

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 08-2015

Date: February 17, 2015

RESOLUTION OF THE NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY APPROVING AND AUTHORIZING THE 2015 PROJECT; AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UTILITY SYSTEM SUBORDINATED REVENUE BONDS, SERIES 2015 TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY, RESPECTIVELY, IN ORDER TO EVIDENCE OBLIGATIONS TO REPAY CERTAIN LOANS TO BE MADE TO THE AUTHORITY; ESTABLISHING CERTAIN TERMS AND PROVISIONS OF SUCH SERIES 2015 BONDS AND DETERMINING CERTAIN MATTERS RELATING THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENTS AND THE ESCROW AGREEMENT WITH THE TRUST AND THE STATE; AUTHORIZING THE EXECUTION AND DELIVERY OF THE TRUST INDENTURE AND FOURTH SUPPLEMENTAL TRUST INDENTURE BETWEEN THE AUTHORITY AND THE BANK OF NEW YORK MELLON; DELEGATING TO THE CHAIRMAN, VICE-CHAIRMAN AND EXECUTIVE DIRECTOR OF THE AUTHORITY THE POWER AND AUTHORITY TO DETERMINE CERTAIN TERMS OF SUCH SERIES 2015 BONDS; AND AUTHORIZING OFFICERS OF THE AUTHORITY TO TAKE ALL OTHER ACTION NECESSARY, ADVISABLE OR INCIDENTAL THERETO

WHEREAS, the Northwest Bergen County Utilities Authority (the "Authority") is a body politic and corporate of the State of New Jersey, presently existing under the Municipal and County Utilities Law, constituting Chapter 183 of the Laws of 1957 of New Jersey (*N.J.S.A. 40:14B-1, et seq.*), as amended and supplemented (the "Act") to provide sewage collection and disposal services and water sanitation services to residents of the district served by the Authority; and

WHEREAS, the Authority entered into a Trust Indenture, dated as of November 1, 2010, between the Authority and The Bank of New York Mellon (the "Trust Indenture"), which Trust Indenture provides for the issuance from time to time by the Authority of its revenue bonds to finance the costs of improvements and expansions to the System (as defined in the Trust Indenture); and

WHEREAS, the Authority has determined to finance various sewer improvements, including upgrades and improvements to the Authority's two existing incinerators (the "2015 Project"); and

WHEREAS, the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State") has made funds available to local governmental entities, including the Authority, for the construction and rehabilitation of new and existing

sewage conveyance and treatment systems pursuant to the New Jersey Environmental Infrastructure Trust Act, Chapter 334 of the Laws of 1985 of the State of New Jersey (the "Trust Act") and pursuant to the Wastewater Treatment Bond Act, Chapter 329 of the Laws of 1985 of the State of New Jersey ("Fund Act"); and

WHEREAS, after reviewing the economic feasibility of such loan program, the Authority desires to permanently finance all or a portion of the costs of the 2015 Project through the procurement of loans available from the New Jersey Environmental Infrastructure Trust (the "Trust") established pursuant to the Trust Act and from the State pursuant to the Fund Act; and

WHEREAS, in order to obtain such loans from the Trust and the State, the Authority is required to enter into a loan agreement with each of the Trust (the "2015 Trust Loan Agreement") and the State ("2015 State Loan Agreement") and to issue its bonds to the Trust and the State to evidence its obligation to repay each respective loan as provided in each such loan agreement; and

WHEREAS, the Authority desires to authorize (i) the issuance, sale and delivery of its Utility System Subordinated Revenue Bonds, Series 2015-A, in an aggregate principal amount not to exceed \$2,250,000 (unless a higher amount is required by the Trust but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) (the "Series 2015-A Bonds") to the Trust in order to evidence its obligation to repay the loan made to the Authority by the Trust to finance the 2015 Project, (ii) the issuance, sale and delivery of its Utility System Subordinated Revenue Bonds, Series 2015-B, in an aggregate principal amount not to exceed \$6,250,000 (unless a higher amount is required by the State but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) (the "Series 2015-B Bonds") to the State in order to evidence its obligation to repay the loan made to the Authority by the State to finance the 2015 Project, and (iii) certain Authority officers to do all things necessary or desirable to carry out the transactions contemplated by this Resolution; and

WHEREAS, the Authority desires hereby to authorize the issuance of Bonds in accordance with the provisions of the Act and the Trust Indenture to finance costs of the 2015 Project and certain other costs related thereto from the Trust and the Fund, to provide for certain deposits and to take all necessary and appropriate actions in connection therewith.

WHEREAS, the Local Finance Board of the State of New Jersey in accordance with the provisions of the Local Authorities Fiscal Control Law, *N.J.S.A. 40A:5A-1, et seq.*, at its meeting on December 10, 2014, reviewed and approved the issuance of the 2015 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY, as follows:

SECTION 1. Acquisition and Construction of 2015 Project. Pursuant to the provisions of the Act and the Trust Indenture, the Authority does hereby determine to acquire and construct the 2015 Project and to operate the 2015 Project as a part of the System.

SECTION 2. Estimated Cost of the 2015 Project. The estimated cost of the 2015 Project is \$8,228,750.

SECTION 3. Authorization for the Issuance of 2015 Bonds; Purposes.

A. The Authority hereby authorizes the issuance of Bonds under the Trust Indenture which shall be designated and shall be distinguished from the Bonds of all other Series by the title, "Utility System Subordinated Revenue Bonds, Series 2015-A" and which shall be issued to the Trust in accordance with *N.J.S.A. 58:11B-9(a)* in the aggregate principal amount not to exceed \$2,250,000 (unless a higher amount is required by the Trust but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) (the "Series 2015-A Bonds") to finance a portion of the costs of the 2015 Project.

B. The Authority hereby authorizes the issuance of Bonds under the Trust Indenture which shall be designated and shall be distinguished from the Bonds of all other Series by the title, "Utility System Subordinated Revenue Bonds, Series 2015-B" and which shall be issued to the Fund in accordance with *N.J.S.A. 58:11B-9(a)* in the aggregate principal amount not to exceed \$6,250,000 (unless a higher amount is required by the State but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) (the "Series 2015-B Bonds") to finance a portion of the costs of the 2015 Project. The Series 2015-A Bonds and the Series 2015-B Bonds are collectively referred to as the "2015 Bonds".

C. The Series 2015-A Bonds shall be issued to the Trust for the purpose of securing the Authority's obligations under the 2015 Trust Loan Agreement, and the Series 2015-B Bonds shall be issued to the State for the purpose of securing the Authority's obligations under the 2015 Fund Loan Agreement. The proceeds of the 2015 Trust Loan and the 2015 Fund Loan shall be used to pay the costs of the 2015 Project.

SECTION 4. Terms and Provisions of 2015 Bonds.

A. The 2015 Bonds shall be issued under and pursuant to the Trust Indenture, dated as of November 1, 2010 (the "Trust Indenture"), between the Authority and The Bank of New York Mellon, as trustee (the "Trustee"), as supplemented by the Fourth Supplemental Trust Indenture to be hereafter executed by the Authority and the Trustee (the "Supplemental Indenture") authorizing the issuance of the 2015 Bonds, which Trust Indenture and Supplemental Indenture shall be in substantially the form attached hereto as Exhibit A.

B. The Series 2015-A Bonds shall be dated as set forth in the Supplemental Indenture. The Series 2015-A Bonds shall be issued in the aggregate principal amount not exceeding \$2,250,000 (unless a higher amount is required by the Trust but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) as shall be determined by the Chairman, the Vice-Chairman or Executive Director of the Authority as provided in paragraph D of this Section 5 of this Resolution. The Series 2015-A Bonds shall mature on July 15 in each of the years and in the principal amounts, and shall bear interest from their dated date, payable on January 15 and July 15 of each year, commencing July 15, 2015 or such other date as shall be set forth in the Supplemental Indenture, at the rate per annum, as shall be determined by the Chairman, the Vice-Chairman or Executive Director of the Authority as provided in paragraph D of this Section 5 of this Resolution. The Series 2015-A Bonds shall have the conversion and registration privileges set forth in the Trust Indenture. The Series 2015-A Bonds shall be subject to redemption (with or without premium) as provided in the Supplemental Indenture.

C. The Series 2015-B Bonds shall be dated as set forth in the Supplemental Indenture. The Series 2015-B Bonds shall be issued in the aggregate principal amount not exceeding \$6,250,000 (unless a higher amount is required by the State but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) as shall be determined by the Chairman, the Vice-Chairman or Executive Director of the Authority as provided in paragraph E of this Section 5 of this Resolution. The Series 2015-B Bonds shall mature on July 15th in each of the years and in the principal amounts, as shall be set forth in the Supplemental Indenture, as shall be determined by the Chairman, the Vice-Chairman or the Executive Director of the Authority as provided in paragraph E of this Section 5 of this Resolution. The Series 2015-B Bonds shall have the conversion and registration privileges set forth in the Trust Indenture. The Series 2015-B Bonds shall be subject to redemption (with or without premium) as provided in the Supplemental Indenture. The Series 2015-B Bonds shall bear interest at the rate of zero percent (0%) per annum.

D. There is hereby delegated to the Chairman, the Vice-Chairman or Executive Director of the Authority, subject to the limitations contained in the Trust Indenture and this Resolution, the power with respect to the Series 2015-A Bonds to determine the following:

- (i) the aggregate principal amount of the Series 2015-A Bonds to be issued, which principal amount shall not exceed the lesser of (a) \$2,250,000 (unless a higher amount is required by the Trust but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) or (b) the principal amount of the loan to be made by the Trust to the Authority as set forth in the 2015 Trust Loan Agreement with respect to the 2015 Project;
- (ii) the maturity dates and principal amount of each maturity for the Series 2015-A Bonds, which dates and principal amounts shall comply with the provisions of paragraph B of this Section 5 of this Resolution and shall be the same dates and in the same amounts when and as the principal of the loans from the Trust to the Authority must be repaid in accordance with the 2015 Trust Loan Agreement; provided, however, that the final maturity date for the Series 2015-A Bonds shall not be later than July 15, 2035; and
- (iii) the interest rate for the Series 2015-A Bonds, which interest rate shall (a) not exceed 6.00% per annum, and (b) be the same rate of interest as the rate of interest, which the Authority is required to pay on the loans from the Trust to the Authority as set forth in the 2015 Trust Loan Agreement.

E. There is hereby delegated to the Chairman, the Vice-Chairman or Executive Director of the Authority, subject to the limitations contained in the Trust Indenture and this Resolution, the power with respect to the Series 2015-B Bonds to determine the following:

- (i) the aggregate principal amount of the Series 2015-B Bonds to be issued, which principal amount shall not exceed the lesser of (a) \$6,250,000 (unless a higher amount is required by the State but in no event shall the 2015 Bonds in the aggregate exceed \$8,500,000) or (b) the principal amount of the loan to be made by the State to the Authority as set forth in the 2015 Fund Loan Agreement with respect to the 2015 Project; and
- (ii) the maturity dates and principal amount of each maturity for the Series 2015-B Bonds, which dates and principal amounts shall comply with the provisions of paragraph C of this Section 5 of this Resolution and shall be the same dates and in the same amounts when and as the principal of the loans from the State to the Authority must be repaid in accordance with the 2015 Fund Loan Agreement provided, however, that the final maturity date for the Series 2015-B Bonds shall not be later than July 15, 2035.

F. The 2015 Bonds shall be issued in the aggregate principal amount shall mature on the date or dates, shall bear interest at the rate or rates of interest payable on the dates, and shall be subject to redemption, as shall be set forth in the Supplemental Indenture. The Supplemental Indenture shall also contain such other terms and provisions of the 2015 Bonds which are not established by this Resolution and which are not inconsistent with the terms and provisions of the Trust Indenture and this Resolution.

SECTION 5. Pledge, Source and Payment.

A. The 2015 Bonds shall be issued on a parity as to both payment and security with all other Bonds then outstanding under the Trust Indenture. Pursuant to the Trust Indenture, there will be pledged for the payment of the principal of Redemption Price of and interest on the 2015 Bonds in accordance with their terms and the provisions of the Trust Indenture (i) the Net Revenues, and (ii) the amounts on deposit in the Funds and Accounts (except the Operating Account and the General Account) established under the Trust Indenture.

B. The Authority expressly reserves the right to adopt one or more resolutions separate and apart from this Resolution and reserves the right to issue bonds under the Trust Indenture or other obligations of the Authority under such resolutions for any of its authorized purposes, including financing or refinancing the costs of any project, facility or undertaking permitted by the Act, provided that such other obligations shall not, in whole or in part, be payable from those moneys, investments, funds or assets expressly pledged by the Trust Indenture.

C. The 2015 Bonds shall be special and limited obligations of the Authority. The 2015 Bonds shall not be in any way a debt or liability of the State of New Jersey or of any political subdivision thereof (other than general obligations of the Authority) and shall not create or constitute any indebtedness, liability or obligation of the State of New Jersey or any such political subdivision or be or constitute a pledge of the faith and credit of the State of New Jersey or any such political subdivision.

SECTION 6. Approval of Trust Indenture and Fourth Supplemental Indenture. The Fourth Supplemental Trust Indenture in substantially the form attached hereto as Exhibit A is hereby approved. The Chairman, the Vice-Chairman or Executive Director of the Authority is hereby authorized and directed to execute and deliver the Fourth Supplemental Trust Indenture with such changes, insertions and omissions as may be approved by the Chairman, Vice-Chairman or Executive Director, said execution of the Fourth Supplemental Indenture being conclusive evidence of such approval and the Secretary is hereby authorized to affix and attest the seal of the Authority thereto.

SECTION 7. Execution and Authentication. The 2015 Bonds shall be executed in the name of the Authority by the manual or facsimile signatures of the Chairman or Vice-Chairman and the Treasurer, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon, and attested by the manual or facsimile signature of the Secretary.

SECTION 8. The 2015 Trust Loan Agreement and 2015 Fund Loan Agreement.

A. The Authority hereby ratifies and confirms the Authority's application for loans for eligible costs of the 2015 Project from the Trust and the Fund and the associated costs of the Trust's financing therewith (the "2015 Trust Loan" and the "2015 Fund Loan", respectively). The Authority hereby approves the terms and provisions of the 2015 Trust Loan Agreement and the 2015 Fund Loan Agreement, and hereby authorizes and directs the Chairman, Vice-Chairman or Executive Director (each an "Authorized Officer") to execute and deliver on behalf of the Authority the 2015 Trust Loan Agreement and the 2015 Fund Loan Agreement with such changes as the Authorized Officer in their sole discretion, after consultation with counsel to the Authority and after further consultation with the Trust and the State and their representatives, agents, counsel and advisors, shall determine, such determination to be conclusively evidenced by the execution of each such agreement by an Authorized Officer as determined hereunder, provided that (i) the aggregate principal amount of the 2015 Trust Loan (including capitalized interest on the Series 2015-A Bonds, if any, and the Authority's pro rata share of the Trust's costs of issuance and underwriters' compensation) and the maximum interest rate on the principal installments thereof does not exceed the principal amount and interest rate allocated thereto as set forth in Section 5 hereof, and (ii) the aggregate principal amount of the 2015 Fund Loan does not exceed the principal amount allocated thereto as set forth in Section 5 hereof. The 2015 Trust Loan Agreement and the 2015 Fund Loan Agreement shall be in substantially the forms presented at this meeting together with such changes or additional terms and conditions as shall be consistent with this Resolution and the Supplemental Indenture, and shall not conflict with any other contract or court order to which the Authority is a party or by which the Authority or any of its properties may be bound. The Secretary of the Authority is hereby authorized to attest to the execution of the 2015 Trust Loan Agreement and the 2015 Fund Loan Agreement by an Authorized Officer as determined hereunder and to affix the corporate seal of the Authority to such agreements.

B. All amounts payable by the Authority in respect of the 2015 Trust Loan and the 2015 Fund Loan, under the 2015 Trust Loan Agreement and the 2015 Fund Loan Agreement, respectively, shall be paid by the Trustee on behalf of the Authority pursuant to and in accordance with the provisions of the Supplemental Resolution.

SECTION 9. Escrow Agreement. The Authority hereby approves the terms and provisions of the Escrow Agreement in the form presented at this meeting. An Authorized Officer is hereby authorized and directed to execute and deliver the Escrow Agreement in the form presented at this meeting together with such changes as the Authorized Officer, in their sole discretion after consultation with counsel to the Authority and after further consultation with the Trust and the State and their representatives, agents, counsel and advisors, shall determine, such determination to be conclusively evidenced by the execution of the Escrow Agreement by an Authorized Officer as determined hereunder. The Secretary of the Authority is hereby authorized to attest to the execution of the Escrow Agreement by an Authorized Officer as determined hereunder and to affix the corporate seal of the Authority to such agreements.

SECTION 10. Official Intent to Reimburse.

A. The Authority reasonably expects to reimburse its expenditure of costs of the 2015 Project paid prior to the issuance of the 2015 Bonds with proceeds of the 2015 Bonds.

B. This resolution is intended to be and hereby is a declaration of the Authority's official intent to reimburse the expenditure of costs of the 2015 Project paid prior to the issuance of the 2015 Bonds with the proceeds of a borrowing to be incurred by the Authority, in accordance with Treasury Regulations Section 150-2.

C. The costs of the 2015 Project to be reimbursed with the proceeds of the 2015 Bonds will be "capital expenditures" in accordance with the meaning of Section 150 of the Code.

D. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations Section 1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147 of the Code. The proceeds of the 2015 Bonds used to reimburse the Authority for costs of the 2015 Project, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds", or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations Section 1.148-1) of the 2015 Bonds or another issue of debt obligations of the Authority, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations Section 1.148-1).

E. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the 2015 Bonds is paid, or (ii) the date the 2015 Project is "placed in service" (within the meaning of Treasury Regulations Section 1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

SECTION 11. Estoppel Statement. The Secretary of the Authority is hereby directed to have a notice of the adoption of this Resolution published in The Record and the Ridgewood News and posted in the office of the Authority and the office of the clerk of each municipality being a party to a Service Contract in the form prescribed by Section 40:14B-28 of the New Jersey Statutes.

SECTION 12. Findings and Recommendations of Local Finance Board. Pursuant to Section 7 of the Local Authorities Fiscal Control Law, the Authority is required to certify to the

Local Finance Board, in the Division of Local Governmental Services, Department of Community Affairs, State of New Jersey (the "Local Finance Board") that each member of the Authority has personally reviewed the findings of the Local Finance Board relating to the issuance of the 2015 Bonds. Such findings of the Local Finance Board were set forth in a resolution approved by the Local Finance Board on December 10, 2014. Each member of the Authority is hereby authorized, empowered and directed, to execute a group affidavit form (in substantially the form attached hereto as Exhibit B) attesting to the review of the Local Finance Board resolution. The Secretary of the Authority is hereby authorized and directed to cause copies of this Resolution and the aforementioned group affidavit form to be filed with the Executive Secretary of the Local Finance Board.


SECTION 13. Prior Resolutions. All prior resolutions of the Authority or portions thereof inconsistent herewith are hereby repealed.

SECTION 14. Incidental Action. The Chairman, Vice-Chairman, Secretary, Treasurer, Executive Director and all other proper officers of the Authority are hereby authorized and directed to execute and deliver such other documents or instruments and to take such other action as may be necessary or appropriate in order to effectuate the issuance and sale of the 2015 Bonds, and any other action to modify or amend existing trust indentures to conform to the provisions of the Trust Indenture, all in accordance with the provisions of this Resolution.

SECTION 15. Definitions. All words, terms and phrases which are capitalized in this Resolution shall be deemed to have the meanings given to them by the definitions set forth in the Trust Indenture, unless the context clearly indicates otherwise.

SECTION 16. Effective Date. This Resolution shall take effect immediately upon its adoption.

IT IS HEREBY CERTIFIED that this is a true copy of a Resolution adopted by the Northwest Bergen County Utilities Authority upon a roll call vote of all Commissioners of the Authority eligible to vote at the meeting held on February 17, 2015.


Secretary


Chairman

	Bonagura	DaPuzzo	DePhillips	Gabbert	Kasparian	Kelاهر	Plumley	Salazer	Chewcaskie
Offered		✓							
Seconded				✓					
Aye	✓	✓		✓	✓	✓	✓	✓	✓
Nay									
Absent									
Abstain									
Recuse			✓						