

## RESOLUTION NO. 13 - 59

### RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST APPROVING THE TRUST'S AMENDED AND RESTATED CREDIT POLICY

**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 (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 to make and contract to make loans to project sponsors to finance a portion of the costs of the respective environmental infrastructure system projects thereof, 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 Act and the purposes of the Trust; and

**WHEREAS**, prior to State Fiscal Year 2013, applicants for financing through the New Jersey Environmental Infrastructure Financing Program (the "NJEIFP") were required to comply with the creditworthiness standards set forth in a letter, dated October 29, 2001, from the State Treasurer to the Executive Director of the Trust;

**WHEREAS**, in recognition of possible enhanced credit risks posed by certain NJEIFP applicants, the staff of the Trust, commencing in November of 2011, undertook a comprehensive review of the credit risk as it related to all NJEIFP borrower classes;

**WHEREAS**, as a result of such comprehensive review, the Trust developed a new policy (the "2013 Creditworthiness Policy") intended (i) to ensure consistency and appropriate management of all credit risk on the part of the Trust with respect to all NJEIFP borrower classes on a programmatic basis, and (ii) to provide improved and consistent transparency to all NJEIFP applicants with respect to the creditworthiness standards of the NJEIFP;

**WHEREAS**, the Board of Directors of the Trust (the "Board"), on January 10, 2013, adopted that certain "Resolution Approving a Credit Policy" (Resolution No. 13-02) (the "2013 Resolution"), pursuant to which the 2013 Creditworthiness Policy was approved and implemented;

**WHEREAS**, the staff of the Trust, as a result of ongoing assessment and evaluation of the implementation of the 2013 Creditworthiness Policy, has prepared and submitted to the Board an "Amended and Restated New Jersey Environmental Infrastructure Trust Credit Policy" (the "Amended Creditworthiness Policy") for purposes of (i) refining certain elements of the 2013 Creditworthiness Policy, (ii) further ensuring consistency and appropriate management of all credit risk on the part of the Trust with respect to all NJEIFP borrower classes on a programmatic basis, and (iii) further ensuring improved and consistent transparency to all NJEIFP applicants with respect to the creditworthiness standards of the NJEIFP; and

**WHEREAS**, it is the desire of the Board to authorize and adopt the Amended Creditworthiness Policy in the form attached hereto as Exhibit A and made a part hereof.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Trust that the Board hereby authorizes and approves (i) the adoption by the Trust of the Amended Creditworthiness Policy, in the form attached hereto as Exhibit A and made a part hereof, with such immaterial modifications thereto as the Executive Director of the Trust shall approve, following consultation with Bond Counsel to the Trust, the Office of the Attorney General of the State and the Financial Advisor to the Trust, and (ii) the implementation by the Trust of such Amended Creditworthiness Policy pursuant to the terms thereof, commencing with the State Fiscal Year 2014 NJEIFP. 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: October 17, 2013

Motion Made By: Mr. Barrack

Motion Seconded By: Ms. Campbell

Ayes: 7

Nays: 0

Abstentions: 0

**EXHIBIT A**

**AMENDED CREDITWORTHINESS POLICY**

# **NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST**



## **CREDIT POLICY**

Revised – October 2013

POLICY AND PROCEDURE

NO. 1.21

SUBJECT: Credit Policy

REVISION HISTORY:      Adopted: 1/10/2013      Effective: 1/29/2013  
                                 Revised: 10/17/2013      Effective: 10/31/2013

PURPOSE: To define and clarify the credit worthiness standards required for participation in the New Jersey Environmental Infrastructure Program (“NJEIFP”)

It is my pleasure to present the New Jersey Environmental Infrastructure Trust's:

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**Credit Worthiness Policy of the New Jersey Environmental Infrastructure Financing Program**

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Since the Financing Program's first loan in 1987, the Trust has prided itself on staying true to its core mission:

- Promoting and facilitating the construction of water-related infrastructure projects throughout the State by providing low cost funding to local government units and drinking water systems; and
- Fulfilling a fiduciary responsibility to ensure that the credit profile requirements of the Financing Program maintain the highest credit standards, thereby allowing future generations to borrow at the lowest and most efficient costs available.

In its simplest terms, the Financing Program is a pool of subsidized loans dedicated to financing improvements to New Jersey's environmental infrastructure. Since the Trust's inception, more than \$6 billion in zero and low interest rate loans have been provided to local communities through a combination of federal and State funds and Trust bond proceeds, resulting in an estimated interest cost savings of over \$2.3 billion to these local communities. New Jersey's rate payers and tax payers are the direct beneficiaries of the Financing Program's multiple cost savings subsidies and administrative benefits.

Central to the Financing Program's continued success is the dedication of infrastructure project funding in perpetuity. As Program Borrowers repay the State component of their total Program loan, these funds are re-lent to finance new projects through a revolving mechanism to next year's Program Borrowers - hence, the SRF (or State Revolving Fund) moniker.

In the event that a Borrower defaults on its repayment obligation, any subsequent loss is absorbed by the Financing Program by reducing the total amount of revolving SRF loan funds available for future generations of Borrowers, thereby illustrating why the Financing Program has always maintained a credit worthiness requirement as a precondition to qualification by a Borrower for a loan. As such, the Financing Program is not now, nor ever was, a lender of last resort, and this Credit Policy is the mechanism that protects the Financing Program as a sustainable source of environmental infrastructure funding for future generations of Borrowers.

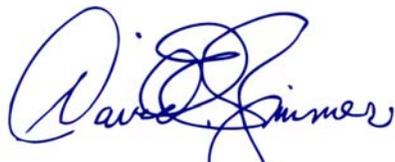
As you read through this Credit Policy, you will note that the Trust has addressed the Financing Program's requirement of credit worthiness through the analysis of risk that each Applicant presents. This risk analysis considers the probability that a Borrower will

not fulfill its annual debt service repayment obligation on either its Trust loan or its State Fund loan (collectively, the Program Loan(s)) on time and in full, as well as how each Program Loan is secured to minimize any corresponding loss. This Credit Policy builds upon the previous policy by clearly articulating the Financing Program's credit requirements in order to address more effectively the complex range of projects and Applicants to which the Financing Program has been subject in recent years.

To apply this Credit Policy in a manner that is practical, transparent and fair to each Financing Program Applicant, the Credit Policy considers (i) each Applicant's ability to repay its Program Loan as demonstrated (in almost all cases) by an independent, investment grade credit rating from either Fitch Ratings, Moody's Investors Service or Standard & Poor's, and (ii) the type of collateral that each Applicant will pledge as security for its Program Loan, defined by either (a) a General Obligation (G.O.) Bond that constitutes the full faith and credit secured by a pledge of the *ad valorem* taxing authority of the underlying county or municipalities being served by the project or (b) a Revenue Bond, that is an obligation secured by a pledge of the revenues generated by the underlying project. Accordingly, this Credit Policy segregates Financing Program Applicants by Borrower-type (Municipality, Authority, Private Water System) and collateral-type (G.O. Bond, Revenue Bond). In recognizing the value of an investment grade G.O. pledge, and in order to ensure that all future, qualified Applicants receive fair access to the Financing Program's subsidized zero and low interest loans (*a benefit that has saved the average Borrower more than 25% of their total Program Loans principal amount in interest costs savings*), this Credit Policy requires more collateral from certain, higher-risk Applicants - namely lower or non-rated Revenue Bond Applicants. In this way, the Financing Program is less prone to future default risks.

If you have any questions regarding this Credit Policy, please do not hesitate to contact either the Trust or our legal or financial advisor. We look forward to providing you the top-rated and efficient service that has always been the hallmark of our Financing Program.

Respectfully,



David E. Zimmer, CFA  
Executive Director

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**New Jersey Environmental Infrastructure Financing Program**  
**Credit Policy Statement**

Revised October 17, 2013

**I. STATUTORY AUTHORITY**

The New Jersey Environmental Infrastructure Trust (“NJEIT” or the “Trust”) is the State Authority charged with making low interest loans to New Jersey Local Government Units, nonprofit entities and private entities authorized to construct, operate, maintain and implement wastewater treatment systems and/or water supply systems, in order to finance all or a portion of the costs of certain Environmental Infrastructure Projects. The Trust was established in 1985 pursuant to N.J.S.A. 58:11B-1 et seq., as amended from time to time, (the “Trust Act”) to finance wastewater treatment system projects. The Trust Act was amended in 1997 in order to expand the statutory authority of the Trust to finance water supply system projects. In order to fulfill its statutory mandate pursuant to the Trust Act to finance wastewater treatment system projects and water supply system projects, the Trust oversees the New Jersey Environmental Infrastructure Financing Program (“NJEIFP” or “Financing Program”) and is responsible for ensuring that the Financing Program is administered efficiently and fairly to all *qualified* Applicants in a fiscally responsible manner that safeguards the Financing Program’s future ability to make environmental infrastructure loans in the most cost-efficient manner. <sup>1</sup>

**II. OBJECTIVE**

The Financing Program has always maintained minimum credit worthiness standards, compliance with which is a pre-condition to an Applicant’s qualification to participate in the Financing Program. These credit worthiness standards help to ensure that the Financing Program maintains its AAA/AAA/Aaa Credit Rating from each of the three Nationally Recognized Rating Agencies and, as a result, the Financing Program is able to issue its bonds at the lowest absolute rate for the benefit of all current and future Borrowers. Currently, the Financing Program

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<sup>1</sup> Note: Capitalized terms used herein shall have the meaning ascribed to such terms in Article V hereof, unless otherwise noted.

utilizes the credit worthiness standards set forth in the Trust's Credit Policy dated January 2013 (the "Current Policy"), which was adopted by the Trust's Board in recognition of the increasing number of non-traditional Borrowers and Environmental Infrastructure Projects applying for participation in the Financing Program. Prior to this, the State's Credit Policy for each Fund Loan, as articulated most recently in the two page letter from former State Treasurer Peter Lawrance to then Executive Director of the Trust, Dirk Hoffman, on October 29<sup>th</sup>, 2001, had been relied upon(See Attachment 1).

While recognizing that one of the hallmarks of the Financing Program has always been equal and shared access for all qualified Applicants to the Trust's AAA/AAA/Aaa Credit Rating for its bonds and the corresponding lower financing costs offered by the Financing Program, the Financing Program was neither created nor intended to perform as the lender of last resort for every potential Applicant and Environmental Infrastructure Project in the State. Consequently, the purpose of this Credit Policy is to further define the financial conditions and requirements that must be satisfied by each Applicant so that all lending decisions and actions of the Trust continue to be consistent, transparent and, ultimately, fiscally prudent.

### **III. RECENT HISTORY**

The Financing Program has been subject to a number of policy revisions and product innovations since its inception more than 25 years ago. These changes include: the introduction of a water supply system or drinking water ("DW") component (1998), the introduction of the Master Program Trust Account ("MPTA") which serves as a Trust Loan coverage or reserve fund that is capitalized with Fund Loan repayments owed to the State and that acts as additional collateral support for NJEIT's outstanding bonds (1995), the most recent clarification and revision of the State's credit policy (2001), the introduction of the Emergency Loan Program (2011), the Direct Loan Program (2001), the Nano Infrastructure Loan Program for small water systems (2012), the Supplemental Financing Program (2012) and the Current Policy (2013).

Over 90% of the loans made by the Financing Program to date are secured either by (i) a general obligation ("G.O.") bond issued by a taxing entity (a Municipality or county) and secured by a pledge of its full faith and credit or (ii) a Revenue Bond issued by an Authority and ultimately secured by a G.O. pledge of the full faith and credit of the municipal Participants served by that Authority. The Authority pledges to the Financing Program, through its indenture or bond

resolution, all payments payable to the Authority by the Participants pursuant to the Service Agreement. When applicable, these G.O. pledges obligate the Municipalities and/or counties to raise *ad valorem* taxes “without limitation as to rate or amount” in order to either (i) satisfy their debt service obligation to the Trust and the State or (ii) satisfy any payment obligations pursuant to the Service Agreement in order for the Authority to repay its debt service obligations to the Trust and the State.

The remainder of the loans made by the Financing Program (i.e., less than 10%) and that remain outstanding are secured by a Revenue Bond. Revenue Bonds are not secured by a G.O. pledge of one or more Municipalities. As such, these Revenue Bonds may pose greater repayment default AND loss risk to the Financing Program. The fact that such Revenue Bonds continue to grow each year as part of the Financing Program’s overall portfolio exposure speaks to the changing nature of the Financing Program and the recognition from non-traditional parties of the cost of capital advantages that the Financing Program offers relative to market-based lending alternatives. While the NJEIT’s publicly held bonds have never suffered a payment default, it is critical to establish policies today that safeguard the Financing Program against the risk of default in the future. It is precisely the greater risks posed by non-traditional, non-municipal and non-G.O. Service Agreement Authority Borrowers that this Credit Policy seeks to address.

#### **IV. RISK PARAMETERS**

This Credit Policy segregates default risk by Borrower-type and by credit pledge-type. In the event of a potential bankruptcy, the 90% of Financing Program Borrowers which are Municipalities, counties or local Authorities must make application to, and obtain the approval of, the Local Finance Board within the Department of Community Affairs (“DCA”) before they are legally able to commence bankruptcy proceedings. Given (i) the G.O. pledge that secures the Trust Loan and Fund Loan, and (ii) the additional legal hurdle and corresponding oversight from the State associated with bankruptcy proceedings, these entities have a greater hurdle, and therefore, a lower likelihood of experiencing default than their non-G.O. counterparts. In addition, the strength of a Borrower’s security for their respective loans has a limiting effect on both their probability of default as well as the magnitude of any principal or interest repayment loss should that Borrower default on its repayment obligation to the Financing Program. As such, any Borrower that can be compelled to raise, or compel a Participant to raise, *ad*

*valorem* taxes through their pledge of either a direct or indirect G.O. will be less likely to default and, in the unlikely Event of Default, will be less likely to cause a loss on their repayment obligations to the Financing Program. With this in mind, the Credit Policy divides Financing Program Borrowers into the following categories:

1. G.O. Pledge:
  - a. Municipality/County
  - b. Authority
  - c. Redevelopment Project sponsored by an LGU
2. Revenue Pledge:
  - a. Authority
  - b. Corporate/Private
3. Small Drinking Water Systems

*(See Section VI for further discussion of risk categories and corresponding criteria.)*

## **V. DEFINITIONS**

**“Aggregate Annual Debt Service”** means, with respect to any given Applicant, the total of the annual debt service payments for both direct and indirect (i.e., as a result of such Applicant’s participation in an Authority) obligations of the Applicant to the NJEIFP due and payable each State Fiscal Year to either the Trust with respect to all outstanding Trust Loans when aggregated, or the State with respect to all outstanding Fund Loans when aggregated.

**“Applicant”** means an entity having submitted, pursuant to the Trust Act and applicable regulations, a Letter of Intent or an application for the financing of an Environmental Infrastructure Project through the Financing Program.

**“Authority”** means a State authority, a municipal, county or regional sewerage or utility authority, a municipal sewerage district, an improvement authority, or any other political subdivision of the State, *other than* a Municipality or county, that is authorized to construct, operate and maintain a wastewater treatment system or a public water supply system, or to construct, rehabilitate, operate or maintain water supply facilities or otherwise provide water for human consumption.

**“Borrower”** means any entity that has any Financing Program loans outstanding with either the State and/or the Trust.

**“Credit Eligibility Requirements”** means those standards set forth in Section VI:2 below pursuant to an Applicant’s borrower-type and security pledge.

**“Credit Rating”** means an assessment by one or more of the three Nationally Recognized Rating Agencies of the credit worthiness (i) of an Applicant and the Applicant’s ability to repay principle and interest on its bonds, or (ii) of a Nationally Chartered Bank or a State Chartered Bank and its ability to satisfy its liabilities.

**“De-minimis Loan Applicant”** means an Applicant with respect to which the *Pro-forma* Aggregate Annual Debt Service owed separately to either the Trust or the State, as the case may be, is less than \$100,000 for Borrowers providing a pledged G.O. and less than \$50,000 for Revenue Bond Borrowers.

**“Direct Loan Closing”** means the date on which a Borrower delivers to the Trust and State, and the Trust and State accepts from such Borrower, a note or other obligation evidencing a Trust Loan and Fund Loan to such Borrower pursuant to the direct loan program of the Trust, established pursuant to N.J.S.A. 58:11B-9 and one or more resolutions of the Trust.

**“Escrow Closing”** means the date on which the Trust, the State, a Borrower and an escrow agent appointed by the Trust each enter into an escrow agreement, pursuant to which (i) the Trust and the State each commit to make a loan to the Borrower with respect to a particular Environmental Infrastructure Project; (ii) the Borrower commits to accept a loan from each of the Trust and the State with respect to such Environmental Infrastructure Project; and (iii) the Trust Loan Agreement, the Fund Loan Agreement, the Trust Loan Bond and the Fund Loan Bond, together with certain other documents and legal opinions, are deposited into escrow, to be released by the escrow agent upon the issuance by the Trust of its bonds.

**“Environmental Infrastructure Project”** means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (i) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects, or (ii) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224

(C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162.

**"Event of Default"** means any occurrence or event defined as an Event of Default pursuant to a Trust Loan Agreement or a Fund Loan Agreement.

**"Financial Due Diligence Meeting"** means a meeting convened by the Trust to discuss elements of an Applicant's financial health, including, without limitation, the sources of funding for an Applicant's Environmental Infrastructure Project, the current Credit Rating, the potential impact of such an Environmental Infrastructure Project on the Applicant's Credit Rating, and other matters deemed necessary or appropriate by the Trust to aid it in assessing (i) an Applicant's compliance with this Credit Policy and (ii) its financial eligibility to receive and repay a Trust Loan and Fund Loan. Financial Due Diligence Meetings shall include the following representatives:

- Representatives of the Nationally Recognized Rating Agencies that rated the Applicant's outstanding debt;
- The Applicant's chief financial officer, highest elected official, and business administrator;
- One or more representatives of the developer of the Environmental Infrastructure Project, if applicable, possessing knowledge and authority to provide detailed information regarding the Environmental Infrastructure Project and its regulatory and financial details;
- A representative of each of the non-NJEIT entities, including other State Agencies, if any, providing funding for any aspect of the Environmental Infrastructure Project;
- A representative of each entity that may provide a guarantee for the financing of the Environmental Infrastructure Project, if applicable;
- Two representatives of the NJEIT's senior management;
- A representative of any entity that may serve as signatory to a Trust Loan Agreement or Fund Loan Agreement, or another form of contractual obligation in connection with the financing of the Environmental Infrastructure Project; and
- Such other individuals deemed necessary or appropriate by the NJEIT to aid in conducting financial due diligence including, without limitation, representatives from the New Jersey Department of Community Affairs and/or the New Jersey Board of Public Utilities.

**“Financing Program” or “NJEIFP”** means the program implemented by the NJDEP and the NJEIT in partnership to provide loans to Borrowers for Environmental Infrastructure Projects pursuant to N.J.S.A. 58:11B-1 et seq., the Federal Clean Water Act and the Federal Drinking Water Act.

**“Financing Program Principals”** means the NJEIT and the State, collectively, as parties to the Financing Program.

**“Finding of Unacceptable Credit Risk”** means a written finding by the Trust (i) that the Applicant fails to meet the Credit Eligibility Requirements, (ii) that one or more Material Events has occurred within the immediately preceding sixty (60) months, or (iii) that the Trust otherwise identifies credit, liquidity or operational risks deemed by the Trust to constitute unacceptable risks to the Financing Program.

**“Fund Loan”** means a loan provided by the State, acting by and through the NJDEP, to a Borrower for the financing as part of the Financing Program of all or a portion of an Environmental Infrastructure Project pursuant to the Federal Clean Water Act or the Federal Drinking Water Act.

**“Fund Loan Agreement”** means an agreement, by and between the State, acting by and through the NJDEP, and a Borrower, pursuant to which the State extends a Fund Loan to a Borrower in connection with the financing of all or a portion of an Environmental Infrastructure Project, and the Borrower agrees to certain terms and conditions, including, without limitation, the construction of the Environmental Infrastructure Project and the repayment of the Fund Loan.

**“Fund Loan Bond”** means a senior lien bond issued by a Borrower to the State, acting by and through the NJDEP, in order to evidence and secure the Fund Loan repayment obligations of such Borrower to the State, all in connection with the financing of all or a portion of an Environmental Infrastructure Project. The State may, in its discretion, accept a Junior Lien Bond, subject to certain covenant obligations, in lieu of a senior lien bond.

**“Interim Financing Closing”** means the date on which a Borrower delivers to the Trust, and the Trust accepts from such Borrower, a note or other obligation evidencing a short-term or temporary loan made by the Trust to such Borrower

pursuant to the interim financing program of the Trust, established pursuant to N.J.S.A. 58:11B-9(d) and one or more resolutions of the Trust.

**“Internal Revenue Code”** means the Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto.

**“Investment Grade Rated”** means an Applicant with at least one current rating assigned by a Nationally Recognized Rating Agency that is not less than BBB- (S&P and Fitch) or Baa3 (Moody’s), as well as no Non-Investment Grade Rated Credit Ratings from any of the Nationally Recognized Rating Agencies.

**“Joint and Several Liability Service Agreement”** means a Service Agreement, by and among a Special Obligation Entity and two or more Participants, pursuant to which all Participants have contractually agreed to be jointly and severally liable for the obligations of any of the Participants thereunder, including, without limitation, the obligation to pay amounts necessary to meet the debt service obligations of the Special Obligation Entity.

**“Letter of Credit” or “LOC”** means an irrevocable Letter of Credit issued by a Nationally Chartered Bank or a State Chartered Bank that secures the payment of the principal and/or interest on (as applicable) the Trust Loan Bond and Fund Loan Bond issued to the Trust and the State, respectively, by the Applicant that procured such LOC.

**“Loan Loss Reserve Fund” or “LLR”** means a fund established by the Trust, pursuant to N.J.S.A. 58:11B-1 et seq., for the deposit of the annual Risk Premium as defined herein. Risk Premium payments will be deposited by the Trust into the LLR and shall secure repayments owed only on those Financing Program loans in connection with which Risk Premium payments are required.

**“Local Government Unit” or “LGU”** means (i) a State Authority, county, Municipality, municipal, county or regional sewerage or utility Authority, municipal sewerage district, joint meeting, improvement Authority, or any other political subdivision of the State authorized pursuant to law to construct, operate and maintain wastewater treatment systems, or (ii) a State Authority, district water supply commission, county, Municipality, municipal, county or regional utilities Authority, municipal water district, joint meeting or any other political subdivision

of the State authorized pursuant to law to operate or maintain a public water supply system or to construct, rehabilitate, operate or maintain water supply facilities or otherwise provide water for human consumption.

**“LGU Sponsor”** means a Local Government Unit whose participation in a Trust Loan Agreement and/or a Fund Loan Agreement, or any other form of contractual obligation, is necessary to satisfy Financing Program requirements, including, but not limited to, compliance with this Credit Policy for the purpose of assisting a third party in securing access to funding from the Financing Program for an Environmental Infrastructure Project of mutual benefit to such Local Government Unit and such third party.

**“Material Event”** means, with respect to a given Applicant, the occurrence of any one or more of the following: (i) an Event of Default under an existing Trust Loan Agreement and/or Fund Loan Agreement to which the Applicant is a party; (ii) the Applicant’s receipt of notice of a criminal complaint, criminal investigation or indictment pertaining to the Applicant or any of its officers or directors; (iii) a material change in financial position demonstrating a material adverse effect upon the Applicant’s financial position within the last two fiscal years; (iv) the filing by the Applicant of a bankruptcy petition or the administration of the Applicant pursuant to the provisions of any applicable bankruptcy statute; (v) any written documentation that is produced by the NJDEP or the Trust which identifies (1) material mismanagement by the Applicant of (a) any of its environmental infrastructure facilities, or (b) the proposed Environmental Infrastructure Project to be financed through the Financing Program, in which the Applicant has been unable to cure such material mismanagement or (2) failure of such Applicant to properly satisfy its repayment obligations with respect to any outstanding Program Loans, including, without limitation, late payments or (3) failure of such Applicant to properly and promptly apply unexpended proceeds of any outstanding Program Loans; (vi) material misrepresentations by the Applicant in any Financing Program application documents; or (vii) failure by the Applicant to submit timely responses to requests for information presented to the Applicant by the Trust and/or the NJDEP.

**“Municipality”** means any city, borough, town, township or village situated within the boundaries of the State of New Jersey.

**“Nationally Chartered Bank”** means a banking institution chartered and supervised by the Office of the Comptroller of the Currency, an agency in the U.S. Treasury Department, pursuant to the National Bank Act, 12 U.S.C. Section 21 *et seq.*

**“Nationally Recognized Rating Agency”** means any of Fitch Ratings (“Fitch”), Standard & Poor’s (“S&P”) or Moody’s Investors Service (“Moody’s”).

**“NJDEP”** means the New Jersey Department of Environmental Protection.

**“New Jersey Environmental Infrastructure Trust,” “Trust” or “NJEIT”** means a body corporate and politic organized under the laws of the State of New Jersey pursuant to N.J.S.A. 58:11B-1 *et seq.*

**“Non-Investment Grade Rated”** means an entity that possesses a current Credit Rating which is less than BBB- (S&P and Fitch) or Baa3 (Moody’s) from any of the three Nationally Recognized Rating Agencies.

**“Non-Joint and Several Liability Service Agreement”** means a Service Agreement, by and among a Special Obligation Entity and two or more Participants, pursuant to which each Participant has contractually agreed to be liable for a portion of the obligations specified thereunder, including, without limitation, the obligation to pay amounts necessary to meet the debt service obligations of the Special Obligation Entity, and the Participants are not obligated to pay amounts due and owing by any other Participants.

**“Non-Rated”** means an entity which does not possess a current Credit Rating from any of the three Nationally Recognized Rating Agencies.

**“Participant”** means one or more Municipalities and/or Authorities that have entered into a Joint and Several Liability Service Agreement with a Special Obligation Entity or a Non-Joint and Several Liability Service Agreement with a Special Obligation Entity.

**“Preliminary Financial Information”** means certain written information produced by an Applicant and delivered to the NJEIT pursuant to a written request submitted by the NJEIT, all in furtherance of the assessment by the NJEIT of the Applicant’s compliance with this Credit Policy.

**“Privately Owned Water System”** means a drinking water system required to comply with New Jersey State primary drinking water regulations for which a PWS ID number exists.

**“Pro-forma Aggregate Annual Debt Service”** means, with respect to any given Applicant for both direct and indirect obligations to the NJEIFP, the sum of (i) the Aggregate Annual Debt Service and (ii) the additional annual debt service payments due and payable each State Fiscal Year with respect to the Trust Loan and Fund Loan for which the Applicant is then applying to the Financing Program.

**“Qualified Bonds”** means any bond issued by a Municipality pursuant to the provisions of the Qualified Bond Act, N.J.S.A. 40A:3-1 et seq.

**“Qualified Bond Debt Service Coverage Ratio”** means the annual debt service to be paid by a municipality each fiscal year on any of its outstanding Qualified Bonds divided by the annual funds available for these payments pursuant to the Qualified Bond Act.

**“Ratings”** means:

Investment Grade Rating of the three major rating agencies				NJFIT Rank
	Moody's	Standard & Poor's	Fitch	
Best Quality	Aaa	AAA	AAA	12
High Quality	Aa1	AA+	AA+	11
	Aa2	AA	AA	10
	Aa3	AA-	AA-	9
Upper Medium Grade	A1	A+	A+	8
	A2	A	A	7
	A3	A-	A-	6
Medium Grade	Baa1	BBB+	BBB+	5
	Baa2	BBB	BBB	4
	Baa3	BBB-	BBB-	3

Non-Investment Grade	Ba1	BB+	BB+	2
	Ba2	BB	BB	1
	Below Ba2	Below BB	Below BB	0

**“Revenue Bond”** means a bond supported by the revenue from a specifically sponsored project.

**“Risk Premium”** means an annual premium imposed by the NJEIT and the NJDEP in an amount equal to 1% of the outstanding aggregate principal amount of the Trust Loan and the Fund Loan, provided, however, such amount shall be subject to the limitations imposed by the Internal Revenue Code as such limitations shall be interpreted and applied by the NJEIT following consultation with counsel.

**“Service Agreement”** means an agreement wherein a Special Obligation Entity agrees to provide wastewater treatment service or drinking water to one or more Participants in exchange for monetary compensation.

**“Special Obligation Entity”** means an Authority, a nonprofit entity, a private entity, or any other Applicant or Borrower with respect to which the obligation to repay the Trust Loan and the Fund Loan is not secured by the irrevocable pledge of such Applicant or Borrower to exercise its unlimited taxing powers for the timely payment thereof.

**“State”** means the State of New Jersey.

**“State Chartered Bank”** means a banking institution chartered and supervised by the New Jersey Department of Banking and Insurance pursuant to the laws of the State, including, without limitation, N.J.S.A. 17:9A-1 *et seq.*

**“State Fiscal Year” or “SFY”** means the period of time beginning on the first day of July of each calendar year and ending on the thirtieth of June of the next succeeding calendar year, such period of time being established as the fiscal year of the State pursuant to N.J.S.A. 52:5-1. Each State Fiscal Year shall be designated by the calendar year in which such State Fiscal Year concludes.

**“Trust Loan”** means a loan made by the NJEIT to a Borrower for the financing as part of the Financing Program of all or a portion of an Environmental Infrastructure Project pursuant to N.J.S.A. 59:11B-1 et seq.

**“Trust Loan Agreement”** means an agreement, by and between the Trust and a Borrower, pursuant to which the Trust extends a Trust Loan to a Borrower in connection with the financing of all or a portion of an Environmental Infrastructure Project, and the Borrower agrees to certain terms and conditions, including, without limitation, the construction of the Environmental Infrastructure Project and the repayment of the Trust Loan.

**“Trust Loan Bond”** means a senior lien bond issued by a Borrower to the NJEIT in order to evidence and secure the Trust Loan repayment obligations of such Borrower to the NJEIT, all in connection with the financing of all or a portion of an Environmental Infrastructure Project pursuant to N.J.S.A. 59:11B-1 et seq. The Trust may, in its discretion, accept a Junior Lien Bond, subject to certain covenant obligations in lieu of a senior lien bond.

## **VI. NJEIFP LOAN APPLICANTS**

### **1. GENERAL APPLICABILITY PROVISIONS**

Introduction Applicants must meet the Credit Eligibility Requirements of this Credit Policy as set forth in Section VI:2 below in order to evidence and secure an NJEIFP Trust Loan and Fund Loan repayment obligation through the issuance of privately negotiated bonds to the Financing Program Principals. In assessing compliance by an Applicant with the Credit Eligibility Requirements, the Trust will consider credit, liquidity, and operational risk as well as any other factors deemed necessary and appropriate by the Trust to (i) evaluate the risk of repayment default and (ii) in order to determine that there are no existing Material Events.

Credit Ratings For the purposes of this Credit Policy, Applicant Credit Ratings may be either a public rating or a shadow rating. All public ratings must be currently under surveillance by the Nationally Recognized Rating Agency that issued such public rating. The Trust may require an Applicant to have a rating re-affirmed if a Material Event has occurred since the last review by the Rating Agency. Any Applicant relying on a shadow rating must have received such rating from a

Nationally Recognized Rating Agency within twelve months prior to the Trust's determination of the Applicant's compliance with the Financing Program Credit Eligibility Requirements. Separately, , the unenhanced rating (i.e., giving no consideration to enhancement from, among other sources, the State's "Chapter 72 School Bond Reserve Program") of a contiguous school district may be cited and relied upon by a Municipality(s) not possessing a Credit Rating and which is providing either a direct or indirect obligation in order to evidence and secure an NJEIFP Trust Loan and Fund Loan repayment obligation. In the case of a Non-Rated Authority or Non-Rated Privately Owned Water System, a guarantee from an Investment Grade Rated corporate parent, in a form acceptable to the Trust, may be cited and relied upon.

Portfolio Limitations The Trust retains the right to reject outright any Applicant for whom the Trust Loan Bond and the Fund Loan Bond is a Revenue Bond, the aggregate principal amount of which will serve to increase the NJEIFP Revenue Bond principal exposure to an amount that exceeds 10% of the total outstanding principal amount of publicly issued Trust bonds. Further, the Trust retains the right to reject outright any *De-minimis* Loan Applicant for whom the Trust Loan Bond and the Fund Loan Bond is a Revenue Bond, the aggregate principal amount of which will serve to increase the NJEIFP exposure to *De-minimis* Loan Borrowers to an amount that exceeds 5% of the total outstanding principal amount of publicly issued Trust bonds (See Attachment 2).

Additional Information In assessing an Applicant's compliance with the Credit Eligibility Requirements of the Credit Policy, the Trust may require the Applicant to participate in a Financial Due Diligence Meeting without regard to the Applicant's Credit Rating. The Applicant shall provide Preliminary Financial Information to the Trust no later than 10 business days following receipt of such written request from the Trust.

*De-minimis* Loan Requirement For all *De-minimis* Loan Applicants, the Applicant shall provide to the Trust, in the case of an Applicant providing a direct or indirect G.O. pledge, evidence of either approval from the Local Finance Bond to incur debt through the NJEIFP for the requested Loan amount, or in the case of a Revenue Bond Applicant, evidence from the Board of Directors, or other governing body of the Applicant, a resolution pursuant to which such governing body acknowledges and agrees to:

- i. The projected debt service repayment obligation of the Applicant over the course of the proposed Program Loan;
- ii. With respect to any Applicant that is a Local Government Unit, a contractual obligation to provide an annual certification of an authorized officer of the Applicant that the Applicant has timely provided to the Division of Local Government Services within the New Jersey Department of Community Affairs (the "DLGS") a balanced budget for the forthcoming fiscal year, and that such budget has been approved by the Director of the DLGS, all in accordance with the Local Budget Law or the Local Authorities Fiscal Control Law, as applicable.
- iii. a contractual obligation, to be set forth in the Trust Loan Agreement and Fund Loan Agreement of the Applicant that obligates the Applicant each year, a Program Loan is outstanding, to fix the rates it charges its service customers in an amount at least equivalent to pay all outstanding debt service, operation & maintenance charges, and further, to pay any other expenses necessary to operate the Applicant's system in compliance with applicable laws and regulations. The Applicant will further covenant to provide to the Trust and the State a certification of an authorized officer of the Applicant, on an annual basis at the conclusion of each fiscal year of the Applicant, to the effect that the Authority has for such fiscal year, complied with the rate covenant set forth above. Failure to provide such certification, upon the expiration of a thirty day notice and cure period, shall be an Event of Default pursuant to each of the Trust Loan Agreement and the Fund Loan Agreement, and shall give rise to a right of acceleration of the Program Loans by the Trust and the State, respectively.
- iv. In addition, the Applicant shall be subject to a covenant obligation to provide written notice to the NJEIT and the NJDEP within 30 days of the occurrence of any Event of Default, pursuant to and as defined in its indenture of trust or bond resolution, or any event that with the passage of time and/or the giving of notice shall constitute an Event of Default.

Junior Lien Bond Policy      The Financing Program does not require debt service reserve funds of Investment Grade Rated Authorities to act as security for the Trust Loan Bond and the Fund Loan Bond issued by such Authority. Furthermore, if such reserve funds are required by the Authorities' own indenture of trust or bond resolution, the Financing Program does not make Trust Loan proceeds or Fund Loan

proceeds available to Authorities to fund such debt service reserve funds. However, the Financing Program will accept from such Authorities a junior-lien bond as evidence of and security for the Trust Loan and Fund Loan repayment obligations of such Authority. While this junior-lien bond is subordinated to any senior-lien debt of that Authority, the Financing Program protects itself from repayment default and loss by requiring each Authority to comply with the following: (i) compliance with Credit Eligibility Requirements; (ii) a Service Agreement that is secured by the full faith and credit of one or more Participants; and (iii) a contractual obligation set forth in the indenture of trust or bond resolution that obligates the Authority to raise the rates it charges its service customers by an amount at least equivalent to pay all outstanding debt service (including debt service with respect to the Junior-Lien Trust Loan Bond and the Junior-Lien Fund Loan Bond), operation & maintenance charges, and further, to pay any other expenses necessary to operate the Authority in compliance with applicable laws and regulations. In addition, the Authority shall be subject to a covenant obligation to provide written notice to the NJEIT and the NJDEP within 30 days of the occurrence of any Event of Default, pursuant to and as defined in its indenture of trust or bond resolution, or any event that with the passage of time and/or the giving of notice shall constitute an Event of Default. The failure by the Authority to satisfy the obligation set forth in (iii), above, shall constitute an Event of Default, pursuant to and as defined in its Trust Loan Agreement and its Fund Loan Agreement.

Determination of Ineligibility Any Finding of Unacceptable Credit Risk shall be issued in writing by the Trust to the Applicant and shall render the Applicant ineligible to participate in the Financing Program for that Financing Program year.

Action by the Trust Pursuant to the Credit Policy. Any determination or action authorized or required to be undertaken by the Trust pursuant to the terms and provisions of this Credit Policy may be undertaken or performed by any authorized officer designated as such by the Board of Directors of the Trust through formal action, including but not limited to Trust Board Resolution No. 11-10 enacted on April 7, 2011.

## 2. CREDIT ELIGIBILITY REQUIREMENTS

Applicants shall satisfy the Financing Program's Credit Eligibility Requirements. A determination as to compliance with the Credit Eligibility Requirements shall be made by the Trust at the earlier of the time of the Environmental Infrastructure Project's:

- i. Interim Financing Program Closing, including, without limitation, the Disaster Relief Emergency Loan Financing Program, or
- ii. Escrow Closing, or
- iii. Direct Loan Program Closing, or
- iv. Receipt from the Trust of a Finding of Unacceptable Credit Risk.

Excepting the existence of a Material Event(s), Credit Eligibility Requirements are waived for supplemental loans with respect to existing Trust Loans and Fund Loans.

An Applicant shall establish compliance with the Credit Eligibility Requirement by providing a:

### A. PLEDGED G.O., *provided that the Applicant is a(n):*

- a) **Municipality/County, or the beneficiary of a guarantee provided by a Municipality/County, such Municipality/County which is:**
  - i. **Investment Grade Rated:** No additional requirements.
  - ii. **Non-Investment Grade Rated:** For an Applicant that is a Municipality, credit support is provided in the form of (i) a Qualified Bond, and (ii) a covenant obligation on the part of the Applicant to satisfy upon issuance of such Qualified Bond, and any future Qualified Bond (issued in connection with the Financing Program or otherwise), the Qualified Bond Debt Service Coverage Ratio at <75% until the maturity of the Trust Loan Bond and Fund Loan Bond;
  - iii. **Non-Rated:** A Credit Rating is obtained by the Municipality or the County from any of the three Nationally Recognized Rating Agencies and the applicable requirements relating to such Credit Rating as outlined in either Sections VI:2-A.a(i) or VI:2-A.a(ii) are satisfied.

A Municipality or a county failing to meet any one of the above criteria is ineligible to receive a Financing Program loan under this provision.

**b) Authority and is:**

- i. Investment Grade Rated:** No additional requirements.
- ii. Non-Investment Grade Rated:** A Letter(s) of Credit issued by a Nationally Chartered Bank or State Chartered Bank:
  - i. with a Credit Rating(s) of no less than A(flat) and no Non-Investment Grade Credit Rating(s) from any of the three Nationally Recognized Rating Agencies; **and**
  - ii. which Letter(s) of Credit shall be maintained at least at A(flat), or be replaced by the Borrower with a Letter of Credit from a Nationally Chartered Bank or State Chartered Bank which satisfies the preceding paragraph (i); **and**
  - iii. licensed to do business in the State of New Jersey; **and**
  - iv. which secures the payment of the principal of and interest on (as applicable) the Trust Loan Bond and the Fund Loan Bond issued to the Trust and the State, respectively, by such Borrower for the term of the Trust Loan and Fund Loan.
- iii. Non-Rated:**
  - a. A Credit Rating is obtained from any of the three Nationally Recognized Rating Agencies and the applicable requirements relating to such Credit Ratings as outlined in either Sections VI:2-A.b(i) or VI:2-A.b(ii) are satisfied; **or**
  - b. The Authority has entered into a Joint and Several Liability Service Agreement with one or more Participants and no more than 50% of the Authority's annual revenue is derived from Participants with Non-Investment Grade Ratings or that are Non-Rated; **or**
  - c. The Authority has entered into a Non-Joint and Several Liability Service Agreement with one or more Participants and no more than 25% of the Authority's annual revenue is derived from Participants with Non-Investment Grade Ratings or that are Non-Rated.

An Authority failing to meet any one of the above criteria is ineligible to receive a Financing Program loan under this provision.

**c) Redevelopment Project and is sponsored by a(n):**

**i. Investment Grade Rated LGU Sponsor:**

- a. A Financial Due Diligence Meeting is required to discuss the financial impact upon the LGU Sponsor of the proposed additional debt (note: if the Nationally Recognized Rating Agency that has rated the LGU Sponsor does not attend the Financial Due Diligence Meeting, the LGU Sponsor shall present to the Trust a certification that the Nationally Recognized Rating Agency has been informed in writing of the proposed financing and has chosen not to attend); ***and***
- b. Additional requirements as appropriate are agreed upon to secure the LGU Sponsor including, but not limited to;
  - i. PILOT payments,
  - ii. Statutory rights pursuant to the Redevelopment Area Bond Financing Law,
  - iii. Reserve funds, and
  - iv. Corporate guarantees.

**ii. Non-Investment Grade Rated LGU Sponsor:**

- a. A Letter(s) of Credit issued by a Nationally Chartered Bank or State Chartered Bank:
  - i. with a Credit Rating(s) of no less than A(flat) and no Non-Investment Grade Credit Rating(s) from any of the three Nationally Recognized Rating Agencies; ***and***
  - ii. which Letter(s) of Credit shall be maintained at least at A(flat), or be replaced by the Borrower with a Letter of Credit from a Nationally Chartered Bank or State Chartered Bank which satisfies the preceding paragraph (i); ***and***
  - iii. licensed to do business in the State of New Jersey; ***and***
  - iv. which secures the payment of the principal of and interest on (as applicable) the Trust Loan Bond and the Fund Loan Bond issued to the Trust and the State, respectively, by such Borrower for the term of the Trust Loan and Fund Loan; ***and***
- b. All requirements as set forth in Section VI:2-A.c(i) must be satisfied.

- iii. **Non-Rated LGU Sponsor:** A Credit Rating is obtained from any of the three Nationally Recognized Rating Agencies and the applicable requirements based on the ratings as outlined in either Sections VI:2-A.c(i) or VI:2-A.c(ii) are satisfied.

A redevelopment project failing to meet any one of the above criteria is ineligible to receive a Financing Program loan under this provision.

**B. REVENUE BOND, *provided that the Applicant is a(n):***

**a) Authority and is:**

**i. Investment Grade Rated:**

- a. The indenture of trust or bond resolution pursuant to which the Authority issues its Trust Loan Bond and Fund Loan Bond shall include (i) a debt service coverage ratio covenant, (ii) a rate covenant and (iii) a debt incurrence test, each deemed by the Trust to be acceptable; ***and***
- b. For any time period during the life of the Loan that a Credit Rating has been assigned to the Authority by any Nationally Recognized Rating Agency of less than A- or A3, the annual Risk Premium will be imposed by the NJEIT and the NJDEP; provided, however, such amount shall be subject to the limitations imposed by the Internal Revenue Code as such limitations shall be interpreted and applied by the NJEIT following consultation with counsel. The payments will be deposited by the Trust into the LLR. This Provision will be enacted beginning with Financing Program Loans made in SFY 2014.

**ii. Non-Investment Grade Rated:**

- a. A Letter(s) of Credit issued by a Nationally Chartered Bank or State Chartered Bank:
  - i. with a Credit Rating(s) of no less than A(flat) and no Non-Investment Grade Credit Rating(s) from any of the three Nationally Recognized Rating Agencies; ***and***
  - ii. which Letter(s) of Credit shall be maintained at least at A(flat), or be replaced by the Borrower with a Letter of Credit from a Nationally Chartered Bank or State Chartered Bank which satisfies the preceding paragraph (i); ***and***

- iii. licensed to do business in the State of New Jersey; ***and***
- iv. which secures the payment of the principal of and interest on (as applicable) the Trust Loan Bond and the Fund Loan Bond issued to the Trust and the State, respectively, by such Borrower for the term of the Trust Loan and Fund Loan; ***and***
- b. The indenture of trust or bond resolution pursuant to which the Authority issues its Trust Loan Bond and Fund Loan Bond shall include (i) a debt service coverage ratio covenant, (ii) a rate covenant and (iii) a debt incurrence test, each deemed to be acceptable by the Trust;
- iii. **Non-Rated:** A Credit Rating is obtained from any of the three Nationally Recognized Rating Agencies and the applicable requirements relating to such Credit Ratings as outlined in either Sections VI:2-B.a(i) or VI:2-B.a(ii) are satisfied.

An Authority failing to meet any one of the above criteria is ineligible to receive a Financing Program loan under this provision.

**b) Privately Owned Water System and is:**

**i. Investment Grade Rated:**

- a. The indenture of trust pursuant to which the Privately Owned Water System issues its Trust Loan Bond and Fund Loan Bond shall include (i) a debt service coverage ratio covenant, (ii) a rate covenant and (iii) a debt incurrence test, each deemed by the Trust to be acceptable; ***and***
- b. For any time period during the life of the Loan that a Credit Rating has been assigned to the Privately Owned Water System by a Nationally Recognized Rating Agency of less than A- or A3, the annual Risk Premium will be imposed by the NJEIT and the NJDEP; provided, however, such amount shall be subject to the limitations imposed by the Internal Revenue Code as such limitations shall be interpreted and applied by the NJEIT following consultation with counsel. The Risk Premium payments will be deposited by the Trust into the LLR. This Provision will be enacted beginning with Loans made in SFY 2014.

**ii. Non-Investment Grade Rated:**

a. A Letter(s) of Credit issued by a Nationally Chartered Bank or State Chartered Bank:

i. with a Credit Rating(s) of no less than A(flat) and no Non-Investment Grade Credit Rating(s) from any of the three Nationally Recognized Rating Agencies; ***and***

ii. which Letter(s) of Credit shall be maintained at least at A(flat), or be replaced by the Borrower with a Letter of Credit from a Nationally Chartered Bank or State Chartered Bank which satisfies the preceding paragraph (i); ***and***

iii. licensed to do business in the State of New Jersey; ***and***

iv. which secures the payment of the principal of and interest on (as applicable) the Trust Loan Bond and the Fund Loan Bond issued to the Trust and the State, respectively, by such Applicant for the term of the Trust Loan and Fund Loan; ***and***

b. The indenture of trust pursuant to which the Privately Owned Water System issues its Trust Loan Bond and Fund Loan Bond shall include (i) a debt service coverage ratio covenant, (ii) a rate covenant and (iii) a debt incurrence test, each deemed to be acceptable by the Trust;

**iii. Non-Rated:** A Credit Rating is obtained from any of the three Nationally Recognized Rating Agencies and the applicable requirements relating to such Credit Ratings as outlined in either Sections VI:2-B.b(i) or VI:2-B.b(ii) are satisfied.

A Privately Owned Water System failing to meet any one of the above criteria is ineligible to receive a Financing Program loan under this provision.

**C. De-minimis Loan Applicant, provided that the Applicant is:**

**i. Investment Grade Rated:** No additional requirements. The Trust reserves the right to require the Borrower to establish a debt service reserve account as collateral for the Trust Loan and Fund Loan. Funds for a debt service reserve fund may not be borrowed;

**ii. Non-Investment Grade Rated:** A Letter(s) of Credit issued by a Nationally Chartered Bank or State Chartered Bank:

- i. with a Credit Rating(s) of no less than A(flat) and no Non-Investment Grade Credit Rating(s) from any of the three Nationally Recognized Rating Agencies; **and**
  - ii. which Letter(s) of Credit shall be maintained at least at A(flat), or be replaced by the Borrower with a Letter of Credit from a Nationally Chartered Bank or State Chartered Bank which satisfies the preceding paragraph (i); **and**
  - iii. licensed to do business in the State of New Jersey; **and**
  - iv. which secures the payment of the principal of and interest on (as applicable) the Trust Loan Bond and the Fund Loan Bond issued to the Trust and the State, respectively, by such Borrower for the term of the Trust Loan and Fund Loan.
- iii. **Non-Rated:** An Applicant meeting the established financial criteria, as set forth by the Trust from time to time and publicly disseminated, shall be eligible to receive a Financing Program loan subject to the requirements as outlined in Section VI:2-C.(i) above. Additionally, such Applicant shall provide proof of authorization to enter into the Loan Agreements with the NJDEP and the Trust from its governing body, such as a Board of Directors. Any Applicant not meeting the established financial criteria, as set forth by the Trust, is subject to the requirements as outlined in Section VI:2-C.(ii) above.

A *De-minimis* Loan Applicant failing to meet any one of the above criteria is ineligible to receive a Financing Program Loan under this provision.