



Legislation Text

File #: 22-1726, Version: 1

Dept/ Agency: Finance

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

Purpose: Approving loan and escrow agreements for Peddie Combined Sewer Overflow Facility.

Amount to be Financed: \$4,000,000.00

Source of Appropriation: New Jersey Infrastructure Bank - Construction Loan Financing

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 RELATING TO THE WATER BANK CONSTRUCTION FINANCING PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK", TO BE ISSUED IN THE PRINCIPAL AMOUNT OF UP TO \$4,000,000.000, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE BY THE CITY OF NEWARK IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK CONSTRUCTION FINANCING PROGRAM FOR THE PURPOSE OF FINANCING IMPROVEMENTS TO THE PEDDIE COMBINED SEWER OVERFLOW FACILITY.

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 construct and install improvements to the Peddie Combined Sewer Overflow Facility (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 "Infrastructure Financing Program") of the New Jersey Infrastructure Bank (f/k/a New Jersey Environmental Infrastructure Trust) (the "I-Bank"); and

WHEREAS, the Local Unit has determined to temporarily finance the construction of the Project prior to the closing with respect to the Infrastructure Financing Program, 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 Water Bank Construction Financing Program of the I-Bank (the "Water Bank Construction Financing 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 Program, it is the desire of the Local Unit to issue and sell to the I-Bank the "Note Relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank" in a principal amount of up to \$4,000,000.00 (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:

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 number 6PSF-b adopted on September 7, 2017 of the Local Unit (the "Bond Ordinance"), which Bond Ordinance is entitled "AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR IMPROVEMENTS TO THE PEDDIE COMBINED SEWER OVERFLOW FACILITY AND APPROPRIATING \$4,000,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$4,000,000.00 IN BONDS OR NOTES OF THE CITY TO FINANCE THE SAME", adopted by the Local Unit at a meeting duly called and held on September 7, 2017, at which time 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 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.

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.

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 \$4,000,000.00; and
- (b) the maturity of the Note shall be as determined by the I-Bank; and
- (c) the interest rate of the Note shall be as determined by the I-Bank; and
- (d) the purchase price for the Note shall be par; and
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note; and
- (f) the Note shall be issued in a single denomination and shall be numbered "NJWB-CFP-22-2" or such other number as determined by the Chief Financial Officer upon consultation with the I-Bank; and

(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 of the City of Newark and the Chief Financial Officer of the Local Unit (each, an "Authorized Officer" and, collectively, the "Authorized Officers") under the official seal or a facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Acting City Clerk.

5. The Note shall be substantially in the form attached hereto as Exhibit A.

6. The law firm of DeCotiis, FitzPatrick, Cole and Giblin, LLP, is hereby authorized to arrange for the printing of the Note, which law firm may authorize McCarter and English, LLP, Bond Counsel to the I-Bank for the Construction Financing Program, to arrange for same.

7. The Authorized Officers of the Local Unit are hereby further severally authorized to: (i) execute and deliver, and the Local Unit Acting 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 or the Acting City 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 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 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 and the participation of the Local Unit in the Construction Financing Program.

8. Upon the adoption hereof, the Local Unit Acting City Clerk shall forward certified copies of this Resolution to William R. Mayer, Esq., DeCotiis, FitzPatrick, Cole and Giblin, LLP, Bond Counsel to the Local Unit, David Zimmer, Executive Director of the I-Bank, and Richard T. Nolan, Esq., McCarter and English, LLP, Bond Counsel to the I-Bank.

STATEMENT

This Resolution shall determine the form and other details of the note relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank and to issue and provide for the sale of \$4,000,000.00, pursuant to the New Jersey Infrastructure Bank Construction Financing Program.