Trust 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.

**Section 7.** The terms of the Local Unit Bonds authorized to be determined by the Chief Financial Officer in accordance with Section 2 hereof shall be set forth in an Award Certificate of the Chief Financial Officer and reported to Municipal Council.

**Section 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 Trust and the State upon delivery of the Local Unit Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

**Section 9.** This resolution shall take effect immediately.

**Section 10.** Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to GluckWalrath LLP, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the Trust.

### **Summary**

Resolution approving interim loan in the amount of \$15,000,000.00 from the New Jersey Environmental Infrastructure Trust Loan Program.