



Legislation Details (With Text)

**File #:** 14-1757      **Version:** 1      **Name:** Resolution approving official statement, disclosure agreement and note purchase agreement for sale of bond anticipation notes, refunding notes and tax appeal refunding notes

**Type:** Resolution      **Status:** Filed

**File created:** 10/17/2014      **In control:** Finance

**On agenda:** 11/6/2014      **Final action:** 11/6/2014

**Title:** Dept/ Agency: Finance  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Type of Service: Preliminary/Official Statement, Disclosure Agreement and Note Purchase Agreement for Issuance of Notes  
Purpose: Approving official statement, disclosure agreement and note purchase agreement for sale of bond anticipation notes, refunding notes and tax appeal refunding notes  
Amount to be Financed: \$17,752,000.00  
Project Information:  
(Description/ Project No./Amount Appropriated/Ordinance No.)  
Additional Information:  
Tax Appeal Refunding Notes, \$11,384,000.00  
Special Emergency Notes, \$ 2,774,000.00  
Refunding Notes, \$ 3,594,000.00  
Total Aggregate Amount Not to Exceed \$17,752,000.00.

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
11/6/2014	1	Municipal Council	Adopt	Pass

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Total Aggregate Amount Not to Exceed \$17,752,000.00.

**WHEREAS**, the Municipal Council of the City of Newark, in the County of Essex, New Jersey (the "City"), has previously adopted the following ordinances which authorized the issuance of tax

appeal refunding notes of the City: Ordinance No. 6PS&Fa(S-1) finally adopted by the Municipal Council of the City on December 9, 2008, Ordinance No. 6PSF-d finally adopted by the Municipal Council of the City on November 22, 2011 and Ordinance No. 6PSF-e finally adopted by the Municipal Council of the City on October 15, 2014 (collectively, the "TARN Ordinances"); and

**WHEREAS**, the Municipal Council of the City has previously adopted the following ordinance and resolution which authorized the issuance of special emergency notes of the City: Ordinance No. 6PSF-g finally adopted by the Municipal Council of the City on June 2, 2011; and Resolution No. 7R1-j adopted by the Municipal Council of the City on September 8, 2011 (collectively, the "SEN Legislation"); and

**WHEREAS**, the Municipal Council of the City has previously adopted the following ordinance which authorized the issuance of refunding notes of the City: Ordinance No. 6PFSF-d(S) finally adopted by the Municipal Council of the City on July 23, 2013 (the "Refunding Ordinance"); and

**WHEREAS**, the City intends to issue its Tax Appeal Refunding Notes in one or more series, and on a tax-exempt and/or taxable basis in an aggregate amount not to exceed \$11,384,000.00 (collectively, the "2014 TARNs") under the TARN Ordinances for the purpose of (i) refunding a portion of the City's \$5,119,000.00 Tax Appeal Refunding Notes, Series 2013E, which were issued on December 11, 2013 and mature on December 10, 2014, and used to finance certain tax appeals; and (ii) providing funds for the payment of real property tax appeal refunds due and owing from the City; and

**WHEREAS**, the City intends to issue its Special Emergency Notes in one or more series, and on a tax-exempt and/or taxable basis, in an aggregate amount not to exceed \$2,774,000.00 (collectively, the "2014 SENs") under the SEN Legislation for the purpose of refunding a portion of the City's \$4,161,000.00 Special Emergency Notes, Series 2013F which were issued on December 11, 2013 and mature on December 10, 2014 and used to refinance the payment by the City of contractually required severance liabilities resulting from the layoff or retirement of City employees; and

**WHEREAS**, the City intends to issue its Refunding Notes in one or more series, and on a tax-exempt and/or taxable basis, in an aggregate amount not to exceed \$3,594,000.00 (collectively, the "2014 Refunding Notes", and together with the 2014 TARNs and the 2014 SENs, hereinafter referred to as the "Notes") under the Refunding Ordinance for the purpose of refunding a portion of the City's \$4,853,000.00 Emergency Notes, Series 2013G which were issued on December 11, 2013 and mature on December 10, 2104, and used to provide funds to pay the costs of certain expenses incurred by the City as a result of Hurricane Sandy, and to pay costs of issuance; and

**WHEREAS**, the Acting Director of Finance requested qualifications from potential purchasers and/or underwriters for the Notes, and has evaluated the submissions received from various investment banking firms in response to such solicitation; and

**WHEREAS**, the City presently intends to issue the 2014 TARNs, the 2014 SENs and the 2014 Refunding Notes, in an aggregate amount not to exceed \$17,752,000, on or about December 10, 2014; and

**WHEREAS**, all matters pertaining to the sale of the 2014 TARNs, the 2014 SENs and the 2014 Refunding Notes, have been delegated by the TARN Ordinances, the SEN Legislation and the

Refunding Ordinance, respectively, to the Acting Director of Finance or Acting Chief Financial Officer of the City; and

**WHEREAS**, the City has received and/or expects to receive offer(s) to purchase the Notes from such purchaser(s) and/or underwriter(s) as approved by the Acting Director of Finance (collectively, the "Underwriters") upon such terms and conditions as set forth in one or more note purchase agreements (collectively, the "Purchase Contracts") by and between the City and the Underwriters, the form of which is attached hereto as **Exhibit C** and incorporated herein by reference; and

**WHEREAS**, in connection with the offering and sale of the Notes, the City intends to circulate one or more Preliminary Official Statements and final Official Statements setting forth certain information relating to the City and the Notes, and the City also intends to enter into one or more Continuing Disclosure Certificates.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AS FOLLOWS:**

SECTION 1. Authorization for Official Statement. The distribution by the City, and its financial advisor, of one or more Preliminary Official Statements relating to the Notes (a draft of which is attached hereto as **Exhibit A** and shall be filed with the records of the City) is hereby authorized in substantially such form, with such insertions, deletions and changes therein and any supplements thereto as Bond Counsel may advise and the City officer executing the same may approve, such approval to be evidenced by such City officer's execution thereof. The Assistant Business Administrator, Acting Director of Finance or Acting Chief Financial Officer is hereby authorized to deem the Preliminary Official Statement "final" within the meaning of Rule 15c2-12 of the Rules of the Securities and Exchange Commission and to execute and deliver a certificate to that effect. The Assistant Business Administrator, Acting Director of Finance or Acting Chief Financial Officer is hereby authorized to approve the contents and terms of the final Official Statement in respect of the aforementioned notes in substantially the form of the Preliminary Official Statement. The Assistant Business Administrator, Acting Director of Finance or Acting Chief Financial Officer is hereby authorized to sign such Official Statement on behalf of the City, in substantially such form, with such insertions, deletions and changes therein and any supplements thereto as Bond Counsel may advise and the City officer executing the same may approve, such approval to be evidenced by such City officer's execution thereof.

SECTION 2. Continuing Disclosure. The form of the Continuing Disclosure Certificate in substantially the form attached hereto as **Exhibit B** is hereby approved, and the execution of one or more Continuing Disclosure Certificates by the Acting Director of Finance or Acting Chief Financial Officer of the City is hereby authorized. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate(s) executed by the City and dated the date of issuance and delivery of the Notes, as originally executed and as it may be amended from time to time in accordance with the terms thereof. Notwithstanding any other provision of this Resolution, failure of the City to comply with the Continuing Disclosure Certificate(s) shall not be considered a default on the Notes; however, any holder may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section.

Section 3. Purchase Contract. The form of the Purchase Contract in substantially the form

attached hereto as **Exhibit C** is hereby approved, and the execution of one or more Purchase Contracts by the Acting Director of Finance or Acting Chief Financial Officer of the City is hereby authorized with such changes as may be approved by the Acting Director of Finance or Acting Chief Financial Officer, based upon the advice of Bond Counsel and the City's financial advisor. Following execution, the fully executed Purchase Contract(s) shall be filed with the City Clerk.

Section 4. Further Action. Any matter relating to the award, sale or execution of the Notes which has been delegated by the TARN Ordinance, the SEN Legislation, the Refunding Ordinance to either the Acting Director of Finance or the Acting Chief Financial Officer may be performed by either said officer. In the event of the vacancy or unavailability of both the Acting Director of Finance and the Acting Chief Financial Officer, any such power may be performed, and any document authorized by this Resolution may be executed, by the Treasurer or the Controller. On behalf of the City, the appropriate representatives of the City are authorized and directed to take all steps which are necessary or convenient to effectuate the terms of this Resolution with respect to the issuance, sale and delivery of the Notes, including, but not limited to the execution of all tax certificates and other closing documentation. All such actions heretofore taken are hereby ratified, approved and confirmed.

Section 5. Effective Date. This Resolution shall take effect upon adoption.

### STATEMENT

This Resolution approves the distribution of one or more Preliminary Official Statements and Final Official Statements and the forms of one or more Note Purchase Agreements and Continuing Disclosure Certificates regarding the sale of the City's Tax Appeal Refunding Notes, Special Emergency Notes and Refunding Notes, in one or more series, and on a tax-exempt and/or taxable basis, in an aggregate amount not exceeding \$17,752,000.00.

### CERTIFICATE

I, Robert P. Marasco, City Clerk of the City of Newark, in the County of Essex, New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of the meeting of the Governing Body of the City duly called and held on \_\_\_\_\_, 2014 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the Governing Body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this \_\_\_\_ day of \_\_\_\_\_, 2014.

[SEAL]

\_\_\_\_\_  
ROBERT P. MARASCO, City Clerk

### EXHIBIT A

**EXHIBIT B**

**EXHIBIT C**