



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 19-0526, Version: 1

Dept/ Agency: Finance

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

Purpose: Approving loan and escrow agreements for Joint Meeting of Essex and Union Counties

Amount to be Financed: \$1,350,000.00

Source of Appropriation: NJIB Construction Loan

Project Information:

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

RESOLUTION OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF THE LOCAL UNIT'S ALLOCABLE SHARE OF CAPITAL IMPROVEMENT PROJECTS FOR THE JOINT MEETING OF ESSEX AND UNION COUNTIES OF ITS "NOTE RELATING TO THE CONSTRUCTION FINANCING LOAN PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK", TO BE ISSUED IN THE PRINCIPAL AMOUNT OF UP TO \$1,350,000.00, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF: (i) SUCH NOTE BY THE CITY OF NEWARK IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK; (ii) THE PROJECT FINANCING AGREEMENT WITH THE JOINT MEETING; AND (iii) ANCILLARY DOCUMENTS AND CERTIFICATES, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK CONSTRUCTION FINANCING LOAN PROGRAM.

Additional Information:

WHEREAS, the City of Newark (the "Local Unit"), in the County of Essex, State of New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate or install, as applicable, a project consisting of the Local Unit's allocable share of capital improvement projects being undertaken by the Joint Meeting, including, but not limited to, (i) waste gas burner upgrades consisting of (a) the replacement of waste gas burners at the Digester Building and (b) upgrades to sludge storage tanks with state-of-the-art flares to meet current air emission permitting requirements; (ii) rehabilitation of various structures, including, but not limited to, concrete repairs and/or reconstruction of the Screen House, the Old Chlorine Building, the Chlorination Building, the Aeration Gallery, and the Waste Gas Building, replacement of brick veneer panels and supporting walls in the Dewatering Building, and replacement of the coping and brick façade on the sludge storage tanks; and (iii) replacement and construction of the Tunnel Building along with the replacement of severely corroded piping within the tunnel, including installation of new sludge pumps (collectively, 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 "New Jersey Water Bank") of the New Jersey Infrastructure Bank (the "I-Bank"); and

WHEREAS, the Local Unit has determined to temporarily finance the acquisition, construction, renovation or installation of, as applicable, the Project prior to the closing with respect to the New Jersey Water Bank, and to undertake such temporary financing with the proceeds of a short-term

loan to be made by the I-Bank (the "Construction Loan") to the Local Unit, pursuant to the Construction Financing Loan Program of the I-Bank (the "Construction Financing Loan Program"); and

WHEREAS, in order to (i) evidence and secure the repayment obligation of the Local Unit to the I-Bank with respect to the Construction Loan and (ii) satisfy the requirements of the Construction Financing Loan Program, it is the desire of the Local Unit to issue and sell to the I-Bank the "Note Relating to the Construction Financing Loan Program of the New Jersey Infrastructure Bank" in an aggregate principal amount of up to \$1,350,000.00 (the "Note"); and

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest and deliver the Note to the I-Bank 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 to the I-Bank, without any public offering, and N.J.S.A. 58:11B-9 allows for the sale of the Note to the I-Bank 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 in accordance with the provisions hereof. The obligation represented by the Note has been appropriated and authorized by Bond Ordinance 6PSF-h December 19, 2018, of the Local Unit, which bond ordinance is entitled "Bond Ordinance Providing for the Local Unit's Allocable Share of Capital Improvement Projects for the Joint Meeting of Essex and Union Counties, by and in the City of Newark, in the County of Essex, State of New Jersey (the "Local Unit"); Appropriating \$1,350,000.00 Therefor and Authorizing the Issuance of \$1,350,000.00 Bonds or Notes to Finance the Cost Thereof" and was finally adopted by the Local Unit at a meeting duly called and held on December 19, 2018, 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 (subject to the maximum limitation set forth in Section 4(a) hereof), and (ii) the dated date of the Note.

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

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

- (a) the principal amount of the Note to be issued shall be an amount up to \$1,350,000.00;
- (b) the maturity of the Note shall be as determined by the I-Bank;

- (c) the interest rate of the Note shall be as determined by the I-Bank;
- (d) the purchase price for the Note shall be par;
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note;
- (f) the Note shall be issued in a single denomination and shall be numbered "CFP-2019-1";
- (g) the Note 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 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 City Clerk.

Section 5. The Note shall be substantially in the form attached hereto as Exhibit A, together with all exhibits thereto including, without limitation, the Project Financing Agreement between the Local Unit and the Joint Meeting (the "Project Financing Agreement"). Any revisions to the form of the Note and all exhibits thereto, including the Project Financing Agreement and related documents and certificates shall be approved by the Director of Finance of the Local Unit, in consultation with Bond Counsels to the Local Unit, the Joint Meeting and I-Bank and execution of such revised documents described above by the Local Unit shall be conclusive evidence of such approval and no further action on the part of the Municipal Council of the Local unit shall be required.

Section 6. The law firm of DeCotiis, Fitzpatrick, Cole & Giblin, LLP, Teaneck, New Jersey, is hereby authorized to arrange for the printing of the Note, which law firm may authorize McCarter & English, LLP, Bond Counsel to the I-Bank for the Construction Loan 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 City 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 of the Local Unit, in their sole discretion, after consultation with Counsel and any Advisors to the Local Unit and after further consultation with the I-Bank and its representatives, agents, Counsel and Advisors, to be executed in connection with the issuance and sale of the Note and the participation of the Local Unit in the Construction Financing Loan 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, the Project Finance Agreement and the participation of the Local Unit in the Construction Financing Loan 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 Cheryl Oberdorf, Esq., DeCotiis, Fitzpatrick, Cole & Giblin, LLP, Bond Counsel to the Local Unit, Everett M. Johnson, Esq., Wilentz, Goldman & Spitzer, P.A., Bond Counsel to the

Joint Meeting of Essex and Union Counties, David Zimmer, Executive Director of the I-Bank, and Richard T. Nolan, Esq., McCarter & English, LLP, Bond Counsel to the I-Bank.

STATEMENT

Resolution to determining the form and other details of the Capital Improvement for the Joint Meeting of Essex and Union Counties of its "Note Relating to the Construction Financing Loan Program of the New Jersey Infrastructure Bank", to be issued in the principal amount of up to \$1,350,000.00, and providing for the issuance and sale of such note to the New Jersey Infrastructure Bank, and authorizing the execution and delivery