

## RESOLUTION NO. 24 – 38

### RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK APPROVING A WATER BANK CONSTRUCTION FINANCING PROGRAM LOAN TO NORTH BERGEN MUNICIPAL UTILITIES AUTHORITY

**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 (the “State”) (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 for the New Jersey Water Bank (the “Water Bank 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, provided that each such Construction Loan made by the I-Bank to any such Borrower 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 terms and 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 Water Bank Construction Financing Program, provided each of the following conditions is satisfied in full: (i) the Project is listed on the project priority list that has been submitted to the State Legislature pursuant to N.J.S.A. 58:11B-20 or N.J.S.A. 58:11B-20.1 (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 proposed Borrower has complied with the I-Bank’s Credit Policy, as then in effect pursuant to formal adoption by the I-Bank; (iv) the Project has been certified for funding by the I-Bank in accordance with N.J.A.C. 7:22-4.13; (v) 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 (the “Department” or “NJDEP”) and I-Bank monies; and (vi) the proposed Borrower has not previously received a Construction Loan through the Water Construction Financing Program for the same project scope (exclusive of a Construction Loan made solely for the purpose of extending the term of a prior Construction Loan, for a Residual Construction Loan, or for a Supplemental Short-Term Loan pursuant to N.J.S.A. 58:11B-9(d)); and

**WHEREAS**, the I-Bank duly adopted Resolution No. 23-15 on February 9, 2023, entitled “Resolution of the New Jersey Infrastructure Bank Authorizing the Water Bank Construction Financing Program” (the “Authorizing Resolution”) to provide funding for the implementation of the Water Bank Construction Financing Program; and

**WHEREAS**, the I-Bank adopted Resolution No. 23-68 on November 2, 2023, entitled “Amended and Restated Resolution of the New Jersey Infrastructure Bank Authorizing the Water Bank Construction Financing Program”; and

**WHEREAS**, it is the desire of the Board of Directors of the I-Bank (“Board” or “Board of Directors”) to authorize Construction Loans pursuant to the Water Bank Construction Financing Program; and

**WHEREAS**, pursuant to Section 1(b) of the Authorizing Resolution, the Authorized Officers are each hereby severally authorized and directed, after consultation with Legal Counsel and the Financial Advisor to the I-Bank, to determine those Available Funds that shall be the available source of funding for any given Construction Loan during any given SFY made pursuant to the Water Bank Construction Financing Program; 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, to approve the participation of a Borrower in the Water Bank Construction Financing 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, the principal amount of each Construction Loan (and the stated principal amount of the Obligation issued by the Borrower in connection with such Construction Loan), made by the I-Bank as part of the Water Bank Construction Financing Program shall not exceed \$30,000,000, unless a higher principal amount thereof is authorized by official action of the Board at a future meeting thereof; and

**WHEREAS**, pursuant to Section 2 of the Authorizing Resolution, revisions and modifications may be made to terms and provisions of the Construction Loan Program pursuant to further official action in the form of the adoption of a resolution by the Board; and

**WHEREAS**, North Bergen Municipal Utilities Authority (“NBMUA”) has requested from the I-Bank a Construction Loan, in anticipation of a long-term loan from each of the I-Bank and the Department, to finance the planning, design and construction of Project No. S340652-16, for the construction and installation of a 5 million-gallon CSO storage tank (the “NBMUA Project”); and

**WHEREAS**, NBMUA closed a Construction Loan in the amount of \$21,500,000 on June 27, 2024, for the NBMUA Project (the “Original NBMUA Construction Loan”); and

**WHEREAS**, NBMUA has requested from the I-Bank an increase of \$42,500,000 to the Original NBMUA Construction Loan amount to finance increased construction costs due to the low bid amount exceeding the original engineer’s estimate; and

**WHEREAS**, pursuant to the NBMUA Project construction schedule, a Construction Loan not to exceed the maximum statutory term will be made, all or a portion of which will be completed prior to NBMUA’s receipt of a long-term New Jersey Environmental Infrastructure Financing Program loan from the I-Bank and the Department, thereby resulting in **NBMUA’s** request for a construction loan in an amount not to exceed **\$62,000,000**; and

**WHEREAS**, with respect to the Authorizing Resolution’s Construction Loan Limitation 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 \$30 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 on Construction Loans, as part of the Construction Loan Program, to the aforementioned project sponsors in an amount not to exceed the stated amounts for the purpose of completing the NBMUA Project; and

**WHEREAS**, it is the desire of the I-Bank that, other than the Authorizing Resolution’s Construction Loan Limitations described in the immediately preceding recitals, NBMUA shall comply with (i) all other requirements of the Authorizing Resolution, (ii) all applicable requirements of the Act, (iii) all applicable requirements of the Regulations and (iv) satisfy the creditworthiness requirements of the Program.

**NOW, THEREFORE, BE IT RESOLVED** by the Board as follows:

**Section 1.** The recitals of this Resolution are incorporated herein by references as if set forth at length herein.

**Section 2.** Notwithstanding the Authorizing Resolution’s Construction Loan Limitation providing that all Construction Loans approved by an Authorized Officer, following the requisite consultations, and made by the I-Bank to Borrowers as part of the Construction Loan Program, shall not exceed \$30 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, Construction Loans, as part of the Construction Loan Program, to NBMUA for the stated project in an amount not to exceed the amount stated for the purpose of completing the project.

Project Sponsor	Project #	Description	Previously Authorized Loan Amount	Increase	Total Authorized Loan Amount
North Bergen Municipal Utilities Authority	S340652-16	NBMUA CSO Tank	\$21,500,000	\$40,500,000	\$62,000,000

**Section 3.** Notwithstanding the stated maximum loan amount of \$62,000,000 to NBMUA, the Construction Loan Program funding commitment for the 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 said projects shall reflect the terms and conditions set forth in the Department's Intended Use Plan and the Priority System and the I-Bank's Financial Plan for the state fiscal year in which the construction contract is certified.

**Section 4.** Other than the exception created by the provisions of Section 2 of this Resolution, the Construction Loans made to NBMUA 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, (iii) all applicable requirements of the Regulations, and (iv) satisfy the credit worthiness requirements of the Program.

**Section 5. Further Action.** Any Authorized Officer is hereby authorized and directed to take such other actions that such Authorized Officer, in his or her respective sole discretion after consultation with Bond Counsel, deems necessary, convenient, or desirable to affect the transactions contemplated hereby.

**Section 6. Effective Date.** 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: July 11, 2024

Motion Made By: Mr. Mark Longo

Motion Seconded By: Mr. Charles Jenkins

Ayes: 8

Nays: 0

Abstentions: 0