



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 16-1987, Version: 1

Dept/ Agency: Finance

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

Purpose: Approving Form of Sale of City-Secured Bonds

Amount to be Financed: \$12,650,000.00

Source of Appropriation: Notes/Bonds

Purchaser: New Jersey Environmental Trust Program

Project Information:

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

RESOLUTION OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF ITS NOTE OR NOTES RELATING TO THE CONSTRUCTION FINANCING PROGRAM OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST, TO BE ISSUED IN THE ORIGINAL OR AGGREGATE PRINCIPAL AMOUNT OF UP TO \$12,650,000.00, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE OR NOTES TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE OR NOTES BY THE CITY OF NEWARK IN FAVOR OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST, ALL PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST CONSTRUCTION FINANCING PROGRAM AND IN CONNECTION WITH THE CITY'S PEQUANNOCK WATER TREATMENT PLANT IMPROVEMENTS.

Additional Information:

WHEREAS, the City of Newark (the "Local Unit"), in the County of Essex, New Jersey, has determined that there exists a need within the Local Unit to (i) replace the existing gas chlorine system at the Pequannock Water Treatment Plant with an on-site sodium hypochlorite generation system (the "Chlorination Project") and (ii) construct an on-site Residual Treatment Facility to manage the sludge produced at the Pequannock Water Treatment Plant by constructing a 40-foot diameter steel thickener tank to produce thickened sludge and a centrifuge to produce dry cake to be removed and disposed of (the "Sludge Dewatering Project" and, collectively with the Chlorination Project, the "Project"), and it is the desire of the Local Unit to obtain financing for such Project through participation in the environmental infrastructure financing program (the "Environmental Infrastructure Financing Program") of the New Jersey Environmental Infrastructure Trust (the "Trust"); and

WHEREAS, a contract has been awarded by the Local Unit for the construction of the Chlorination Project, but a contract may not have been awarded for the construction of the Sludge Dewatering Project upon the date of the adoption of this resolution; and

WHEREAS, the Local Unit has determined to temporarily finance the construction of the Chlorination Project prior to the closing with respect to the Environmental Infrastructure Financing Program, and the Local Unit desires to provide for the temporary financing of the Sludge Dewatering Project prior to the closing with respect to the Environmental Infrastructure Financing Program, and the Local Unit has determined to undertake such temporary financing with the proceeds of a short-

term loan or loans to be made by the Trust (each, a “Construction Loan” and, if more than one Construction Loan is entered into in connection with the Project, the “Construction Loans”) to the Local Unit, pursuant to the Construction Financing Program of the Trust (the “Construction Financing Program”); and

WHEREAS, in order to (i) evidence and secure the repayment obligations of the Local Unit to the Trust with respect to the Construction Loan or Construction Loans and (ii) satisfy the requirements of the Construction Financing Program, it is the desire of the Local Unit to issue and sell to the Trust one or more of the Local Unit’s “Note Relating to the Construction Financing Program of the New Jersey Environmental Infrastructure Trust” in an original or aggregate principal amount of up to \$12,650,000.00 (each, a “Note” and, if more than one Note is entered into in connection with the Project, the “Notes”); and

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest to and deliver the Note or Notes to the Trust 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”), and other applicable law; and

WHEREAS, Section 28 of the Local Bond Law allows for the sale of the Note or Notes to the Trust, without any public offering, and N.J.S.A. 58:11B-9 allows for the sale of the Note or Notes to the Trust without any public offering, all under the terms and conditions set forth therein.

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

Section 1. In accordance with Section 28 of the Local Bond Law and N.J.S.A. 58:11B-9, the Local Unit hereby authorizes the issuance, sale and award of the Note or Notes in accordance with the provisions hereof. The obligation represented by the Note or Notes has been appropriated and authorized by Bond Ordinance 6PSF-e September 8, 2016, of the Local Unit (the “Bond Ordinance”), which Bond Ordinance is entitled “AN ORDINANCE FOR THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AMENDING ORDINANCE NUMBER 6PSF-b, ADOPTED AUGUST 3, 2011, PROVIDING FOR IMPROVEMENTS TO THE PEQUANNOCK WATER TREATMENT PLANT AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$12,650,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$12,650,000.00 IN BONDS OR NOTES OF THE CITY TO FINANCE THE SAME”, and which Bond Ordinance was finally adopted by the Local Unit at a meeting duly called and held on September 8, 2016, at which time 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 (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions hereof, (i) the final principal amount of the Note or each of the Notes (subject to the maximum limitation set forth in Section 4(a) hereof), and (ii) the dated date of the Note or each of the Notes.

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 Note or Notes by the parties authorized pursuant to Section 4(h) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Note or Notes shall be as follows:

- (a) the principal amount of the Note, or the aggregate principal amount of the Notes, to be issued shall be an amount up to \$12,650,000.00;
- (b) the maturity of the Note or Notes shall be as determined by the Trust;
- (c) the interest rate of the Note or Notes shall be as determined by the Trust;
- (d) the purchase price for the Note or Notes shall be par;
- (e) the Note or Notes shall be subject to prepayment prior to its or their stated maturity in accordance with the terms and conditions of the Note or Notes;
- (f) the Note, or each of the Notes, shall be issued in a single denomination and shall be numbered as determined by the Chief Financial Officer upon consultation with the Trust;
- (g) the Note, or each of the Notes, shall be issued in fully registered form and shall be payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) the Note, or each of the Notes, 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 Note or the Notes shall be substantially in the form attached hereto as Exhibit A.

Section 6. The law firm of DeCotiis, FitzPatrick & Cole, LLP, is hereby authorized to arrange for the printing of the Note or the Notes, which law firm may authorize McCarter & English, LLP, Bond Counsel to the Trust for the Construction Financing Program, to arrange for same.

Section 7. 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 Clerk of the Local Unit, as applicable, in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit and after further consultation with the Trust and its representatives, agents, counsel and advisors, to be executed in connection with the issuance and sale of the Note or the Notes and the participation of the Local Unit in the Construction Financing Program, 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 of the Note or the Notes and the participation of the Local Unit in the Construction Financing Program.

Section 8. This resolution shall take effect immediately.

Section 9. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to DeCotiis, FitzPatrick & Cole, LLP, bond counsel to the Local Unit, David Zimmer, Executive Director of the Trust, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to

the Trust.

STATEMENT

Resolution determining form and other details relating to the construction financing program of the New Jersey Environmental Infrastructure Program (NJEIT) to be in an amount up to \$12,650,000.00.