

RESOLUTION NO. 13-33

RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AUTHORIZING THE DISASTER RELIEF EMERGENCY FINANCING PROGRAM

WHEREAS, the New Jersey Environmental Infrastructure Trust (the “Trust”), pursuant to and in accordance with 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”), is authorized, pursuant to a Disaster Relief Emergency Financing Program (the “Disaster Relief Financing Program”), to make loans (each, a “Relief Loan”) to eligible project sponsors (each, a “Borrower”) for the purpose of financing the allowable costs of eligible environmental infrastructure projects, provided that each such Relief Loan made by the Trust satisfies the requirements of the Act, as the Act may be further amended and supplemented subsequent to the date of adoption of this Resolution by legislation that currently is pending before the Legislature of the State (the “Legislature”) as bills bearing the designation of S2815 and A4185, respectively (the “Pending Legislation”); and

WHEREAS, pursuant to the provisions of the Act, as it may be further amended and supplemented by the Pending Legislation, a proposed project sponsor is eligible to be a Borrower for a Relief Loan for purposes of financing the allowable costs of the eligible environmental infrastructure project (the “Project”) of such Borrower pursuant to the Disaster Relief Financing Program, provided each of the following conditions (collectively, the “Relief Funding Eligibility Conditions”) is satisfied in full: (i) the Commissioner of the New Jersey Department of Environmental Protection (the “NJDEP”) has determined and certified in writing that the Project is necessary and appropriate to (a) repair damage to a wastewater treatment system or water supply facility directly arising from an act of terrorism, seismic activity or weather conditions that occurred within the prior three State Fiscal Years and that gave rise to a declaration by the Governor of the State (the “Governor”) of a state of emergency, provided that such wastewater treatment system or water supply facility is located in a county included in the Governor’s state of emergency declaration, or (b) mitigate the risk of future damage to a wastewater treatment system or water supply facility from an act of terrorism, seismic activity or weather conditions comparable in scope and severity to an act of terrorism, seismic activity or weather conditions that occurred within the prior three State Fiscal Years and that gave rise to a declaration by the Governor of a state of emergency, provided that such wastewater treatment system or water supply facility is located in a county included in the Governor’s state of emergency declaration; (ii) the Project is listed on the Disaster Relief Emergency Financing Program Eligibility List for funding in the forthcoming State Fiscal Year submitted to the Legislature in a form provided by the Commissioner of the NJDEP; (iii) the proposed Borrower has submitted a complete application for the Project to the Trust; (iv) the Board of Directors of the Trust has certified the Project; (v) the proposed Borrower has not previously received a Relief Loan through the Disaster Relief Financing Program for the same project scope; and

WHEREAS, it is the desire of the Trust, subject to the terms and provisions of the Act and this Resolution, to authorize the implementation of the Disaster Relief Financing Program; and

WHEREAS, in order to provide a source of funding for the implementation of the Disaster Relief Financing Program, it is anticipated that the Legislature and the Governor may enact into law certain appropriation bills, in substantially the forms pending before the Legislature as (i) S2816 and A4184 and (ii) S2817 and A4183 (collectively, the “Appropriation”), that appropriate to the Trust, subject to the approval of the Commissioner of the NJDEP, (a) funds pursuant to the Disaster Relief Appropriations Act of 2013 (Public Law 113-2), (b) repayments of loans deposited in any account, including, without limitation, the Clean Water State Revolving Fund Accounts contained within the “Wastewater Treatment Fund”, the “1992 Wastewater Treatment Fund”, the “Water Supply Fund”, and the “Stormwater Management and Combined Sewer Overflow Abatement Fund”, the Drinking Water State Revolving Fund, and (c) net earnings received from the investment and reinvestment of such deposits; and such sums shall be deposited, upon the approval of the Commissioner of the NJDEP, in the segregated fund created by the Trust pursuant to the Act for the purpose of funding the Disaster Relief Financing Program; and

WHEREAS, in addition to the funds made available to the Trust pursuant to the Appropriation for purposes of the Disaster Relief Financing Program, it is the desire of the Trust to provide, as additional sources of funding for the Disaster Relief Financing Program, (i)(a) net earnings with respect to funds held by the Trust, which available Trust revenues may be made available by the Trust to Borrowers participating in the Disaster Relief Financing Program at the election of the Trust, and (b) operating funds of the Trust that are not required for, or committed to, the operations of the Trust for State Fiscal Years 2014 and 2015 (collectively, the “Available Trust Revenues”); and (ii) amounts drawn upon a line of credit or similar financial instrument procured by the Trust from a commercial bank pursuant to the terms of this Resolution (the “Line of Credit”; the Appropriation, the Available Trust Revenues and the Line of Credit shall be referred to collectively herein as the “Available Funds”).

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

Section 1. The Board of Directors of the Trust hereby authorizes the establishment of the Disaster Relief Financing Program, provided (i) such Disaster Relief Financing Program shall be funded solely from the Available Funds and (ii) such Disaster Relief Financing Program shall comply fully with the provisions of the Act applicable thereto (including, without limitation, the Pending Legislation, when enacted) and the terms of this Resolution. Notwithstanding the provisions hereof to the contrary, the Trust Available Revenues shall be made available to the Disaster Relief Financing Program for the following funding purposes only: (a) the funding of Small System Relief Loans (as hereinafter defined), provided that the aggregate principal amount of such Small System Relief Loans shall not exceed \$5,000,000, and (b) the Trust Contribution (as hereinafter defined).

Section 2. The Board of Directors of the Trust hereby authorizes the facilitation of the Disaster Relief Financing Program through the expenditure by the Trust of Available Trust Revenues up to \$2 million per year for the next 4 Program years to offset the cost of the Disaster Relief Financing Program for the purpose of minimizing the (i) underwriting and cost of issuance fees of the Disaster Relief Financing Program and (ii) Relief Loan interest rate cost to Borrowers by up to 50% of the market rate, (the allocations of Available Trust Revenues as described in clauses (i) and (ii) hereof shall be referred to herein as the “Trust Contribution”), the commitment and allocation of such

\$2,000,000 being subject to the discretion of the Chairman or Vice Chairman of the Trust or subject to the board's approval at the request of the Chairman or Vice-chairman.

Section 3. The Board of Directors of the Trust hereby authorizes the establishment of a Debt Service Reserve Fund (the "DSRF") for the purpose of securing the repayment by each Borrower of its Relief Loan on time and in full. The DSRF shall be funded in an amount and from sources (including, without limitation, (i) bond act funds appropriated to the Trust for the purposes of reserves and/or guarantees or (ii) Available Trust Revenues) as shall be determined by the Chairman, the Vice Chairman or the Executive Director of the Trust (each, an "Authorized Officer").

Section 4. Any Relief Loan made by the Trust as part of the Disaster Relief Financing Program shall be evidenced by (i) a note or other appropriate obligation of the Borrower to be issued to the Trust, all in satisfaction of the requirements of the Act (including, without limitation, the Pending Legislation, when enacted) (the "Obligation"), and (ii) any other documentation as shall be deemed necessary and appropriate by an 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 a form to 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 Disaster Relief Financing Program as shall be determined by an 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 (including, without limitation, the Pending Legislation, when enacted) and the Regulations and (ii) the implementation of the terms of this Resolution.

Section 5. Any Relief Loan made by the Trust to a Borrower for a Project pursuant to the Disaster Relief Financing Program:

- (i) shall be made only if the Borrower and the Project have satisfied in full the Relief Funding Eligibility Conditions;
- (ii) shall, to the extent any portion of such Relief Loan is financed with monies received by the Trust pursuant to the Appropriation (which shall not exceed 95% of the principal amount of such Relief Loan) (an "Appropriation Loan"), be approved by the Commissioner of the NJDEP;
- (iii) shall, to the extent any portion of such Relief Loan is financed with monies received by the Trust pursuant to the Line of Credit (a "Line of Credit Loan"), be subject to the periodic solicitation by the Trust in consultation with its Professional Advisors through a competitive selection process based upon low bids with interest rates utilized as the selection criteria from among a pool of prequalified financial institutions, for the following Line of Credit terms: 12 months, 24 months, 36 months, and up to 47 months; and the authority to identify the terms, and conduct such competitive selection process pursuant to the terms hereof is hereby granted to the Authorized Officer;

- (iv) shall be made pursuant to the following interest rates: (a) with respect to Appropriation Loans, 0%, and (b) with respect to Line of Credit Loans, the awarded low bid interest rates in connection with the solicitation set forth in clause (iii) above;
- (v) shall not exceed such principal amount as determined by the Commissioner of the NJDEP;
- (vi) may, at the sole discretion of the Commissioner of the NJDEP, to the extent any such Relief Loan is an Appropriation Loan, be subject to principal forgiveness in an amount determined by the NJDEP;
- (vii) shall have a maturity date of the date of closing with respect to the applicable long-term financing program of the Trust and the NJDEP, occurring no later than the last day of the third succeeding State Fiscal Year following the closing date on which such Relief Loan is made; provided, however, that each Relief Loan may be subject to prepayment prior to the maturity date;
- (viii) shall not be subject to the imposition of an administrative fee; and
- (ix) shall otherwise qualify for funding through the Disaster Relief Financing Program pursuant to the terms and provisions of the Act (including, without limitation, the Pending Legislation, when enacted) and provisions of this Resolution.

Section 6. The Board of Directors of the Trust hereby authorizes the making of a Relief Loan from Available Trust Revenues only, pursuant to the Disaster Relief Financing Program, (a “Small System Relief Loan”) to a private drinking water utility or privately owned drinking water system (private water supply companies, nonprofit corporations and homeowners associations) that (i) do not possess an investment grade rating from one of the three national rating agencies and (ii) serve a customer population of less than 10,000, provided that such Relief Loans, in the aggregate, shall not exceed \$5,000,000 in principal amount.

Section 7. Each Authorized Officer is 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 Disaster Relief Financing Program.

Section 8. 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 9. At the meeting of the Board of Directors of the Trust immediately following the execution and delivery of any Loan Instruments relating to any Relief Loan made to any Borrower pursuant to the Disaster Relief Financing Program, the Executive Director of the Trust shall provide a report to the Board of Directors of the Trust concerning the details of such transaction.

Section 10. Each Authorized Officer is hereby severally authorized to prepare and distribute, in consultation with Bond Counsel to the Trust, the Office of the Attorney General of the State and the Financial Advisor to the Trust (collectively, the “Professional Advisors”), a Request for Qualifications (the “RFQ”), to banking corporations having membership in the federal depository insurance corporation, to submit qualifications for inclusion in the Trust’s Pooled Underwriter Contract. Such RFQ shall be prepared and distributed pursuant to and in compliance with Trust Policy and Procedure No. 4.00, entitled “Procurement of Goods and Services,” and the Pooled Underwriter Contract shall be awarded upon authorization by official action of the Board of Directors of the Trust at a future meeting thereof.

Section 11. The Authorized Officers are each hereby severally authorized and directed to prepare and distribute proposals from Pooled Underwriter Contract firms (hereafter the “Underwriter Pool”) at times established by the Executive Director in consultation with the NJDEP, interest rates for Line of Credit Loans applicable to 12, 24, 36, and up to 47 month terms for Disaster Relief Program participants in an amount not to exceed \$5,000,000,000 The Authorized Officers are each hereby severally authorized and directed to take such other actions as any Authorized Officer, in his respective sole discretion, after consultation with the Professional Advisors, deems necessary, convenient or desirable in order to award a contract to one or more firms from the Underwriter Pool for the Line of Credit, in a manner consistent herewith.

Section 12. Any Authorized Officer is hereby authorized and directed to take such other actions that such Authorized Officer, in his respective sole discretion after consultation with the Professional Advisors, deems necessary, convenient or desirable to effect the transactions contemplated hereby.

Adopted Date: Mr. Briant

Motion Made By: Ms. Siekerka

Motion Seconded By: 7

Ayes: 0

Nays: 0

Abstentions: 0