

## RESOLUTION NO. 19-49

### RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK APPROVING CONSTRUCTION LOANS TO NEWARK CITY IN AMOUNT THAT SHALL NOT EXCEED \$15 MILLION

**WHEREAS**, the New Jersey Infrastructure Bank (the “I-Bank”), in accordance with (i) the “New Jersey 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 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 may from time to time be amended and supplemented (the “Regulations”), is authorized, pursuant to an interim financing program (the “Interim Financing Program”), to make loans (each, an “Interim Loan”) to eligible project sponsors (each, a “Borrower”) for the purpose of financing the allowable costs of environmental infrastructure projects, provided that each such Interim Loan satisfies the requirements of 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 an Interim Loan pursuant to the Interim Financing Program, provided all of the following conditions are satisfied in full: (i) the projects are listed on the project priority list developed in accordance with N.J.A.C. 7:22-4.8(a); (ii) the proposed project sponsors have submitted a complete application for the project in accordance with N.J.A.C. 7:22-4.11; (iii) the projects have been certified for funding by the I-Bank in accordance with N.J.A.C. 7:22-4.13; (iv) the projects are in the fundable range in the forthcoming funding cycle given the projects’ rank and the anticipated availability of Department of Environmental Protection (the “Department”) and I-Bank monies; and (v) the proposed project sponsors have not previously received an Interim Loan through the Interim Financing Program for the same project scope; and

**WHEREAS**, the I-Bank duly adopted Resolution No. 19-09 on February 14, 2019 entitled “Resolution of the New Jersey Infrastructure Bank Authorizing the Water Bank Construction Financing Program for State Fiscal Year 2020” (the “Authorizing Resolution”) to provide funding for the implementation of the Interim Financing Program during State Fiscal Year 2020 including the Construction Financing Program (the “Construction Loan Program”); and

**WHEREAS**, it is the desire of the Board of Directors of the I-Bank (“Board”) to authorize Construction Loan Program loans (the “Construction Loans”) pursuant to the Construction Loan Program for Construction Loan closings that occur in SFY2020; and

**WHEREAS**, pursuant to the terms and definitions of the Authorizing Resolution, the Authorized Officers are each severally authorized, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, to approve the participation of a Borrower in the Construction Loan Program, provided that such Borrower qualifies for such participation pursuant to the provisions of the Act and the Regulations and the terms of the Authorizing Resolution; and

**WHEREAS**, pursuant to Section 3 of the Authorizing Resolution, any Construction Loan approved by the Authorized Officers, following the requisite consultations, and made by the I-Bank to a Borrower as part of the Construction Loan Program shall not exceed \$15 million in principal amount (the “Construction Loan Limitation”) unless a higher principal amount thereof is authorized by official action of the Board; and

**WHEREAS**, pursuant to Section 5 of the Authorizing Resolution, revisions and modifications may be made to terms and provisions of the Construction Loan Financing Program pursuant to further official action in the form of the adoption of a resolution by the Board; and

**WHEREAS**, Newark City (“Newark”) has requested financing for lead service line replacement projects throughout Newark in a number of phases as identified in section 1 below (“Newark Project”); and

**WHEREAS**, Newark previously received a construction loan from the I-Bank in the amount of \$12,296,528 for Project No. 0714001-019 to fund Phase 1 of the Newark Project; and

**WHEREAS**, Newark has requested financing from the Water Bank in the amount of \$13,500,000 to finance the planning, design and construction of Project No. 0714001-020 for Phase 2 of the Newark Project; and

**WHEREAS**, Newark has requested that the I-Bank assist in preserving the City’s eligibility to obtain additional financing in the amount of \$ 126,800,000 from the Water Bank to finance all or a portion of the planning, design and construction of Project No. 0714001-021 for Phases 3 through 10 of the Newark Project; and

**WHEREAS**, pursuant to the Newark Project construction schedule, Construction Loans [not to exceed two years for planning and design and three full fiscal years for construction] will be made to fund the Newark Project, all or a portion of which will be completed prior to Newark’s receipt of I-Bank and Department long-term New Jersey Environmental Infrastructure Financing Program loans, thereby prompting Newark to request preservation of eligibility for Construction Loans in the aggregate amount not to exceed \$155,000,000; and

**WHEREAS**, with respect to the Authorizing Resolution’s Construction Loan Limitation providing that any Construction Loan approved by any of the Authorized Officers, following the requisite consultations, and made by the I-Bank to a Borrower as part of the Construction Loan Program shall not exceed \$15 million in principal amount, subject to further official action in the form of the adoption of a resolution by the Board, the I-Bank now desires, given the facts and circumstances set forth in the recitals hereto, to create as an exception to such limitation upon Construction Loans, as part of the Construction Loan Program, and approve the aforementioned Construction Loans to Newark in an amount not to exceed the amount stated for the purpose of completing the Newark Project; and

**WHEREAS**, it is the desire of the I-Bank that, other than the Authorizing Resolution’s Construction Loan Limitation described in the immediately preceding recital, Newark shall comply with (i) all other requirements of the Authorizing Resolution, (ii) all applicable requirements of the Act, and (iii) all applicable requirements of the Regulations.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank, as follows:

**Section 1.** Notwithstanding the Authorizing Resolution’s Construction Loan Limitation providing that all Construction Loans approved by the Authorized Officers, following the requisite consultations, and made by the I-Bank to Borrowers as part of the Construction Loan Program, shall not exceed \$15 million in principal amount, the Board, given the facts and circumstances set forth in the recitals hereto, hereby authorizes, as an exception to the Construction Loan Limitation, a Construction Loan, as part of the Construction Loan Program, to Newark for the Newark Project in an amount not to exceed the amount stated for the purpose of completing the Newark Project provided that Newark satisfies creditworthiness and collateralization requirements in the form of either third party loan guarantees or an assignment of specific reserve cash flows.

<b>Project #</b>	<b>Description</b>	<b>Project Priority List</b>
0714001-019	Phase 1 - Lead Service Line Replacement	\$ 12,500,000
0714001-020	Phase 2 – Lead Service Line Replacement	\$ 15,700,000
0714001-021	Phases 3-10 Lead Service Line Replacement	\$ 126,800,000
	<b>Total Authorized Loan Amount:</b>	\$ 155,000,000

**Section 2.** Notwithstanding the stated aggregate Construction Loan amount of \$155,000,000 to Newark, the Construction Financing Program funding commitment for each Construction Loan shall be limited to the operable segments certified, in amounts set forth in the Department’s allowable cost determination for each such operable segment, and such funding commitment shall arise at the time of loan closing of the first such operable segment, and upon the Department’s allowable cost determination for each subsequent operable segment certified thereafter, recognizing that the terms and conditions of the long-term New Jersey Environmental Infrastructure Financing Program loans for each said Newark Project shall reflect the terms and conditions of the financing program year in which construction is certified.

**Section 3.** Notwithstanding the individual Construction Loan amounts identified for each project number in section 1 above, the Board authorizes the total aggregated loan amount to be appropriated among the individual phases of the Newark project as the DEP shall certify.

**Section 4.** Other than the exceptions created by the provisions of Section 1 of this Resolution, the Construction Loans made to Newark as part of the Construction Loan Program shall comply fully with (i) each of the terms, provisions and conditions precedent set forth in the Authorizing Resolution, (ii) all applicable requirements of the Act, and (iii) all applicable requirements of the Regulations.

Adopted Date: September 12, 2019

Motion Made By: Kimberly Holmes

Motion Seconded By: Mark Longo

Ayes: 6

Nays: 0

Abstentions: 0