

RESOLUTION NO. 19 – 23

RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK AUTHORIZING THE STATE FISCAL YEAR 2020 SMALL SYSTEM LOAN PROGRAM

WHEREAS, pursuant to (i) Section 5(m) and Section 9(a) of the New Jersey Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”), as the same has been, and in the future may from time to time be, amended and supplemented (N.J.S.A. 58:11B-1 *et seq.*) (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”), the New Jersey Infrastructure Bank (the “I-Bank”), a public body corporate and politic under the laws of the State, created pursuant to the Act, is authorized to make and contract to make loans (each, an “I-Bank Loan”) to project sponsors (each, a “Project Sponsor”) to finance a portion of the costs of the respective environmental infrastructure system projects thereof (each, a “Project”), 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 I-Bank shall determine to be consistent with the Act and the purposes of the I-Bank; and

WHEREAS, the I-Bank has partnered with the New Jersey Department of Environmental Protection (the “NJDEP”) for the purpose, among others, of making loans to Project Sponsors for the financing of water supply projects pursuant to the New Jersey Environmental Infrastructure Financing Program (the “NJEIFP” or the “Water Bank Financing Program”); and

WHEREAS, specifically, the I-Bank and the State, acting by and through the NJDEP, make loans pursuant to the Water Bank Financing Program in order to finance improvements to water supply systems serving populations of 10,000 or fewer (“Small Water Systems”), which loans are extended primarily to Project Sponsors consisting of small water companies and home owner associations; and

WHEREAS, Small Water Systems generally possess relatively limited financial and professional resources and, therefore, generally require a significantly greater commitment by the Water Bank Financing Program in order to evaluate such Small Water Systems and the Projects thereof, in order to ensure that such Small Water Systems satisfy the conditions precedent to participation in the Water Bank Financing Program, including, in particular and without limitation, the creditworthiness standards of the Water Bank Financing Program; and

WHEREAS, notwithstanding the challenges for the Water Bank Financing Program in assessing, among other things, the credit risks associated with the making of Water Bank Financing Program loans to Small Water Systems, the NJDEP has concluded that the continued provision of Water Bank Financing Program loans to Small Water Systems in order to finance Projects consisting of water supply system improvements is necessary and appropriate in order to address important public health issues for the affected communities throughout the State; and

WHEREAS, the Board of Directors of the I-Bank (the “Board”) desires to establish the Small System Loan Program, also known as the Nano Infrastructure Loan Program, (the “SSLP”) for State Fiscal Year 2020 (“SFY2020”) in order to serve as the Water Bank Financing Program funding mechanism for water supply system improvements to Small Water Systems, while also addressing the credit risks posed by such Water Bank Financing Program applicants in a manner satisfactory to the I-Bank.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the I-Bank, as follows.

Section 1. The Board hereby authorizes the establishment of the SFY2020 SSLP for the purpose of making loans to qualifying Project Sponsors that operate a Small Water System, provided, however, that each of the following SSLP requirements must be satisfied, in full, as a condition precedent to the making by the I-Bank of a SSLP loan to a qualifying Project Sponsor for its Small Water System:

- a) all SSLP loans (each, an “SSLP Loan”) made to all qualifying Project Sponsors by the I-Bank and the NJDEP during SFY2020 pursuant to the SSLP shall not exceed \$4,000,000 in aggregate principal amount plus any funds remaining from any prior year SSLP Program (the “SSLP Cap”). For purposes of complying with the SSLP Cap, the following shall be subject to the SSLP Cap and the calculation thereof: (i) any short term loan made by the I-Bank during SFY2020 in anticipation of a future, long term SSLP Loan, and (ii) any long term SSLP Loan (or portion thereof) made during SFY2020, provided that such long term SSLP Loan (or such portion thereof) was not preceded by a prior short term loan; in the event that any portion of the SSLP Cap remains unutilized during SFY2020, the SSLP funds that remain available pursuant to the SSLP Cap and that consist of the I-Bank’s Available Funds (as hereinafter defined) may be used by the I-Bank for the financing of other programs within the NJEIFP during SFY2020, subject to any other limitation that may be applicable thereto;
- b) the aggregate principal amount of the SSLP Loan made by the I-Bank and the NJDEP to any given qualifying Project Sponsor for its Small Water System during SFY2020 pursuant to the SSLP shall be no greater than \$1,000,000 and shall be no less than \$100,000;
- c) each long term SSLP Loan shall consist of the following components: (i) an NJDEP principal forgiveness loan in the amount of fifty percent (50%) of the allowable costs of the applicable Project; (ii) an NJDEP zero interest loan in the amount of twenty-five percent (25%) of the allowable costs of the applicable Project; and (iii) an interest bearing I-Bank Loan in the amount sufficient to finance twenty-five percent (25%) of the allowable costs of the applicable Project (the “I-Bank Loan Component”);

- d) the maximum principal forgiveness that shall be applied to each SSLP Loan extended to any qualifying Project Sponsor for its Small Water System during SFY2020 pursuant to the SSLP is \$500,000;
- e) the I-Bank Loan Component of each SSLP Loan made by the I-Bank to a qualifying Project Sponsor for its Small Water System during SFY2020 pursuant to the SSLP shall not exceed \$250,000 in aggregate principal amount;

allowable costs of any qualifying Project for a Small Water System in excess of that which is permitted to be financed through the SSLP shall be financed pursuant to the terms for which the project qualifies for under the Water Bank Financing Program;

- f) the source of funds for the I-Bank Loan Component of each SSLP Loan made by the I-Bank during SFY2020 pursuant to the SSLP shall consist of one or both of (i) Water Bank operating funds of the I-Bank that are not required for, or committed to, the operations of the I-Bank for State Fiscal Years 2020 and 2021 (the "Available Funds"), and/or (ii) the proceeds of bonds to be issued by the I-Bank ("I-Bank Environmental Infrastructure Bonds"); provided, however, that the I-Bank may, in the future, issue I-Bank Bonds for the purpose of replacing the Available Funds used to finance the I-Bank Loan Component of SSLP Loans made by the I-Bank during SFY2020, which I-Bank Environmental Infrastructure Bonds shall be issued pursuant to a bond resolution to be adopted by the Board prior to the issuance thereof;
- g) unless otherwise authorized pursuant to a resolution of the Board, the I-Bank Loan Component of each SSLP Loan made pursuant to the SSLP during SFY2020 shall bear interest at a rate per annum equal to either (i) the rate of interest on the bonds issued by the I-Bank in connection with the SSLP for the purpose of funding the I-Bank Loan Component, or (ii) if no such bonds are issued for the purpose of funding the I-Bank Loan Component and, therefore, Available Funds are used to fund the I-Bank Loan Component, as calculated pursuant to the "Interest Rate Calculation", as set forth in that certain Resolution adopted by the I-Bank on February 9, 2012 and entitled "Amended and Restated Resolution of the New Jersey Environmental Infrastructure Trust Relating to the Direct Loan Program and Certain Policies Regarding the Administration Thereof and the Granting of Water Bank Direct Loans", as such resolution thereafter may be amended and supplemented from time to time;
- h) the Chairman, the Vice Chairman and the Executive Director of the I-Bank, or any other person or persons designated by the Board by resolution to act on behalf of the I-Bank, but in each case subject to the limitations of the by-laws of the I-Bank (each, an "Authorized Officer"), are each hereby authorized, at their respective discretion, (i) after consultation with Bond Counsel to the I-Bank, the Office of the

Attorney General of the State, and the Financial Advisor to the Water Bank, and (ii) if and to the extent that a credit assessment of the Project Sponsor in question so warrants, to require a Project Sponsor to establish a loan guarantee fund (the "Guarantee Fund"), in addition to the LLR Fund (as defined in and to the extent required by Section 3 hereof), in the event that (A) the principal amount of the SSLP Loan for which such Project Sponsor currently is applying, together with (B) the aggregate principal amount of all other SSLP Loans of such Project Sponsor then outstanding, exceed \$1,000,000 in aggregate principal amount, which Guarante Fund shall serve as additional collateral for the repayment of the I-Bank Loan Component of each of the outstanding SSLP Loans of such Project Sponsor; to the extent required by an Authorized Officer pursuant to the terms hereof, the Guarante Fund shall be established in an amount deemed appropriate thereby, but shall not exceed maximum annual debt service for the aggregate then-outstanding principal amount of the I-Bank Loan Components of the SSLP Loans of such Project Sponsor, multiplied by 2;

- i) any applicant with respect to the SSLP (in addition to satisfying all other SFY2020 NJEIFP loan conditions) shall demonstrate that its Small Water System is (and shall continue to be during the term of its SSLP Loan) managed in a professional manner that is consistent with the Federal Fiscal Year 2020 Drinking Water Intended Use Plan;
- j) SSLP Loan recipients shall not be subject to the imposition by the NJDEP of an NJDEP loan origination administrative fee; and
- k) SSLP Loan recipients shall not be subject to the imposition by the I-Bank of an administrative fee to cover any portion of the financing costs of the SSLP Loan, but (i) shall be subject to an annual I-Bank administrative fee for loan servicing in the annual amount of 0.30% of the original principal amount of the I-Bank Loan Component of the SSLP Loan, and (ii) shall be assessed the annual fee required in connection with the LLR Fund, as defined in and to the extent required by Section 3 hereof.

Except as otherwise provided by this Resolution, as a condition precedent to the receipt by an applicant of an SSLP Loan pursuant to the SFY2020 SSLP, such applicant shall comply fully with each eligibility requirement that shall apply to any applicant for participation in the SFY2020 NJEIFP.

Section 2. Any SFY2020 SSLP Loan made by the I-Bank shall be evidenced by the following:

- (a) a bond, note or other appropriate obligation of the Project Sponsor to be issued to the I-Bank (the "Obligation"), with the following covenants (in addition to other, programmatically-required SFY2020 NJEIFP loan covenants): (i) a municipality shall

provide to the I-Bank a general obligation (“GO”) pledge of the unlimited *ad valorem* taxing power thereof; (ii) a utility authority that has entered into a service agreement containing one or more GO pledges from its municipal or county participants shall pledge to the I-Bank its right to receive payments pursuant to such service agreement; (iii) each such authority shall provide to the I-Bank a pledge of its revenues, and shall be subject to the various covenants and requirements of its general indenture or bond resolution, as applicable, including, without limitation, its obligation to raise and collect annual fees and charges to the extent necessary to fund all operating, capital and debt service expenses in order to manage and operate its water supply system in good working condition; (iv) a water company shall provide to the I-Bank a pledge of its revenues and shall be subject to the various covenants and requirements of its general indenture or bond resolution, including, without limitation, its obligation to raise and collect annual fees and charges to the extent necessary to fund all operating, capital and debt service expenses in order to manage and operate its water supply system in good working condition; and

- (b) any other documentation as shall be deemed necessary and appropriate by the Authorized Officer, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State (collectively, the requirements of (a) and (b) of this Section 2 shall be referred to herein as the “Loan Instruments”).

Each Obligation and all other Loan Instruments shall be in such form as shall be approved by an Authorized Officer, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State. The Loan Instruments shall include such terms and provisions relating to, and required by, the SFY2020 NJEIFP as shall be determined by the Authorized Officer, after consultation with Bond Counsel to the I-Bank 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, and (ii) the implementation of the terms of this Resolution.

Section 3. Each SSLP Loan recipient that does not provide as security for its Obligation a direct or indirect municipal or county GO pledge shall be assessed an annual loan loss reserve fee consisting of 1% of the total outstanding principal amount of the I-Bank Loan Component of such recipient’s SSLP Loan as of the given calculation date. This fee shall be non-refundable and shall be deposited by the I-Bank upon receipt thereof into a loan loss reserve fund (“LLR Fund”) that shall be established and held by the I-Bank or a fiduciary thereof. All monies deposited into the LLR Fund shall be applied by the I-Bank solely to provide additional security for SSLP Loans. In addition, the I-Bank is hereby authorized and directed to accept any supplement to the LLR Fund that shall be paid by the NJDEP, initially from loan repayments of its Drinking Water annual capitalization grants, which supplement shall be in such amount as shall be necessary to secure any and all default risks with respect to the SSLP Loans, as such default risks are assessed and determined by an Authorized Officer, after consultation with Bond Counsel to the Water Bank, the Office of the Attorney General of the State and the Financial Advisor to the Water Bank. To the extent that, at any time, the amount on deposit in the LLR Fund, inclusive of any NJDEP contribution thereto, exceeds total outstanding SSLP Loan amounts, the NJDEP contribution to

the LLR Fund in an amount equal to the excess outstanding SSLP Loan amount may, at the discretion of an Authorized Officer, be withdrawn from the LLR Fund and repaid to the NJDEP.

Section 4. The Authorized Officers are hereby severally authorized and directed to execute (i) any Loan Instrument to which the I-Bank is a party (the "I-Bank Loan Instruments") and (ii) any certificates, instruments or documents contemplated therein or otherwise related to the participation of any Project Sponsor in the SFY2020 SSLP.

Section 5. Upon execution of the I-Bank Loan Instruments by an Authorized Officer, the Secretary and the Assistant Secretary of the I-Bank are each hereby severally authorized and directed, where required, to affix the corporate seal of the I-Bank, and to attest to the signature of such Authorized Officer, thereon and on any certificates, instruments or documents contemplated therein or related thereto.

Section 6. 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 I-Bank and the Office of the Attorney General of the State, deems necessary, convenient or desirable in order to effect the establishment of the SFY2020 SSLP and the transactions contemplated hereby.

Section 7. The SSLP at all times shall fully comply with the provisions of the Act, the provisions of the Regulations applicable thereto, and the terms of this Resolution.

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)).

Adopted Date:	April 11, 2019
Motion Made By:	Ms. Kimberly Holmes
Motion Seconded By:	Mr. Mark Longo
Ayes:	7
Nays:	0
Abstentions:	0