

RESOLUTION No. 16 - 16

RESOLUTION OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AUTHORIZING (I) THE SUBSTITUTION BY THE PASSAIC VALLEY SEWERAGE COMMISSION OF CERTAIN JUNIOR LIEN BONDS FOR CERTAIN BONDS PREVIOUSLY ISSUED TO THE TRUST AND (II) THE EXECUTION AND DELIVERY OF AMENDMENTS TO CERTAIN LOAN AGREEMENTS BY AND BETWEEN THE TRUST AND THE PASSAIC VALLEY SEWERAGE COMMISSION

WHEREAS, the New Jersey Environmental Infrastructure Trust (the "Trust"), a public body corporate and politic duly created and existing pursuant to the New Jersey Environmental Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the "State"), as amended and supplemented (the "Act"), is authorized, pursuant to Sections 5(m) and 9(a) of the Act, to make and contract to make loans pursuant to loan agreements with local government units and public water utilities (each a "Local Unit") to finance a portion of the cost of environmental infrastructure system projects that Local Units may lawfully undertake or acquire and for which they are authorized by law to borrow funds; and

WHEREAS, the Trust and the Passaic Valley Sewerage Commission (the "PVSC"), a public body corporate and politic and instrumentality of the State duly created and existing pursuant to Chapter 14 of Title 58 of the Revised Statutes of the State, and the acts amendatory thereof and supplemental thereto (codified at *N.J.S.A. 58:14-1 et seq.*), have entered into two Loan Agreements, each dated as of May 1, 2014 (collectively, the "2014 Loan Agreements"), pursuant to the terms of each of which the Trust has made a loan to the PVSC (each a "Loan") to finance a portion of each Project as defined and described in each respective 2014 Loan Agreement; and

WHEREAS, the PVSC issued (i) its \$290,000 aggregate principal amount of Sewer System Bonds (Series I-2014-2) and (ii) its \$6,545,000 aggregate principal amount of Sewer System Bonds (Series I-2014-4) (collectively, the "PVSC Senior Lien Bonds") to the Trust, as holder thereof, to evidence and secure the repayment obligation of the PVSC to the Trust with respect to each respective Loan, such PVSC Senior Lien Bonds having been issued as senior lien bonds pursuant to a resolution adopted by the PVSC on May 20, 1971, entitled "Resolution Providing for the Issuance of Bonds of Passaic Valley Sewerage Commissioners and for the Rights of the Holders Thereof, and Authorizing \$23,7000,000 Principal Amount Thereof," as thereafter amended and supplemented from time to time (the "PVSC Senior Lien Bond Resolution"); and

WHEREAS, the PVSC Senior Lien Bond Resolution requires that the PVSC establish and maintain a debt service reserve fund to secure its senior lien bonds issued pursuant to the terms thereof, including, without limitation, the PVSC Senior Lien Bonds; and

WHEREAS, pursuant to and in satisfaction of the requirements of the PVSC Senior Lien Bond Resolution, the PVSC currently maintains debt service reserve funds with respect to, and as security for, the PVSC Senior Lien Bonds (the "Debt Service Reserve Funds"); and

WHEREAS, pursuant to that certain "Credit Policy" of the Trust, heretofore adopted by the Trust and as revised through January 2015 (the "Credit Policy"), the Trust permits Local Units that do not possess direct general obligation taxing power (each an "Authority Borrower") to issue junior lien bonds to the Trust as security for loans made by the Trust to such Authority Borrowers, provided that the Authority Borrower complies with certain conditions set forth in the Credit Policy (collectively, the "Credit Policy Conditions Precedent"), including, without limitation: (i) compliance by such Authority Borrower with the Credit Eligibility Requirements as defined in the Credit Policy; (ii) compliance by such Authority Borrower with the requirement that it be a party to a service agreement that is secured by the full faith and credit

of one or more municipal participants that possess and pledge their general obligation taxing power to secure their payment obligations pursuant to the terms and provisions of such service agreement; and (iii) a contractual obligation set forth in the indenture of trust or bond resolution of such Authority Borrower that obligates it 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 bonds that it proposes to issue to the Trust), operation and maintenance charges, and, further, to pay any other expenses necessary to operate the Authority Borrower in compliance with applicable laws and regulations; and

WHEREAS, with respect to the issuance by the PVSC of the PVSC Senior Lien Bonds in connection with the Loans, the PVSC, as an Authority Borrower, was unable to avail itself of the junior lien bond policy of the Trust and, specifically, was unable to comply with the terms and provisions of the Credit Policy as it relates to junior lien bonds issued by Authority Borrowers; and

WHEREAS, at this time, the PVSC has determined that (i) it able to avail itself of the junior lien bond policy of the Trust and, specifically, is able to comply with the terms and provisions of the Credit Policy as it relates to junior lien bonds issued by Authority Borrowers, and (ii) the maintenance of the Debt Service Reserve Funds with respect to, and as security for, the PVSC Senior Lien Bonds creates a financial hardship for the PVSC; and

WHEREAS, the PVSC now desires to substitute for the PVSC Senior Lien Bonds new, junior lien bonds (the "PVSC Junior Lien Bonds") that shall be junior to its bonds issued pursuant to the PVSC Senior Lien Bond Resolution (i) in priority of payment and (ii) in that they shall not be secured by the Debt Service Reserve Funds, provided, however, that (i) the PVSC Junior Lien Bonds to be issues by the PVSC shall otherwise be consistent with each of the terms and provisions of the respective PVSC Senior Lien Bonds to be replaced thereby and (ii) the PVSC, in issuing its PVSC Junior Lien Bonds in substitution for the PVSC Senior Lien Bonds, shall satisfy each of the Credit Policy Conditions Precedent, including, without limitation, the provision of security for the PVSC Junior Lien Bonds; and

WHEREAS, on January 21, 2016, the PVSC adopted its "Supplemental Resolution No. 15 Relating to the Subordinate Bond Resolution Authorizing the Issuance of \$30,000,000 Subordinate Sewer System Bonds Pursuant Thereto Through the New Jersey Environmental Infrastructure Financing Program", authorizing the issuance by the PVSC of the PVSC Junior Lien Bonds to the Trust to evidence and secure the repayment obligations of the PVSC to the Trust with respect to the Loans; and

WHEREAS, the PVSC has requested that the Trust enter into an amendment to each Loan Agreement, in accordance with the amendment provisions thereof, in order to effectuate the substitution of the PVSC Junior Lien Bonds for the PVSC Senior Lien Bonds; and

WHEREAS, it is the desire of the Trust to (i) accept the substitution of the PVSC Junior Lien Bonds for the PVSC Senior Lien Bonds, provided that the PVSC shall satisfy each of the Credit Policy Conditions Precedent, including, without limitation, the provision of security for the PVSC Junior Lien Bonds, and (ii) effectuate such substitution by entering into an amendment to each Loan Agreement, in accordance with the amendment provisions thereof.

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

Section 1. The Board hereby accepts and agrees to the substitution of the PVSC Junior Lien Bonds for the PVSC Senior Lien Bonds, provided that (i) the PVSC Junior Lien Bonds shall reflect each of

the terms and provisions of the respective PVSC Senior Lien Bonds to be replaced thereby, except (1) the PVSC Junior Lien Bonds shall be junior in priority of payment to the senior lien bonds issued by the PVSC pursuant to the PVSC Senior Lien Bond Resolution, and (2) the PVSC Junior Lien Bonds shall not be secured by the Debt Service Reserve Funds, and (ii) the PVSC, in issuing its PVSC Junior Lien Bonds in substitution for the PVSC Senior Lien Bonds, shall satisfy each of the Credit Policy Conditions Precedent, including, without limitation, the provision of security for the PVSC Junior Lien Bonds.

Section 2. The Board hereby authorizes an amendment to each Loan Agreement (each an “Amendment to Loan Agreement” and, collectively, the “Amendments to Loan Agreement”), in such form as the Executive Director of the Trust, in his sole discretion after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, determines to be necessary, desirable or convenient to effect the transactions contemplated hereby, which determination thereof shall be dispositively evidenced by delivery by the Executive Director of each Amendment to Loan Agreement.

Section 3. The Chairman, the Vice Chairman and the Executive Director of the Trust (each an “Authorized Officer”) are hereby authorized and directed to execute each Amendment to Loan Agreement, and any certificates, instruments or documents contemplated therein or related thereto.

Section 4. Upon execution of each Amendment to Loan Agreement by the Authorized Officer, the Secretary and the Assistant Secretary of the Trust are hereby 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.

Section 5. The Executive Director and any other Authorized Officer are hereby authorized and directed to (i) execute such other certificates, instruments or other documents, in such form and with such terms and conditions as the Executive Director, or any other Authorized Officer, after consultation with Bond Counsel to the Trust and the Chairman or Vice Chairman, determines to be in the best interests of the Trust, and (ii) take such other actions as the Executive Director, or any other Authorized Officer, in their respective sole discretion after consultation with the Bond Counsel to the Trust and the Chairman or Vice Chairman, deems necessary, convenient or desirable to effect the transactions contemplated hereby.

Section 6. This Resolution shall take effect immediately, subject to the provisions of the Act.

Adopted Date: April 14, 2016

Motion Made By: Mark Longo

Motion Seconded By: James Requa

Ayes: 5

Nays: 0

Abstentions: 0