

RESOLUTION NO. 12-50

**RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST
AUTHORIZING THE STATE FISCAL YEAR 2014
NANO INFRASTRUCTURE LOAN PROGRAM**

WHEREAS, the New Jersey Environmental Infrastructure Trust (the "Trust"), pursuant to and in accordance with (i) the "New Jersey Environmental Infrastructure Trust Act", constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the "State") (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same has been, and in the future may from time to time be, amended and supplemented (the "Act"), and (ii) the regulations promulgated pursuant to the 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"), is authorized to make loans to local government units and investor owned and small water companies for water supply projects pursuant to Section 5(m) of the Act (N.J.S.A. 58:11B-5(m)); and

WHEREAS, the Trust may collect fees and charges from local government units and water companies in connection with Trust loans and guarantees that are sufficient to reimburse the Trust for the establishment of reserves and other funds (N.J.S.A. 58:11B-5(o)); and

WHEREAS, the NJEIT has partnered with the New Jersey Department of Environmental Protection (the "NJDEP") since 1987 to make loans for water supply projects through the New Jersey Environmental Infrastructure Financing Program ("NJEIFP" or "Financing Program"); and

WHEREAS, loan applicants must satisfy the NJEIFP's credit worthiness standards to, among other things, ensure that the borrower pledges adequate security to honor its debt service obligations in the event of a loan payment default; and

WHEREAS, each year, the NJEIFP makes loans, for improvements to water supply systems serving populations less than 10,000 ("Small Water Systems"), to borrowers consisting primarily of small water companies (such as homeowners associations and trailer parks); and

WHEREAS, these small water companies have limited financial and professional resources and, therefore, require a significantly greater commitment of resources by the Financing Program in order to undertake the requisite due diligence and to establish necessary measures to ensure borrower compliance with the Financing Program's credit worthiness standards; and

WHEREAS, notwithstanding the challenges for the Financing Program in assessing the risk associated with Small Water System loans, the NJDEP has concluded that continued NJEIFP loans for Small Water System drinking water improvements are critical to address important public health issues for the affected communities; and

WHEREAS, it is the desire of the Trust to establish the Nano Infrastructure Loan Program (the "NLP") to serve as the funding mechanism for improvements to Small Water Systems while also addressing the inherent credit risks posed by such applicants to the Trust.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Trust (the "Board"), as follows.

Section 1. The Board hereby authorizes the establishment of the SFY 2014 NLP, provided (a) the aggregate principal amount of the NLP loans made by the Trust and the NJDEP during SFY 2014 pursuant to the NLP shall not exceed \$4,000,000 at any time; (b) each NLP loan shall consist of the following components, (i) a fifty percent (50%) NJDEP principal forgiveness loan, (ii) a twenty five percent (25%) NJDEP zero interest loan (clauses (i) and (ii) shall be referred to collectively herein as the “Fund Loan Component”), and (iii) a twenty five percent (25%) Trust loan (the “Trust Loan Component”); (c) during SFY 2014, the Trust is hereby authorized to expend an aggregate of \$1,000,000 for the Trust Loan Component, the source of funds for which shall be bond proceeds from one or more series of Trust bonds to be issued by the Trust pursuant to the Act for such purposes; (d) Trust bond proceeds issued for non-Small Water System NJEIFP loans shall not be utilized to fund the Trust Loan Component of NLP loans; (e) the Chairman, Vice Chairman or Executive Director of the Trust (each, an “Authorized Officer”), at his discretion, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, may require borrowers having aggregate outstanding NLP loan balances in excess of \$1,000,000 to establish a loan guarantee fund to serve as additional collateral for repayment of the Trust Loan Components of such NLP loans (f) any applicant shall demonstrate (in addition to other SFY 2014 NJEIFP application prerequisites) that the Small Water System is (and shall continue to be) managed in a professional manner consistent with the Federal Fiscal Year 2013 Drinking Water Intended Use Plan; (g) NLP loan recipients shall not be subject to the imposition by the NJDEP of an administrative fee; and (h) NLP loan recipients shall not be subject to the imposition by the Trust of an administrative fee to cover any portion of the Trust’s public bond issuance costs but shall be subject to an annual Trust administrative fee for loan servicing in the amount of 0.30% of the Trust loan and an annual guarantee rate surcharge in the amount of 1.00% of the Trust loan, such surcharge to be deposited into a NLP loan loss reserve fund that shall act as collateral support for the NLP Program if and until needed for NLP loan payment defaults. Except as otherwise provided by this Section 1, as a condition precedent to the receipt by an applicant of an NLP loan, such applicant shall comply with each eligibility requirement that shall apply to any applicant for participation in the SFY 2014 NJEIFP.

Section 2. Any SFY 2014 NLP loan made by the Trust shall be evidenced by the following:

(a) a bond or other appropriate obligation of the borrower to be issued to the Trust (the “Obligation”), with the following covenants (in addition to other NJEIFP loan covenants): (i) a municipality shall provide a general obligation (“GO”) pledge of the unlimited *ad valorem* taxing authority thereof; (ii) a utility authority that has entered into a service agreement containing one or more municipal GO pledges shall pledge its right to receive payments pursuant to such service agreement; (iii) other utility authorities shall provide a pledge of their service agreements and various indenture covenants and mortgages (if any) as collateral; (iv) a water company shall pledge to repay its NLP loan from any legally available source as a general obligation thereof, pursuant to its articles of incorporation or other applicable documentation, specifying the borrower’s obligation to raise and collect annual fees and charges to the extent necessary to cover all operating and debt service expenses in order to manage and operate the system in good working condition;

(b) any other documentation as shall be deemed necessary and appropriate by the Authorized Officer, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State (collectively, the “Loan Instruments”).

Each Obligation shall be in substantially the form attached hereto as Exhibit A, with such revisions and modifications thereto as shall be approved by an Authorized Officer, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State. The Loan Instruments shall include such terms and provisions relating to the SFY 2014 Financing Program as

shall be determined by the Authorized Officer, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, as being necessary in connection with (i) the satisfaction of the requirements of the Act and the Regulations and (ii) the implementation of the terms of this Resolution.

Section 3. Applicants referenced in Sections 2(a), above, that do not provide as collateral either a direct or indirect municipal GO pledge shall be assessed a 1% annual loan loss reserve fee to be charged on the total outstanding principal amount of the Trust Loan Component of the borrower's NLP loan. This fee shall be non-refundable and shall be deposited by the Trust upon receipt thereof into a loan loss reserve fund ("LLR Fund") that shall be established and held by the Trust as a segregated pledge account. All monies deposited into the LLR Fund shall be utilized by the Trust solely to secure and collateralize the Trust Loan Components of all outstanding NLP loans. In addition, in order for the Trust to secure and maintain AAA/AAA/Aaa ratings on the SFY 2014 NLP bonds, the Trust is hereby authorized and directed to accept any supplement to the LLR Fund that shall be paid by the NJDEP initially from loan repayments of its Drinking Water annual capitalization grants, which supplements shall be in an amount that shall be necessary to satisfy the NLP's public bond rating agencies in connection with the issuance of such AAA/AAA/Aaa ratings. To the extent that on-going payments from NLP borrowers satisfactorily secure any and all default risks with respect to the SFY 2014 NLP bonds, as such default risks are assessed and determined by the Authorized Officer, after consultation with Bond Counsel to the Trust, the Office of the Attorney General of the State and the financial advisor to the Trust, the NJDEP shall be permitted to withdraw its initial reserve funds for re-use in the NJEIFP.

Section 4. The Authorized Officers are hereby severally authorized and directed to execute (i) any Loan Instrument to which the Trust is a party (the "Trust Loan Instruments") and (ii) any certificates, instruments or documents contemplated therein or otherwise related to the participation of any borrower in the SFY 2014 NLP.

Section 5. Upon execution of the Trust Loan Instruments by an Authorized Officer, the Secretary and the Assistant Secretary of the Trust are each hereby severally authorized and directed, where required, to affix the corporate seal of the Trust, and to attest to the signature of such Authorized Officer, thereon and on any certificates, instruments or documents contemplated therein or related thereto.

Section 6. NLP shall fully comply with the provisions of the Act, the Regulations applicable thereto and the terms of this Resolution.

Section 7. This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: September 13, 2012

Motion Made By: Mr. Sickels

Motion Seconded By: Mr. Requa

Ayes: 6

Nays: 0

Abstentions: 0

EXHIBIT A
FORMS OF OBLIGATION