

RESOLUTION NO. 13-41

RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AUTHORIZING A SUPPLEMENTAL LOAN TO THE BOROUGH OF CALDWELL AND AUTHORIZING OTHER NECESSARY AND INCIDENTAL ACTION IN CONNECTION THEREWITH

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, pursuant to a supplemental financing program (the "Supplemental Financing Program"), to make short-term or temporary loans (each, a "Supplemental Loan") to eligible project sponsors (each, a "Borrower") for the purpose of financing, with respect to a project (each, an "Existing Project") for which a loan previously has been made to such Borrower by the Trust pursuant to N.J.S.A. 58:11B-9(a) (each, an "Existing Loan"), to pay for additional eligible costs of such Existing Project (the "Additional Costs"), that have been incurred by such Borrower in connection with the completion of such Existing Project and in excess of (i) the principal amount of the Existing Loan, plus (ii) the principal amount of the companion loan made to the Borrower by the State, acting by and through the New Jersey Department of Environmental Protection (the "NJDEP"), provided that each such Supplemental Loan made by the Trust to a Borrower satisfies the requirements of the Act, including, without limitation, N.J.S.A. 58:11B-9.4, and any applicable Regulations; and

WHEREAS, the Board of Directors of the Trust (the "Board") established the terms, requirements and parameters of the Supplemental Financing Program for State Fiscal Year 2014 (the "SFY 2014 Supplemental Financing Program") in Resolution No. 13-06, duly adopted by the Board on January 10, 2013 (the "Authorizing Resolution"); and

WHEREAS, pursuant to Resolution 13-17, duly adopted by the Board on April 11, 2013, as amended and supplemented by Resolution 13-35, duly adopted by the Board on June 13, 2013, the Board authorized a loan from the Trust to the Borough of Caldwell ("Caldwell") pursuant to the State Fiscal Year 2013 Direct Loan Program of the Trust (the "Caldwell Direct Trust Loan"), for the purpose of financing Additional Costs of an Existing Project bearing the number S340523-04-1 (the "Caldwell Project"); and

WHEREAS, it was not possible for the Trust and Caldwell to close the Caldwell Direct Trust Loan prior to the conclusion of State Fiscal Year 2013; and

WHEREAS, the financing of the Additional Costs of the Caldwell Project was not included on the project priority list for State Fiscal Year 2014 that was submitted by the Trust and the New Jersey Department of Environmental Protection to the State Legislature; and

WHEREAS, it is the desire of the Trust, pursuant to and in satisfaction of the applicable terms and provisions of the Act, the Regulations, the Authorizing Resolution and this Resolution, to

authorize a Supplemental Loan, pursuant to the SFY 2014 Supplemental Financing Program, to Caldwell for the purpose of financing Additional Costs of the Caldwell Project; and

WHEREAS, it is the desire of the Trust to certify the Additional Costs of the Caldwell Project, in accordance with the terms and provisions of N.J.A.C. 7:22-4.13; and

WHEREAS, it is the desire of the Trust that the Supplemental Loan by the Trust to Caldwell pursuant to the SFY 2014 Supplemental Financing Program for the purpose of funding Additional Costs of the Caldwell Project shall incorporate the loan and re-payment terms and conditions set forth in the form of an obligation in substantially the form attached as Exhibit A to the Authorizing Resolution (the "Obligation"); and

WHEREAS, it is the desire of the Trust to ensure that, at such time as the Supplemental Loan to Caldwell is refinanced by the Trust through a long-term loan from the Trust to Caldwell (the "Long-Term Trust Loan"), the interest rate with respect to such Long-Term Trust Loan shall not be greater than the interest rate that would apply to such Long-Term Trust Loan if such interest rate had been calculated as of June 28, 2013 (the last business day of State Fiscal Year 2013) in accordance with the "Interest Rate Calculation" as defined and set forth in Resolution 13-17, duly adopted by the Trust on April 11, 2013.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Trust, as follows:

Section 1. The Board hereby authorizes the making of a Supplemental Loan by the Trust to Caldwell pursuant to the SFY 2014 Supplemental Financing Program for the purpose of funding the Additional Costs of the Caldwell Project, provided, however, that (a) notwithstanding the provisions of the Authorizing Resolution relating to the limitation of \$300,000 on the principal amount of a Supplemental Loan, the principal amount of such Supplemental Loan shall not exceed \$421,500, and (b) such Supplemental Loan shall fully comply with (i) the terms and provisions of the Act and the Regulations applicable thereto, (ii) the terms and provisions of the Authorizing Resolution (other than as set forth in clause (a) of this Section 1), (iii) the terms and provisions of this Resolution, and (iv) the loan and re-payment terms and provisions as set forth in the Obligation.

Section 2. Based upon its review and evaluation of the application of Caldwell with respect to the Additional Costs of the Caldwell Project, the Trust hereby certifies for funding the Additional Costs of the Caldwell Project in accordance with N.J.A.C. 7:22-4.13. The Trust acknowledges that the Additional Costs of the Caldwell Project previously have been certified for funding by the Commissioner of the New Jersey Department of Environmental Protection, in accordance with the terms and provisions of N.J.A.C. 7:22-3.13.

Section 3. The Chairman, Vice Chairman and Executive Director of the Trust (each, an "Authorized Officer") are hereby severally authorized and directed to execute and deliver any certificates, instruments or documents related to the Supplemental Loan by the Trust to Caldwell pursuant to the SFY 2014 Supplemental Financing Program for the purpose of funding the Additional Costs of the Caldwell Project.

Section 4. Upon the execution of any certificates, instruments or documents referenced in Section 3 hereof by any 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 5. The Trust acknowledges that the Caldwell Direct Trust Loan authorized pursuant to Resolution 13-17, duly adopted by the Board on April 11, 2013, as amended and supplemented by Resolution 13-35, duly adopted by the Board on June 13, 2013, was not made by the Trust prior to the conclusion of State Fiscal Year 2013, and that the Supplemental Loan to Caldwell authorized hereby shall be made as a substitute source of funding in place of such Caldwell Direct Trust Loan. The authority and authorization for the Trust to make the Caldwell Direct Trust Loan pursuant to Resolution 13-17, duly adopted by the Board on April 11, 2013, as amended and supplemented by Resolution 13-35, duly adopted by the Board on June 13, 2013, is hereby rescinded.

Section 6. At such time as the Supplemental Loan to Caldwell is refinanced by the Trust through a Long-Term Trust Loan, the interest rate with respect to such Long-Term Trust Loan shall not be greater than the interest rate that would apply to such Long-Term Trust Loan if such interest rate had been calculated as of June 28, 2013 in accordance with the "Interest Rate Calculation" as defined and set forth in Resolution 13-17, duly adopted by the Trust on April 11, 2013.

Section 7. The Authorized Officers are hereby severally authorized and directed to take such other actions, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, that any Authorized Officer deems necessary, convenient or desirable to effect the transactions contemplated hereby.

Section 8. 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)), provided, however, that this Resolution shall not become effective unless and until the Authorizing Resolution becomes effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: July 11, 2013

Motion Made By: Mr. Chebra

Motion Seconded By: Mr. Barrack

Ayes: 6

Nays: 0

Abstentions 0