

RESOLUTION NO. 11 - 10

RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST DELEGATING TO THE EXECUTIVE DIRECTOR OF THE TRUST THE AUTHORITY TO (I) EVALUATE APPLICATIONS FOR LOANS FROM THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FINANCING PROGRAM AND (II) BYPASS APPLICATIONS DETERMINED TO BE NON-COMPLIANT ON THE BASIS OF SUCH EVALUATION

WHEREAS, pursuant to Section 5(m) and Section 9(a) of the New Jersey Environmental Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”), as amended and supplemented (N.J.S.A. 58:11B-1 *et seq.*) (the “Trust Act”), the New Jersey Environmental Infrastructure Trust, a public body corporate and politic under the laws of the State, created pursuant to the Trust Act (the “Trust”), is authorized to make and contract to make loans (each, a “Trust Loan”) to project sponsors (each, a “Project Sponsor”) to finance a portion of the costs of the respective environmental infrastructure system projects thereof (each, a “Project”), which Project Sponsors may lawfully undertake or acquire and for which they are authorized by law to borrow funds, subject to such terms and conditions as the Trust shall determine to be consistent with the purposes thereof; and

WHEREAS, the regulations promulgated pursuant to the Trust Act (N.J.A.C. 7:22-2.1 *et seq.*), as the same have been, and in the future may from time to time be, amended and supplemented (the “Regulations”), provide for, among other things, the submission to the Trust of applications for Trust Loans (each, an “Application”) by potential Project Sponsors (each, an “Applicant”); and

WHEREAS, pursuant to the provisions of N.J.A.C. 7:22-4.11(d)(21), each Applicant, as part of its Application, is required to provide, among other things, a description of how the Applicant intends to repay its Trust Loan and any other expenses necessary to fully complete and implement its Project, and the steps it has taken to implement its plan; and

WHEREAS, N.J.A.C. 7:22-4.11(d)(21) further provides that each Applicant shall secure its Trust Loan in a manner acceptable to the Trust; and

WHEREAS, N.J.A.C. 7:22-4.13(a) sets forth the criteria and methodology for the administrative evaluation of each Application; and

WHEREAS, N.J.A.C. 7:22-4.13(b) provides that, upon the completion of a full review and evaluation of each Application, the Trust either shall certify the Project for funding or bypass the Project for funding in the State Fiscal Year for which the Application was submitted; and

WHEREAS, N.J.A.C. 7:22-4.13(c) provides that, if a determination is made to bypass the Project for funding in the State Fiscal Year for which the Application was submitted, the Trust shall promptly notify the Applicant that its Project has been bypassed; and

WHEREAS, the Treasurer of the State, pursuant to an amended and restated letter to the Executive Director of the Trust (the “Executive Director”), dated October 29, 2001, has set forth certain creditworthiness standards (the “Creditworthiness Standards”) that must be satisfied by each Applicant as a condition precedent to the receipt of financial assistance through the New Jersey Environmental Infrastructure Financing Program (the “Financing Program”) that is administered jointly by the Trust and the New Jersey Department of Environmental Protection (the “NJDEP”); and

WHEREAS, in satisfaction of the provisions of Section 20 of the Trust Act (N.J.S.A. 58:11B-20) and Section 20.1 of the Trust Act (N.J.S.A. 58:11B-20.1), the Trust and the NJDEP submit annually to the State Legislature the “Project Priority List and Financial Strategy” with respect to the Financing Program (the “January Report”), which January Report sets forth for the ensuing State Fiscal Year (i) the priority system and the project priority list in satisfaction of the above-cited statutory requirements of the Trust Act, and (ii) additional information with respect to the overall structure of the Financing Program, including, without limitation, information with respect to Project and Applicant eligibility; and

WHEREAS, in satisfaction of the provisions of Section 21 of the Trust Act (N.J.S.A. 58:11B-21) and Section 21.1 of the Trust Act (N.J.S.A. 58:11B-21.1), the Trust and the NJDEP submit annually to the State Legislature the “Financial Plan” with respect to the Financing Program (the “May Report”), which May Report sets forth for the ensuing State Fiscal Year (i) the proposed financial plan that has been designed to implement the financing of the Projects that are included on the project priority list, and (ii) the overall structure of the Financing Program, including, without limitation, information with respect to Project and Applicant eligibility; and

WHEREAS, prior to the submission of each of the January Report and the May Report to the State Legislature pursuant to the provisions of the Trust Act, as described above, each of the January Report and the May Report, in substantially final form, must be submitted to the Board of Directors of the Trust (the “Board”) for the review and approval thereof via a resolution adopted by the Board; and subsequent to the submission of the May Report to the State Legislature pursuant to the provisions of the Trust Act, as described above, the May Report must be approved by the adoption of a concurrent resolution of the Senate and the General Assembly; and

WHEREAS, the Board desires to delegate to the Executive Director certain authority with respect to (i) the review and evaluation of each Application in accordance with the provisions of the Regulations, and (ii) the bypass of any Project, the Application with respect to which does not comply with any provision of the Regulations and/or any other applicable authority.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the New Jersey Environmental Infrastructure Trust, as follows:

Section 1. In furtherance of the intent and purposes of the Financing Program, the Board hereby delegates to the Executive Director the authority to (i) undertake a full review and evaluation of each Application in accordance with the provisions of the Regulations, and (ii) upon the completion of such review and evaluation, bypass any Project, the Application with

respect to which, in the determination of the Executive Director, after consultation with the appropriate representatives of the NJDEP, does not comply with the applicable provisions of the Regulations and/or any other applicable authority relating to the qualification of a Project and/or an Applicant for participation in the Financing Program, including, without limitation, (1) the Trust Act, (2) all other applicable law, (3) the January Report, (4) the May Report, (5) the Creditworthiness Standards, and (6) any other applicable standards and policies of the Trust, as previously adopted and now in effect or as may be adopted by the Trust in the future, including, without limitation, any provision of the Regulations and items (1) through (6), above, that sets forth criteria with respect to the security and sources of repayment for the proposed Trust Loan to the Applicant. In the event that the Executive Director exercises the delegation of authority granted by the Board pursuant to this Section 1, the Executive Director shall prepare, and retain as part of the files of the Trust, a written record relating to the determination by the Executive Director to bypass any Project

Section 2. The Executive Director is hereby authorized to take such other actions that the Executive Director, in his sole discretion, deems necessary, convenient or desirable to effect the provisions of this Resolution.

Adopted Date: April 7, 2011

Motion Made By: Mr. Briant

Motion Seconded By: Mr. Requa

Ayes: 7

Nays: 0

Abstentions: 0