

BOARD OF TRUSTEES

Rutgers, The State University of New Jersey

March 13, 2019

12:00 p.m.

Rutgers–Camden Campus Center, 326 Penn Street, Camden, New Jersey

Agenda

1. Call to Order
2. Statement of Compliance with the Open Public Meetings Act
3. Roll Call (taken while the meeting continues)
4. Approval of Minutes – December 6, 2018
5. Memorial Resolution – Walter L. Leib, Trustee Emeritus
6. Matters Presented by the President
7. Report of the Rutgers University–Camden Chancellor
8. Matters Presented by the Chair
 - a. Presentation by the Associate Vice President for Enrollment Services
 - b. Presentation by the President of the Rutgers University–Camden Student Government Association
 - c. Continuing Education
 - (1) Presentation by the Director of Veteran and Military Programs and Services
 - d. Executive Committee – March 5, 2019
 - (1) Proposed Resolution Consenting to Board of Governors Resolution Amending the Financing of the Busch Campus Co-Generation Plant Project Through the New Jersey Environmental Infrastructure Bank*
 - e. Nominating Committee
 - (1) Election of Chair of the Board of Trustees for 2019-2020
 - (2) Election of Vice Chairs of the Board of Trustees for 2019-2020
 - (3) Election of Trustee Member to the Board of Governors
 - f. Update on Philanthropy
 - g. Report on the Task Force on Legislative Engagement
 - h. Report on the Task Force on Philanthropy
9. Joint Committee on Investments – December 21, 2018 and February 20, 2019
10. Report of the Executive Vice President for Finance and Administration and University Treasurer
 - a. Committee on Audit – January 10, 2019
11. Old Business
12. New Business
13. Adjournment

* Attachment



RESOLUTION
CONSENTING TO BOARD OF GOVERNORS RESOLUTION AMENDING THE
FINANCING OF THE BUSCH CO-GENERATION PLANT PROJECT THROUGH
THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE BANK

WHEREAS, on October 4, 2018, the Board of Governors of Rutgers, The State University of New Jersey ("Rutgers" or "University") approved a Resolution which authorized, among other things, the University's participation in the New Jersey Environmental Infrastructure Bank's construction financing program, including the issuance and sale of a "Note Relating to the Construction Financing Program of the New Jersey Environmental Infrastructure Bank" in an aggregate principal amount of up to \$30 million in order to finance upgrades to the Cogeneration Plant on Busch Campus; and

WHEREAS, in anticipation of that action, the Board of Trustees had considered and granted advance consent at its meeting on September 25, 2018; and

WHEREAS, after the bids were received and the project design developed, it became clear that the project scope would need to be increased, and in addition, due to market escalation, the University administration requested a \$7 million increase to the total project cost; and

WHEREAS, on April 9, 2019, the Board of Governors expects to consider the attached Resolution which amends its October 4, 2018 resolution to reflect the increased project cost not to exceed \$37 million; and

WHEREAS, on March 5, 2019, in consultation with the University administration, the Executive Committee of the Board of Trustees reviewed and discussed the above-described financing and the increased project cost, and agreed to recommend consent by the Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED that, upon the recommendation of the Executive Committee, the Board of Trustees of Rutgers, The State University of New Jersey, hereby consents to and approves the attached proposed Board of Governors Resolution.

Attachment: Proposed Board of Governors' Resolution to be considered April 9, 2019

Board of Trustees
Rutgers, The State University
of New Jersey
March 13, 2019



**PROPOSED RESOLUTION
AMENDING THE BOARD OF GOVERNORS RESOLUTION OF OCTOBER 4, 2018 AND
AUTHORIZING RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
TO ISSUE AND SELL A NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK
PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE BANK
CONSTRUCTION FINANCING PROGRAM**

WHEREAS, on April 6, 2017, the Board of Governors approved a project involving upgrading the Cogeneration Plant on the Busch Campus for a total project cost not to exceed \$30 million (the "Project"); and

WHEREAS, on October 4, 2018, based upon the total project cost of \$30 million, the Board of Governors approved a Resolution authorizing the University administration to issue and sell a note to the New Jersey Infrastructure Bank pursuant to the New Jersey Environmental Infrastructure Bank Construction Financing Program; and

WHEREAS, after the bids were received and the project design developed, it became clear that the project scope would need to be increased, and in addition, due to market escalation, the University administration requested a \$7 million increase to the total project cost; and

WHEREAS, in furtherance of its capital planning goals and debt management policies, the University desires to obtain financing for the Project through participation in the New Jersey Environmental Infrastructure Bank's (the "Bank") construction financing program (the "Construction Financing Program") pursuant to which the Bank will make a short term loan to the University (the "Construction Loan"); and

WHEREAS, in order to (i) evidence and secure the repayment obligation of the University to the Bank with respect to the Construction Loan, and (ii) satisfy the requirements of the Construction Financing Program, the University plans to issue and sell to the Bank the "Note Relating to the Construction Financing Program of the New Jersey Environmental Infrastructure Bank" in an aggregate principal amount of up to \$37 million (the "Note"); and

WHEREAS, N.J.S.A. 58:11B-9 allows for the sale of the Note to the Bank, without any public offering, all pursuant to the terms and conditions set forth therein; and

WHEREAS, on March 12, 2019, the University administration reviewed and discussed this financing with the Committee on Finance and Facilities, including the reasons for the increase in total cost, and the Committee agreed to recommend approval of the financing to the Board of Governors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Governors of Rutgers, The State University of New Jersey, upon the recommendation of the Committee on Finance and Facilities and conditioned upon the consent of the Board of Trustees to be obtained prior to the University's execution and delivery of the Note, hereby amends its October 4, 2018 resolution as follows:

Section 1. The Board of Governors hereby authorizes the Executive Vice President for Finance and Administration and University Treasurer or his designee ("Authorized Officers") to proceed with the financing of the Project through the Construction Financing Program.

Section 2. The Board of Governors hereby authorizes and directs the Authorized Officers to enter into, acknowledge and deliver the Note, the form of which is attached hereto as Exhibit A, with such changes as counsel shall advise, in an amount not to exceed \$37 million.

Section 3. The University hereby determines that certain terms of the Note shall be as follows:

- (a) the principal amount of the Note to be issued shall be an amount not to exceed \$37 million;
- (b) the maturity of the Note shall be as determined by the Bank;
- (c) the interest rate of the Note shall be as determined by the Bank;
- (d) the purchase price for the Note shall be par;
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note;
- (f) the Note shall be a general obligation of the University, issued in fully registered form and payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) the Note shall be executed by the manual or facsimile signatures of the Authorized Officers under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Secretary or Assistant Secretary of the University.

Section 4. The Board of Governors hereby authorizes and directs the Authorized Officers to execute and deliver such additional documents as may be necessary and appropriate in connection with the University's issuance and sale of the Note and participation in the Construction Financing Program, in the name and on behalf of the University, in each case in the respective form approved by the Authorized Officers, with advice of counsel, as conclusively evidenced by such officer's execution thereof, to be advisable and in the best interests of the University.

Section 5. In addition to and without limiting the generality of the foregoing resolutions, the Authorized Officers of the University are, and each of them hereby is, authorized and directed to take such further action including the execution and delivery of any such instruments and documents as such officers, with advice of counsel, may deem appropriate to carry out the transactions contemplated herein; and the taking of such action or execution of such instruments shall be deemed conclusive evidence of the determination of such executing officer that such action or execution was appropriate and in the best interests of the University

Section 6. Because the Board of Trustees has met prior to this meeting of the Board of Governors and given its consent, in advance, this resolution shall take effect immediately.

Attachment: October 4, 2018 Resolution (including form of note)

Board of Governors
Rutgers, The State University
of New Jersey
April 9, 2019



RESOLUTION

AUTHORIZING RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY TO ISSUE AND SELL A NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE BANK CONSTRUCTION FINANCING PROGRAM

WHEREAS, on April 6, 2017, the Board of Governors approved a project involving upgrading the Cogeneration Plant on the Busch Campus for a total project cost not to exceed \$30 million (the "Project"); and

WHEREAS, in furtherance of its capital planning goals and debt management policies, the University desires to obtain financing for the Project through participation in the New Jersey Environmental Infrastructure Bank's (the "Bank") construction financing program (the "Construction Financing Program") pursuant to which the Bank will make a short term loan to the University (the "Construction Loan"); and

WHEREAS, in order to (i) evidence and secure the repayment obligation of the University to the Bank with respect to the Construction Loan, and (ii) satisfy the requirements of the Construction Financing Program, the University plans to issue and sell to the Bank the "Note Relating to the Construction Financing Program of the New Jersey Environmental Infrastructure Bank" in an aggregate principal amount of up to \$30 million (the "Note"); and

WHEREAS, N.J.S.A. 58:11B-9 allows for the sale of the Note to the Bank, without any public offering, all pursuant to the terms and conditions set forth therein; and

WHEREAS, on September 18, 2018, the University administration reviewed and discussed this financing with the Committee on Finance and Facilities, and the Committee agreed to recommend approval of the financing to the Board of Governors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Governors of Rutgers, The State University of New Jersey, upon the recommendation of the Committee on Finance and Facilities and conditioned upon the consent of the Board of Trustees to be obtained prior to the University's execution and delivery of the Note, as follows:

Section 1. The Board of Governors hereby authorizes the Executive Vice President for Finance and Administration and University Treasurer or his designee ("Authorized Officers") to proceed with the financing of the Project through the Construction Financing Program.

Section 2. The Board of Governors hereby authorizes and directs the Authorized Officers to enter into, acknowledge and deliver the Note, the form of which is attached hereto as Exhibit A, with such changes as counsel shall advise, in an amount not to exceed \$30 million.

Section 3. The University hereby determines that certain terms of the Note shall be as follows:

- (a) the principal amount of the Note to be issued shall be an amount not to exceed \$30 million;
- (b) the maturity of the Note shall be as determined by the Bank;
- (c) the interest rate of the Note shall be as determined by the Bank;
- (d) the purchase price for the Note shall be par;
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note;
- (f) the Note shall be a general obligation of the University, issued in fully registered form and payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) the Note shall be executed by the manual or facsimile signatures of the Authorized Officers under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Secretary or Assistant Secretary of the University.

Section 4. The Board of Governors hereby authorizes and directs the Authorized Officers to execute and deliver such additional documents as may be necessary and appropriate in connection with the University's issuance and sale of the Note and participation in the Construction Financing Program, in the name and on behalf of the University, in each case in the respective form approved by the Authorized Officers, with advice of counsel, as conclusively evidenced by such officer's execution thereof, to be advisable and in the best interests of the University.

Section 5. In addition to and without limiting the generality of the foregoing resolutions, the Authorized Officers of the University are, and each of them hereby is, authorized and directed to take such further action including the execution and delivery of any such instruments and documents as such officers, with advice of counsel, may deem appropriate to carry out the transactions contemplated herein; and the taking of such action or execution of such instruments shall be deemed conclusive evidence of the determination of such executing officer that such action or execution was appropriate and in the best interests of the University

Section 6. Because the Board of Trustees has met prior to this meeting of the Board of Governors and given its consent, in advance, this resolution shall take effect immediately.

Attachment: Form of Note

Board of Governors
Rutgers, The State University
of New Jersey
October 4, 2018

RUTGERS, THE STATE UNIVERSITY
NOTE
RELATING TO:
THE CONSTRUCTION FINANCING LOAN PROGRAM
OF THE NEW JERSEY INFRASTRUCTURE BANK
(f/k/a NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST)

\$ _____, 201__

FP-18-

FOR VALUE RECEIVED, RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, an instrumentality of the State of New Jersey (as hereinafter defined), and its successors and assigns (the “Borrower”), hereby promises to pay to the order of the **NEW JERSEY INFRASTRUCTURE BANK (f/k/a NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST)**, a public body corporate and politic with corporate succession, duly created and validly existing under and by virtue of the Act (as hereinafter defined) (the “I-Bank”), the Principal (as hereinafter defined), together with all unpaid accrued Interest (as hereinafter defined), fees, late charges and other sums due hereunder, if any, in lawful money of the United States of America, on the Maturity Date (as hereinafter defined) or the date of any optional prepayment or acceleration in accordance with the provisions of this note (this “Note”).

SECTION 1. Definitions. As used in this Note, unless the context requires otherwise, the following terms shall have the following meanings:

“**Act**” means the “New Jersey 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 may from time to time be amended and supplemented.

“**Administrative Fee**” means a fee of up to four-tenths of one percent (.40%) of that portion of the Principal identified in clause (i) of the definition thereof (as set forth in this Section 1), or such lesser amount, if any, as the I-Bank may determine from time to time.

“**Anticipated Financing Program**” means the financing program of the I-Bank, pursuant to which the I-Bank will issue its I-Bank Bonds for the purpose of financing, on a long term basis, the Project and other projects of certain qualifying borrowers.

“**Anticipated Long Term Loan**” means the long term loan made by the I-Bank to the Borrower from the proceeds of its I-Bank Bonds, as part of the Anticipated Financing Program.

“**Appropriation Condition**” means the procedural appropriation by the State for the Project through the inclusion of the Project on the Project Priority List (which Project Priority List is required pursuant to the Act) in an appropriation amount equal to or greater than the Principal amount of the Loan then due and payable by the Borrower pursuant to the terms hereof.

“Authorized Officer” means any person authorized by the Borrower or the I-Bank, as the case may be, to perform any act or execute any document relating to the Loan or this Note.

“Code” means the Internal Revenue Code of 1986, as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder, any successor code thereto and any administrative or judicial interpretations thereof.

“Cost” means those costs that are allocable to the Project, as shall be determined on a project-specific basis in accordance with the Regulations, as further set forth in Exhibit B hereto, (i) as such Exhibit B shall be supplemented by an Authorized Officer of the I-Bank by means of either a substitute Exhibit B or an additional Exhibit B, such supplement to be implemented concurrently with the supplement to Exhibit A-1 hereto (as provided in the definition of “Project” as set forth herein), and (ii) as the then-current Exhibit B may be amended by subsequent changes to eligible costs as evidenced by a certificate of an Authorized Officer of the I-Bank.

“Environmental Infrastructure Facilities” means Wastewater Treatment Facilities, Stormwater Management Facilities or Water Supply Facilities (as such terms are defined in the Regulations).

“Environmental Infrastructure System” means the Environmental Infrastructure Facilities of the Borrower, including the Project, for which the Borrower is receiving the Loan.

“Event of Default” means any occurrence or event specified in Section 6 hereof.

“Fund Portion” means, on any date, an amount equal to seventy-five percent (75%) of the Principal of the Loan on such date, exclusive of that portion of the Principal of the Loan that is allocable to the NJDEP Loan Origination Fee, which NJDEP Loan Origination Fee shall be financed exclusively from the I-Bank Portion.

“I-Bank Bonds” means the revenue bonds of the I-Bank to be issued, as part of the Anticipated Financing Program.

“I-Bank Portion” means, on any date, an amount equal to the aggregate of (i) twenty-five percent (25%) of the Principal of the Loan on such date, exclusive of that portion of the Principal of the Loan that is allocable to the NJDEP Loan Origination Fee, plus (ii) one hundred percent (100%) of that portion of the Principal of the Loan that is allocable to the NJDEP Loan Origination Fee.

“I-Bank Portion Interest Rate” means, with respect to each disbursement of proceeds of the I-Bank Portion of the Loan, (a) to the extent that such disbursement is funded from moneys appropriated to the I-Bank, for the Construction Financing Loan Program of the I-Bank, pursuant to an appropriations act of the State, the I-Bank Portion Interest Rate shall equal 0.00%, (b) to the extent that such disbursement is funded from available moneys of the I-Bank that are neither (i) appropriated to the I-Bank as provided by the preceding clause (a), nor (ii) borrowed from a financial institution pursuant to a line of credit or other similar financial instrument as

provided by the succeeding clause (c), the I-Bank Portion Interest Rate shall equal the interest rate that is published as either the Thompson Financial TM3 “AAA” Municipal Market Data General Obligation Index (Tax-Exempt) or the “BVAL” Index (relating to general obligation, tax exempt credits) of Bloomberg L.P. (or any subsidiary thereof), (with the particular index that is used by the I-Bank to be selected by an Authorized Officer of the I-Bank) or, if such indexes are no longer published on such date, such successor index as may be selected by an Authorized Officer of the I-Bank, in each case for the number of years that corresponds to the length of time from the date such disbursement is made available to the Borrower by the I-Bank to the Maturity Date, rounding up to the nearest year, or (c) to the extent that such disbursement is funded from available moneys of the I-Bank borrowed from a financial institution pursuant to a line of credit or other similar financial instrument, the I-Bank Portion Interest Rate shall equal the actual rate of interest established by the applicable financial institution pursuant to a competitive or negotiated solicitation by the I-Bank with respect to such line of credit or other financial instrument.

“Interest” means the interest charged on the outstanding Principal of the Loan at a rate of (a) with respect to the I-Bank Portion of the Principal, the applicable I-Bank Portion Interest Rate and (b) with respect to the Fund Portion of the Principal, 0.00%, and payable by the Borrower to the I-Bank (i) on the Maturity Date or (ii) with respect to any optional prepayment or acceleration of the Loan pursuant to the terms of this Note, on the date of such optional prepayment or acceleration, as the case may be.

“Loan” means the loan of the Principal, made by the I-Bank to the Borrower to finance or refinance a portion of the Cost of the Project, as evidenced by this Note.

“Loan Disbursement Requisition” means the requisition, to be executed by an Authorized Officer of the Borrower and approved by the NJDEP, in a form to be determined by the I-Bank and the NJDEP.

“Maturity Date” means June 30, 2021, or (i) such earlier date as shall be determined by an Authorized Officer of the I-Bank in his or her sole discretion, which date shall be determined by such Authorized Officer of the I-Bank to be the date of the closing for the Anticipated Financing Program (subject, in all events, to the rights and remedies of the I-Bank pursuant to, respectively, the provisions of Section 6 hereof and the provisions of Section 7 hereof in furtherance of the enforcement by the I-Bank of all covenants obligations of the Borrower hereunder, including, without limitation and in particular, the covenant obligation of the Borrower set forth in Section 3(a) hereof), or (ii) such later date (subject to the then-applicable limits of the Act) to be determined by an Authorized Officer of the I-Bank in his or her sole discretion, pursuant to a written certification thereof, as acknowledged and approved by an Authorized Officer of the Borrower.

“NJDEP” means the New Jersey Department of Environmental Protection.

“NJDEP Loan Origination Fee” means the “NJDEP Fee” as referenced and defined in Exhibit B hereto, which NJDEP Fee is an administrative fee that is payable by the Borrower to

the NJDEP as a portion of the Cost of the Project that has been incurred by the Borrower for engineering and environmental services provided to the Borrower by the NJDEP.

“Principal” means the principal amount of the Loan, at any time being the lesser of (i) _____ Dollars (\$ _____), or (ii) the aggregate outstanding amount as shall actually be disbursed to the Borrower by the I-Bank pursuant to one or more Loan Disbursement Requisitions, which Principal shall be payable by the Borrower to the I-Bank (i) on the Maturity Date or (ii) with respect to any optional prepayment or acceleration of the Loan pursuant to the terms of this Note, on the date of such optional prepayment or acceleration, as the case may be.

“Project” means the Environmental Infrastructure Facilities of the Borrower which constitutes a project for which the I-Bank is making the Loan to the Borrower, as further described in Exhibit A-1 hereto; provided, however, that the description of the Project, as set forth in Exhibit A-1 attached hereto, shall be supplemented by means of either (i) the substitution of a revised and updated Exhibit A-1 for the current Exhibit A-1 or (ii) the inclusion of an additional Exhibit A-1, in either case, promptly following the certification for funding by the NJDEP of the remaining components of the Project, as applicable, such supplement to be undertaken by an Authorized Officer of the I-Bank.

“Regulations” means the rules and regulations, as applicable, now or hereafter promulgated pursuant to N.J.A.C. 7:22-3 *et seq.*, 7:22-4 *et seq.*, 7:22-5 *et seq.*, 7:22-6 *et seq.*, 7:22-7 *et seq.*, 7:22-8 *et seq.*, 7:22-9 *et seq.* and 7:22-10 *et seq.*, as the same may from time to time be amended and supplemented.

“State” means the State of New Jersey.

SECTION 2. Representations of the Borrower. The Borrower represents and warrants to the I-Bank:

(a) Organization. The Borrower: (i) is an instrumentality of the State of New Jersey validly existing under the laws of the State; (ii) has full legal right and authority to execute, attest and deliver this Note, to sell this Note to the I-Bank, and to perform its obligations hereunder, and (iii) has duly authorized, approved and consented to all necessary action to be taken by the Borrower for: (A) the issuance of this Note, the sale thereof to the I-Bank and the due performance of its obligations hereunder and (B) the execution, delivery and due performance of all certificates and other instruments that may be required to be executed, delivered and performed by the Borrower in order to carry out and give effect to this Note.

(b) Authority. This Note has been duly authorized by the Borrower and duly executed, attested and delivered by Authorized Officers of the Borrower. This Note has been duly sold by the Borrower to the I-Bank and duly issued by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as the enforcement thereof may be affected by bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors' rights.

(c) Pending Litigation. There are no proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower that, if adversely determined, would adversely affect (i) the condition (financial or otherwise) of the Borrower, (ii) the ability of the Borrower to satisfy all of its Loan repayment obligations hereunder, (iii) the authorization, execution, attestation or delivery of this Note, (iv) the issuance of this Note and the sale thereof to the I-Bank, and (v) the Borrower's ability otherwise to observe and perform its duties, covenants, obligations and agreements under this Note.

(d) Compliance with Existing Laws and Agreements; Governmental Consent. (i) The due authorization, execution, attestation and delivery of this Note by the Borrower and the sale of this Note to the I-Bank, (ii) the observation and performance by the Borrower of its duties, covenants, obligations and agreements hereunder, including, without limitation, the repayment of the Loan and all other amounts due hereunder, and (iii) the undertaking and completion of the Project, will not (A) other than the lien, charge or encumbrance created by this Note and by any other outstanding debt obligations of the Borrower that are at parity with this Note as to lien on, and source and security for payment thereon from, the general tax revenues of the Borrower, result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Borrower pursuant to, (B) result in any breach of any of the terms, conditions or provisions of, or (C) constitute a default under, any existing ordinance or resolution, outstanding debt or lease obligation, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument to which the Borrower is a party or by which the Borrower, its Environmental Infrastructure System or any of its properties or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, injunctions, judgments, decrees, rules, regulations or existing orders of any court or governmental or administrative agency, authority or person to which the Borrower, its Environmental Infrastructure System or its properties or operations are subject. The Borrower has obtained all permits and approvals required to date by any governmental body or officer for the authorization, execution, attestation and delivery of this Note, for the sale of this Note to the I-Bank, for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Note, and for the undertaking and completion of the Project.

(e) Reliance. The Borrower hereby acknowledges that the I-Bank is making the Loan to the Borrower pursuant to the terms hereof in reliance upon each of the representations of the Borrower set forth in this Section 2.

SECTION 3. Covenants of the Borrower.

(a) Participation in the Anticipated Financing Program. The Borrower covenants and agrees that it shall undertake and complete in a timely manner all conditions precedent identified by the I-Bank relating to (i) the participation by the Borrower in the Anticipated Financing Program and (ii) the qualification by the Borrower for receipt of the Anticipated Long Term Loan.

(b) Full Faith and Credit Pledge. To secure the repayment obligation of the Borrower with respect to this Note, and all other amounts due under this Note, the Borrower

unconditionally and irrevocably pledges its full faith and credit and covenants to exercise its unlimited taxing powers for the punctual payment of any and all obligations and amounts due under this Note. The Borrower acknowledges that, to assure the continued operation and solvency of the I-Bank, the I-Bank may, pursuant to and in accordance with Section 12a of the Act, require that if the Borrower fails or is unable to pay promptly to the I-Bank in full any Loan repayments, any Interest or any other amounts due pursuant to this Note, an amount sufficient to satisfy such deficiency shall be paid by the State Treasurer to the I-Bank from State-aid otherwise payable to the Borrower.

(c) Disposition of Environmental Infrastructure System. The Borrower covenants and agrees that it shall not sell, lease, abandon or otherwise dispose of all or substantially all of its Environmental Infrastructure System without the express written consent of the I-Bank, which consent may or may not be granted by the I-Bank in its sole discretion.

(d) Financing With Tax-Exempt Bonds. The Borrower acknowledges, covenants and agrees that it is the intention of the Borrower to finance the Project on a long term basis with proceeds of I-Bank Bonds now or hereinafter issued, the interest on which is excluded from gross income for purposes of federal income taxation pursuant to Section 103(a) of the Code (“tax- exempt bonds”). In furtherance of such long term financing with tax-exempt bonds, the Borrower covenants that, except to the extent expressly permitted in writing by the I-Bank, the Borrower will not take any action or permit any action to be taken which would result in any of the proceeds of the Loan being used (directly or indirectly) (i) in any “private business use” within the meaning of Section 141(b)(6) of the Code, (ii) to make or finance loans to persons other than the Borrower, or (iii) to acquire any “nongovernmental output property” within the meaning of Section 141(d)(2) of the Code. In addition, the Borrower covenants and agrees that no portion of the Project will be investment property, within the meaning of Section 148(b) of the Code. The Borrower covenants and agrees that any Costs of the Borrower’s Project to be paid or reimbursed with proceeds of the Loan will result in the expenditure of proceeds under Treasury Regulations §1.148-6(d) and Treasury Regulations §1.150-2.

(e) Operation and Maintenance of Environmental Infrastructure System. The Borrower covenants and agrees that it shall maintain its Environmental Infrastructure System in good repair, working order and operating condition, and make all necessary and proper repairs and improvements with respect thereto.

(f) Records and Accounts; Inspections. The Borrower covenants and agrees that it shall keep accurate records and accounts for its Environmental Infrastructure System (the “System Records”), separate and distinct from its other records and accounts (the “General Records”), which shall be audited annually by an independent registered municipal accountant and shall be made available for inspection by the I-Bank upon prior written notice. The Borrower shall permit the I-Bank to inspect the Environmental Infrastructure System.

(g) Insurance. The Borrower covenants and agrees that it shall maintain insurance policies providing against risk of direct physical loss, damage or destruction of its Environmental Infrastructure System, in an amount that will satisfy all applicable regulatory requirements. The Borrower covenants and agrees that it shall include, or cause to be included, the I-Bank as an

additional “named insured” on any certificate of liability insurance procured by the Borrower and by any contractor or subcontractor for the Project.

(h) Reliance. The Borrower hereby acknowledges that the I-Bank is making the Loan to the Borrower pursuant to the terms hereof in reliance upon each of the covenants of the Borrower set forth in this Section 3.

SECTION 4. Disbursement of the Loan Proceeds; Amounts Payable; Prepayment; and Late Fee.

(a) The I-Bank shall effectuate the Loan to the Borrower by making one or more disbursements to the Borrower promptly after receipt by the I-Bank of a Loan Disbursement Requisition and the approval of such Loan Disbursement Requisition by an Authorized Officer of the I-Bank or designee thereof, each such disbursement and the date thereof to be recorded by an Authorized Officer of the I-Bank on the table attached as Exhibit A-2 hereto; provided, however, that the approval by the I-Bank of any Loan Disbursement Requisition for disbursement pursuant to the terms hereof shall be subject to the terms, conditions and limitations as set forth in Section 4(b) of this Note. It is expected that the proceeds of the Loan will be disbursed to the Borrower in accordance with Exhibit C hereto, as Exhibit C shall be supplemented by an Authorized Officer of the I-Bank by means of either a substitute Exhibit C or an additional Exhibit C, such supplement to be implemented concurrently with the supplement to Exhibit A-1 hereto (as provided in the definition of “Project” as set forth herein). The latest date upon which the Borrower may submit to the I-Bank a Loan Disbursement Requisition is the business day immediately preceding the date fixed by the I-Bank for the sale of its bonds in connection with the Anticipated Financing Program, or such alternative date as shall be identified by the I-Bank for the Borrower in writing. On the Maturity Date, the Borrower shall repay the Loan to the I-Bank in an amount equal to: (i) the Principal; (ii) the Interest; (iii) the Administrative Fee, if any; and (iv) any other amounts due and owing pursuant to the provisions of this Note. The Borrower may prepay the Loan obligations hereunder, in whole or in part, upon receipt of the prior written consent of an Authorized Officer of the I-Bank. Each payment made to the I-Bank shall be applied to the payment of, first, the Interest then due and payable, second, the Principal, third, the Administrative Fee, if any, fourth, any late charges, and, finally, any other amount due pursuant to the provisions of this Note. In the event that the repayment obligation set forth in this Note is received by the I-Bank later than the Maturity Date, a late fee shall be payable to the I-Bank in an amount equal to the greater of twelve percent (12%) per annum or the prime rate as published in the Wall Street Journal on the Maturity Date plus one half of one percent per annum on such late payment from the Maturity Date to the date it is actually paid; provided, however, that any late payment charges incurred hereunder shall not exceed the maximum interest rate permitted by law. Notwithstanding the provisions of this Section 4(a) to the contrary, the Borrower hereby acknowledges and agrees that, on the date of issuance of this Note, a disbursement shall be made and shall be recorded by an Authorized Officer of the I-Bank on the table attached as Exhibit A-2 hereto in the amount recorded thereon. Such disbursement shall be made for the purpose of funding fifty percent (50%) of the NJDEP Loan Origination Fee. Such disbursement shall be paid by the I-Bank on behalf of the Borrower directly to the NJDEP in satisfaction of the provisions hereof.

(b) Notwithstanding the provisions of this Note to the contrary with respect to the funding, pursuant to this Section 4, of any Loan Disbursement Requisition relating to all or any portion of the Project: (i) the Borrower hereby acknowledges and agrees that the I-Bank shall not, and shall not be required to, commit funds, pursuant to the Construction Financing Loan Program of the I-Bank, to any portion of the Project until such time as the particular portion of the Project in question has been certified for funding by the NJDEP; (ii) no Loan Disbursement Requisition shall be approved by the I-Bank for disbursement pursuant to this Section 4 unless and until the portion of the Project to which such Loan Disbursement Requisition relates has been certified for funding by the NJDEP; (iii) no Loan Disbursement Requisition shall be approved by the I-Bank for disbursement pursuant to this Section 4 unless and until the Appropriation Condition has been satisfied to an extent and in an amount that is sufficient to fund, in the aggregate, the particular Loan Disbursement Requisition in question and all prior Loan Disbursement Requisitions; and (iv) the I-Bank has no obligation pursuant to this Note to make all or any portion of any Loan Disbursement Requisition disbursement pursuant to the provisions of this Section 4 if the Borrower lacks the authority to pay interest on this Note in an amount equal to the I-Bank Portion Interest Rate.

SECTION 5. Unconditional Obligations. The direct, general obligation of the Borrower to make the Loan repayments and all other payments required hereunder and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner whatsoever while any Loan repayments, or any other payments due hereunder, remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or Environmental Infrastructure System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the I-Bank to perform and observe any agreement or any duty, liability or obligation arising out of this Note, or any rights of set-off, recoupment, abatement or counterclaim that the Borrower might have against the I-Bank or any other party; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 6. Events of Default. The following events shall constitute an “Event of Default” hereunder: (i) failure by the Borrower to pay, when due, any and all of its Loan repayment obligations hereunder, and any other payment obligations due hereunder; (ii) failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed pursuant to the terms of this Note; (iii) any representation made by the Borrower contained in this Note or in any instrument furnished in compliance with or with reference to this Note is false or misleading in any material respect; and (iv) a petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Note or thereafter enacted, unless in the case of any such petition filed against the Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal, or the Borrower shall become insolvent or bankrupt or shall make an assignment for the benefit of its creditors, or a custodian

of the Borrower or any of its property shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

SECTION 7. Remedies upon Event of Default. Whenever an Event of Default shall have occurred and be continuing pursuant to the terms hereof, the Borrower hereby acknowledges and agrees to the rights of the I-Bank to take any action permitted or required at law or in equity to collect the amounts then due and thereafter to become due hereunder or to enforce the observance and performance of any duty, covenant, obligation or agreement of the Borrower hereunder. If an Event of Default shall have occurred, the Borrower hereby acknowledges and agrees that the I-Bank shall have the right to (i) immediately cease disbursements of the proceeds of the Loan, and/or (ii) declare all Loan repayments and all other amounts due hereunder to be due and payable immediately without further notice or demand. The Borrower hereby acknowledges and agrees that no remedy herein is intended to be exclusive, and every remedy shall be cumulative and in addition to every other remedy given under this Note or now or hereafter existing at law or in equity. The Borrower hereby further acknowledges and agrees that no delay or omission by the I-Bank to exercise any remedy or right accruing upon any Event of Default shall impair any such remedy or right or shall be construed to be a waiver thereof, but any such remedy or right may be exercised as often as may be deemed expedient. The Borrower hereby further acknowledges and agrees that, pursuant to the “New Jersey Infrastructure Bank Credit Policy”, adopted by the Board of Directors of the I-Bank, and as further amended and supplemented from time to time (the “Credit Policy”), during such time as an Event of Default has occurred and is continuing hereunder, the Borrower shall be ineligible for additional financial assistance from the I-Bank, in addition to certain other consequences set forth in the Credit Policy. The Borrower hereby agrees that upon demand it shall pay to the I-Bank the reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of in-house counsel and legal staff) incurred in the collection of Loan repayments or any sum due hereunder or in the enforcement of the observation or performance of any obligations or agreements of the Borrower upon an Event of Default. Any moneys collected by the I-Bank pursuant to this Section 7 shall be applied first to pay any attorneys’ fees or other fees and expenses owed by the Borrower.

SECTION 8. Certain Miscellaneous Provisions. The Borrower hereby acknowledges and agrees as follows: (a) all notices hereunder shall be deemed given when hand delivered or when mailed by registered or certified mail, postage prepaid, to the Borrower at the following address: [Name and Address of Borrower, Attention: Name of Authorized Officer]; and to the I-Bank at the following address: New Jersey Infrastructure Bank, 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, New Jersey 08648-2201, Attention: Executive Director; (b) this Note shall be binding upon the Borrower and its successors and assigns; (c) in the event any provision of this Note is held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof; (d) the obligations of the Borrower pursuant to the terms of this Note may not be assigned by the Borrower for any reason, unless the I-Bank shall have approved said assignment in writing; (e) this Note may not be amended, supplemented or modified without the prior written consent of the I-Bank; (f) this Note shall be governed by and construed in accordance with the laws of the State; (g) the Borrower shall, at the request of the I-Bank,

execute and deliver such further instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Note; and (h) whenever the Borrower is required to obtain the determination, approval or consent of the I-Bank pursuant to the terms hereof, such determination, approval or consent may be either granted or withheld by the I-Bank in its sole and absolute discretion.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed, sealed and delivered on the date first above written.

RUTGERS, THE STATE UNIVERSITY

[SEAL]

ATTEST:

By: _____
Executive Vice President for Finance
and Administration and
University Treasurer

Secretary

EXHIBIT A-2

Loan Disbursements

[illegible]