

RESOLUTION NO. 17 - 11

RESOLUTION AUTHORIZING THE CONSTRUCTION LOAN FINANCING PROGRAM FOR STATE FISCAL YEAR 2018

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 (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 an interim financing program (the "Construction Financing Program"), to make loans (each, a "Construction Loan") to eligible project sponsors (each, a "Borrower") for the purpose of financing the allowable costs of environmental infrastructure projects (each, a "Project"), provided that each such Construction Loan made by the Trust satisfies the requirements of the Act, including, without limitation, N.J.S.A. 58:11B-9(d), and the Regulations, including, without limitation, N.J.A.C. 7:22-4.47; and

WHEREAS, pursuant to the provisions of N.J.A.C. 7:22-4.47, a proposed project sponsor is eligible to be a Borrower for a Construction Loan for purposes of financing the allowable costs of the Project of such Borrower pursuant to the Construction Financing Program, provided each of the following conditions is satisfied in full: (i) the Project is listed on the project priority lists for the ensuing fiscal year that have been submitted to the State Legislature pursuant to N.J.S.A. 58:11B-20 or N.J.S.A. 58:11B-20.1 (collectively, the "Priority List"); (ii) the proposed Borrower has submitted a complete application for the Project in accordance with N.J.A.C. 7:22-4.11; (iii) the Project has been certified for funding by the Trust in accordance with N.J.A.C. 7:22-4.13; (iv) the Project is in the fundable range in the forthcoming funding cycle given the Project's rank and the anticipated availability of New Jersey Department of Environmental Protection ("NJDEP") and Trust monies; and (v) the proposed Borrower has not previously received a Construction Loan through the Construction Financing Program for the same project scope (exclusive of a Loan made solely for the purpose of extending the term of a prior Construction Loan) (collectively, the "Construction Financing Program Conditions Precedent"); and

WHEREAS, it is the desire of the Trust, subject to the terms and provisions of the Act, the Regulations and this Resolution, to authorize the implementation of the Construction Financing Program, for the State Fiscal Year 2018 ("SFY2018") Environmental Infrastructure Financing Program of the Trust (collectively, the "SFY2018 Construction Financing Program"); and

WHEREAS, in order to provide a source of funding for the implementation of the Construction Financing Program for SFY2018, it is anticipated that the New Jersey State Legislature and the Governor of the State will enact into law an appropriation act (the "Appropriation") that will appropriate to the Trust, from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund", the "1992 Wastewater Treatment Fund", the "Water Supply Fund", the "Stormwater Management and Combined Sewer Overflow Abatement Fund", or the Drinking Water State Revolving Fund, as

appropriate, and from any net earnings received from the investment and reinvestment of such deposits, the sum of \$500,000,000, such sum to be deposited in the segregated fund created by the Trust for the purpose of funding the SFY2018 Construction Financing Program; and

WHEREAS, in addition to the funds made available to the Trust pursuant to the Appropriation for purposes of the SFY2018 Construction Financing Program, it is the desire of the Trust to provide, as additional sources of funding for the SFY2018 Construction Financing Program, (i) net earnings with respect to funds held by the Trust and (ii) operating funds of the Trust that are not required for, or committed to, the operations of the Trust for State Fiscal Years 2018 and 2019 (collectively, the "Available Trust Revenues"), which Available Trust Revenues may be made available by the Trust up to a maximum of \$500,000 per borrower to (i) Borrowers participating in the SFY2018 Construction Financing Program that do not qualify for funding from the Appropriation, as well as (ii) at the election of the Trust, any other Borrowers participating in the SFY2018 Construction Financing Program; and

WHEREAS, with respect to the SFY2018 Construction Financing Program of the Trust and other future construction financing programs of the Trust (collectively, the "Current and Future Construction Financing Programs"), it is the desire of the Trust to explore, as an additional source of funding for the Current and Future Construction Financing Programs, the procurement of a line of credit or other similar financial instrument procured by the Trust, either through a competitive or negotiated process, from a commercial bank (the "Credit Instrument"; the Appropriation, the Available Trust Revenues and the Credit Instrument shall be referred to collectively herein as the "Available Funds"), and in furtherance of such exploration, the Trust desires to prepare and distribute a Request for Proposals seeking proposals from qualified providers of a Credit Instrument; and

WHEREAS, it is the desire of the Trust that, if a Borrower is eligible to receive financing from the SFY2018 Construction Financing Program for a Project with multiple components, the Borrower may receive a single, combined Construction Loan for such Project, provided that (i) there shall exist sufficient Available Funds from the applicable source for the making of the Construction Loan, (ii) the Borrower has submitted to the Trust and the NJDEP a complete application with respect to the Project, including each applicable component of such Project, (iii) the Trust shall not disburse funds pursuant to such Construction Loan with respect to any component of a given Project until such component and the Project costs applicable thereto shall have been certified by the NJDEP, and (iv) the Borrower otherwise satisfies each of the other applicable requirements the Act and the Regulations applicable thereto and the applicable terms of this Resolution.

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

Section 1. The Board hereby authorizes the establishment of the SFY2018 Construction Financing Program, provided (i) each Construction Loan made pursuant to the SFY2018 Construction Financing Program shall be funded solely from the Available Funds applicable thereto; and (ii) each Construction Loan made pursuant to the SFY2018 Construction Financing Program, and each Project (including each component thereof) funded thereby, shall comply fully with the provisions of the

Act and the Regulations applicable thereto and the applicable terms of this Resolution. The Authorized Officers (as hereinafter defined) are each hereby severally authorized and directed, after consultation with the Professional Advisors (as hereinafter defined), to determine the particular Available Funds that shall be allocated to, and shall be the source of funding for, any given Construction Loan made pursuant to the Construction Financing Program.

Section 2. Any Construction Loan made by the Trust as part of the SFY2018 Construction Financing Program shall be evidenced by (i) a note or other appropriate obligation of the Borrower to be issued to the Trust (the "Obligation"), and (ii) any other documentation as shall be deemed necessary and appropriate by the Chairman of the Trust, the Vice Chairman of the Trust and the Executive Director of the Trust, or any other person or persons designated by the Board by resolution to act on behalf of the Trust, but in each case subject to the limitations of the by-laws of the Trust (each, 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 the applicable form attached hereto as Exhibit A, with such revisions and modifications thereto as shall be approved by an Authorized Officer after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State. The Loan Instruments shall include such terms and provisions relating to the SFY2018 Construction 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 and the Regulations applicable thereto and (ii) the implementation of the applicable terms of this Resolution, including, with respect to, as applicable, the funding of a Project with multiple components via a single Construction Loan and the proper disbursement from such Construction Loan for the funding of each Project component.

Any Construction Loan made by the Trust to a Borrower as part of the SFY2018 Construction Financing Program:

(a) shall bear interest at a rate determined in accordance with the Interest Rate Calculation (as defined in Section 3 hereof);

(b) shall have a maturity date to be determined by an Authorized Officer, in consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, which maturity date shall be no later than the applicable date set forth in Section 4 hereof; and

(c) shall be subject to the imposition of a fee consisting of fifty percent (50%) of the NJDEP loan origination fee applicable to a given Project.

Section 3. The rate of interest to be paid by a Borrower to the Trust with respect to the repayment of a Construction Loan shall be calculated in the following manner (the "Interest Rate Calculation"), so as to achieve an objectively determined rate of interest that is reflective of (i) the policy goals of the Trust as set forth in this Resolution and (ii) the market as of the date on which the Construction Loan is made by the Trust to the Borrower, provided, however, that the portion of the Construction Loan that shall finance the NJDEP loan origination fee that shall be payable as provided in Section 2(c) hereof may be determined by the Authorized Office, at his or her discretion,

to bear interest at a rate of 0.00% as an alternative to the rate of interest that otherwise would be applicable to that portion of the Construction Loan pursuant to the provisions of this Section 3:

- (a) with respect to any portion of a Construction Loan made from amounts made available to the Trust pursuant to the Appropriation, 0.00%;
- (b) with respect to any portion of a Construction Loan made from Available Trust Revenues to a local government unit (as such term is defined in the Act), the interest rate as defined by an appropriate general obligation tax-exempt market index, as shall be selected by an Authorized Officer, which options for selection may include, without limitation, (i) the Thompson Financial TM3 “AAA” Municipal Market Data General Obligation Index (Tax Exempt) and (ii) the “BVAL” Index (relating to general obligation, tax exempt credits) of Bloomberg L.P. (or any subsidiary thereof), in any case for the number of years that corresponds to the term consisting of the period from the date of a given disbursement of proceeds of the Construction Loan to the maturity date of the Construction Loan, rounded up to the nearest year;
- (c) with respect to any portion of a Construction Loan made from Available Trust Revenues to a public water utility (as such term is defined in the Act), a small water company (as such term is defined in the Act), any other private person, or a local government unit on behalf of any private person, the interest rate as defined by an appropriate alternative minimum tax market index, as shall be selected by an Authorized Officer, which options for selection may include, without limitation, (i) the Thompson Financial TM3 “AAA” Municipal Market Data General Obligation Index (AMT) and (ii) the “BVAL” Index (relating to alternative minimum tax credits) of Bloomberg L.P. (or any subsidiary thereof), in any case for the number of years that corresponds to the term consisting of the period from the date of a given disbursement of proceeds of the Construction Loan to the maturity date of the Construction Loan, rounded up to the nearest year; and
- (d) with respect to any portion of a Construction Loan made from amounts made available to the Trust pursuant to a Credit Instrument, a rate to be determined by the Trust in connection with its approval of any such Credit Instrument as required by Section 12 hereof, which rate shall be commensurate with the cost to the Trust of obtaining funds pursuant to such Credit Instrument for the purpose of making such Construction Loan or portion thereof.

For purposes of determining the term in order to perform the Interest Rate Calculation, as set forth above, the Authorized Officers shall calculate such term as commencing on the date of disbursement and continuing to, but not including, the maturity date of such Construction Loan, rounding up to the nearest year.

Section 4. The maturity date with respect to any Construction Loan, including any funding disbursement made pursuant thereto, shall not exceed the last day of the third succeeding State

Fiscal Year following the closing date with respect to such Construction Loan (pursuant to N.J.S.A. 58:11B-9(d)).

Section 5. The principal amount of each Construction Loan shall not exceed \$10,000,000.

Section 6. The Authorized Officers are each hereby severally authorized and directed, after consultation with Bond Counsel to the Trust and the Office of the Attorney General of the State, to approve the participation of a Borrower in the SFY2018 Construction Financing Program, provided that such Borrower qualifies for such participation pursuant to the provisions of the Act and the Regulations applicable thereto and the applicable terms of this Resolution, including, without limitation, satisfaction by such Borrower with the applicable Financing Program Conditions Precedent.

Section 7. Prior to the making of any Construction Loan with respect to any Project pursuant to the SFY2018 Construction Financing Program, an Authorized Officer shall certify such Project for funding through the SFY2018 Construction Financing Program in accordance with the provisions of N.J.A.C. 7:22-4.13; provided, however, that (i) the proposed Project, or a component thereof (as provided pursuant to the provisions of Section 8 hereof), previously has been certified for funding by the Commissioner of the NJDEP, and (ii) such proposed Project (including each of the components thereof) shall otherwise qualify for funding through the SFY2018 Construction Financing Program pursuant to the terms and provisions of the Act and the Regulations applicable thereto and the applicable terms and provisions of this Resolution.

Section 8. In the event that a portion, but not all, of a Project that is to be the subject of a Construction Loan has been certified for funding by the Commissioner of the NJDEP, the Authorized Officers are hereby severally authorized to extend a Construction Loan to such Borrower for such Project in a stated principal amount that may equal, but shall not exceed, the total estimated allowable costs of such Project (subject to the further limitations set forth in the Act, the applicable Regulations and this Resolution, including, without limitation, Section 5 of this Resolution); provided, however, that the Loan Instruments relating to such Construction Loan shall provide that the Trust shall not disburse to the Borrower any proceeds of such Construction Loan with respect to those costs of the Project that have not been certified by the Commissioner of the NJDEP, and such prohibition upon the disbursement by the Trust to the Borrower of such proceeds of the Construction Loan shall continue to apply until such date as such Project costs have been certified by the Commissioner of the NJDEP, as well as by the Trust pursuant to the provisions of Section 7 hereof.

Section 9. 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 SFY2018 Construction Financing Program.

Section 10. 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 11. At the meeting of the Board immediately following the execution and delivery of any Loan Instruments relating to any Construction Loan made by the Trust to any Borrower pursuant to the SFY2018 Construction Financing Program, the Executive Director of the Trust shall provide a report to the Board concerning the details of such transaction.

Section 12. 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 Proposals (the "RFP") to banking corporations having membership in the federal depository insurance corporation, for a Credit Instrument for the purpose of funding all or a portion of one or more of the Current and Future Construction Financing Programs, in such amount as is determined by such Authorized Officer to be necessary and appropriate for such purpose. Such RFP shall be prepared and distributed pursuant to and in compliance with Trust Policy and Procedure No. 4.00, entitled "Procurement of Goods and Services". The award of any contract to a banking corporation that has submitted to the Trust a response to RFP for the provision of a Credit Instrument for the purpose of funding all or a portion of one or more of the Current and Future Construction Financing Programs shall be made only upon authorization by official action of the Board at a future meeting thereof. 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 prepare and distribute the RFP and to receive proposals for the provision of a Credit Instrument, in a manner consistent herewith.

Section 13. 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 Bond Counsel to the Trust and the Office of the Attorney General of the State, deems necessary, convenient or desirable to affect the transactions contemplated hereby.

Adopted Date: February 15, 2017

Motion Made By: Mr. Robert Briant

Motion Seconded By: Mr. Timothy Cunningham

Ayes: 6

Nays: 0

Abstentions: 0

EXHIBIT A

FORMS OF OBLIGATION