



## Legislation Details (With Text)

**File #:** 20-1152      **Version:** 1      **Name:** Resolution: To negotiate a Regional Approach to implementing the USEPA and NJDEP mandated Long Term Control Plan for Combined Sewer Overflows

**Type:** Resolution      **Status:** Adopted

**File created:** 9/18/2020      **In control:** Water Sewer Utility

**On agenda:** 9/22/2020      **Final action:** 9/22/2020

**Title:** Dept/ Agency: Water and Sewer Utilities  
Action: ☐ Ratifying ☒ Authorizing ☐ Amending  
Type of Service: Resolution to authorize a Negotiation  
Purpose: An authorization to negotiate a Regional Approach to implementing the United States Environmental Protection Agency (USEPA) and the New Jersey Department of Environmental Protection Agency (NJDEP) mandated "Long Term Control Plan" for Combined Sewer Overflows (CSO).  
Entity Name: N/A  
Entity Address: N/A  
Contract Amount: N/A  
Funding Source: No funding necessary  
Contract Period: N/A  
Contract Basis: ☐ Bid ☐ State Vendor ☐ Prof. Ser. ☐ EUS  
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ  
☐ Private Sale ☐ Grant ☐ Sub-recipient ☒ N/A Emergency Declaration  
Additional Information:

**Sponsors:** Council of the Whole

### Indexes:

### Code sections:

| Date      | Ver. | Action By         | Action | Result |
|-----------|------|-------------------|--------|--------|
| 9/22/2020 | 1    | Municipal Council | Adopt  | Pass   |

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**Additional Information:**

**WHEREAS**, the City of Newark (the “City”) is a “Combined Sewer Overflow” (“CSO”) Municipality; and

**WHEREAS**, all CSO Municipalities are authorized to use CSOs by the United States Environmental Protection Agency (“USEPA”) pursuant to its National Pollutant Discharge Elimination System permitting program; and

**WHEREAS**, it is the national policy of USEPA and the State policy of the New Jersey Department of Environmental Protection (“NJDEP”) to reduce and/or completely eliminate the volume of wastewater that flows out of CSOs and into local waterbodies without any treatment; and

**WHEREAS**, in accordance with its national CSO policy, USEPA has required all permitted entities to create “long term control plans,” pursuant to which each permitted entity must identify all actions that the entity will implement to achieve the goals and level of CSO control that USEPA sets forth in its national CSO policy; and

**WHEREAS**, Long Term Control Plans most frequently require the completion of massive public infrastructure projects that are highly technically complex, take many years or even decades to develop and implement, and place severe economic burdens on the residents who live in the areas where implementation takes place; and

**WHEREAS**, in 2015, NJDEP required all New Jersey CSO Municipalities to develop a CSO Long Term Control Plan (“LTCP”) in order to comply with USEPA’s national CSO policy, which must be submitted to NJDEP for approval on October 1, 2020; and

**WHEREAS**, since 2015, the City of Newark has participated in a working group of CSO Municipalities and the Passaic Valley Sewerage Commission (“PVSC”) (collectively referred to as the “CSO Group”) to develop a regional LTCP (the “Regional Approach”) for submission to NJDEP; and

**WHEREAS**, the Regional Approach would achieve the NJDEP goal of capturing 85 percent by volume of combined sewage for treatment based on a regional annual average compared to achieving eighty-five percent (85%) capture for each municipality; and

**WHEREAS**, the Regional Approach will achieve the goal of eighty-five percent (85%) regional capture through the development of public infrastructure projects located in each of the CSO Group municipalities and a project to improve flow to the PVSC plant; and

**WHEREAS**, the CSO Group has conducted analyses showing that implementing the Regional Approach would create a cost savings of approximately Five Hundred Million (\$500,000,000.000, which could be shared among participating CSO Group members and would decrease the financial burden of implementing a LTCP and associated public infrastructure projects for each municipality; and

**WHEREAS**, the CSO Group members are currently negotiating an agreement to share the cost savings associated with implementing the Regional Approach; and

**WHEREAS**, if a CSO Group member does not agree to pursue the Regional Approach prior to the submission of the LTCP and/or if a CSO Group member fails to enter into the negotiated cost

savings agreement, then such CSO Group member will be obligated to pursue their own Municipal Alternative to implementing a LTCP and associated public infrastructure projects; and

**WHEREAS**, the City of Newark, Department of Water and Sewer Utilities believes it is in the best interests of the City to negotiate in good faith to reach an agreement to share the cost savings associated with implementing the Regional Approach.

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

The Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, is hereby authorized to negotiate in good faith with the CSO Group members to reach an agreement to share the cost savings associated with implementing the Regional Approach.

1. The City of Newark, Department of Water and Sewer Utilities is hereby authorized and directed to negotiate on behalf of the City for the purposes of developing an agreement to share the cost savings associated with implementing the Regional Approach.

2. The City of Newark acknowledges that if an agreement can be reached between the CSO Group members to share the cost savings associated with the Regional Approach the City agrees to adopt and enter into such agreement.

3. The City of Newark acknowledges that if the City does not enter into the negotiated cost savings agreement, then the City will be obligated to pursue its own Municipal Alternative to implementing a LTCP and associated public infrastructure projects.

4. The City of Newark retains the ability to withdraw from negotiations at any time upon seven (7) days written notice to the other participants. The City of Newark expressly acknowledges that upon withdrawal, it will be required to commence implementation of its Municipal Alternative for CSO long term control.

5. A copy of this resolution, along with matching resolutions from the other New Jersey CSO Municipalities, will be delivered to the Director of the Department of Water and Sewer Utilities, City of Newark, 920 Broad Street, Room B-31F, Newark, New Jersey 07102.

6. The Director of the Department of Water and Sewer Utilities shall forthwith file duly executed copies of the contracts in the Office of the City Clerk.

### **STATEMENT**

This resolution authorizes the Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, to negotiate in good faith with the CSO Group members to reach an agreement to share the cost savings associated with implementing the regional approach for long term control plans of CSO control that USEPA, sets forth in its national CSO policy.