



Legislation Text

File #: 19-0071, Version: 1

Dept/ Agency: Finance

Action: () Ratifying (X) Authorizing () Amending

Type of Service: Preliminary/Official Statement and Disclosure Agreement for Issuance of Notes

Purpose: Approving official statement and disclosure agreement for sale of bond anticipation notes

Amount to be Financed: \$5,500,000.00

Project Information:

(Description/ Project No./Amount Appropriated/Ordinance No.)

RESOLUTION DETERMINING CERTAIN MATTERS IN CONNECTION WITH THE SALE OF NOT TO EXCEED \$5,500,000.00 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES (ECIA PROPERTY ACQUISITION), SERIES 2019 OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY

Additional Information:

This resolution is in conjunction with Legistar #19-0070

WHEREAS, the Municipal Council of the City of Newark, in the County of Essex, New Jersey (the "City"), has adopted Bond Ordinance 6PSF-a(S) on November 27, 2018 which authorized the issuance of bonds or notes of the City to finance the acquisition of 16 properties (land, buildings and improvements) from the Essex County Improvement Authority (the "Ordinance"); and

WHEREAS, the City intends to issue its General Obligation Bond Anticipation Notes (ECIA Property Acquisition), Series 2019 in an aggregate principal amount not to exceed \$5,500,000.00 (the "General Obligation Notes" or "Notes") under the Ordinance for the purpose of providing for a portion of the costs of acquiring the ECIA Properties as described in the Ordinance, and paying costs of issuance with respect thereto; and

WHEREAS, the City has determined to authorize the offering and sale of the General Obligation Notes by competitive sale through electronic bids on Parity (defined therein) pursuant to the terms and conditions of the attached Notice of Sale (the "Notice of Sale") described herein; and

WHEREAS, in connection with the offering and sale of the General Obligation Notes, the City determines to authorize the distribution of a Preliminary Official Statement and final Official Statement with respect to the Notes, and to authorize the execution and delivery of a Continuing Disclosure Certificate.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. Confirmation of Intention to Issue General Obligation Notes. Pursuant to the provisions of Ordinance 6PSF-a(s) November 27, 2018, the Director of Finance/Chief Financial Officer is hereby authorized and directed by the Municipal Council to sell, issue, execute and deliver the General

Obligation Notes in accordance with this Resolution. The General Obligation Notes will be dated and shall mature within one (1) year as shall be determined by the Director of Finance/Chief Financial Officer. The General Obligation Notes may be renewed from time to time in accordance with the provisions of the Local Bond Law (N.J.S.A. 40A:2-8.1). The General Obligation Notes shall not be subject to redemption prior to maturity.

2. Notice of Sale. The Municipal Council is delegating to the Director of Finance/Chief Financial Officer authorization and directing her to sell and award the purchase of the General Obligation Notes to the successful bidder pursuant to the terms and conditions of the Notice of Sale. The form of the Notice of Sale in substantially the form attached hereto as **Exhibit A** is hereby approved, and the execution of a Notice of Sale by the Director of Finance/Chief Financial Officer of the City is hereby authorized with such changes as may be approved by the Director of Finance/Chief Financial Officer, upon the advice of the City's bond counsel ("Bond Counsel") and the City's municipal advisor (the "Financial Advisor"). The Director of Finance/Chief Financial Officer is authorized and directed to distribute the Notice of Sale in connection with the offering and sale of the General Obligation Notes.

3. Authorization for Official Statement. The distribution by the City of a Preliminary Official Statement relating to the General Obligation Notes (a draft of which is attached hereto as **Exhibit B**), which Preliminary Official Statement shall be filed in the records of the City, is hereby authorized in substantially the form attached hereto as **Exhibit B**, which is hereby approved 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 Business Administrator or Director of Finance/Chief Financial Officer is hereby authorized and directed to deem the Preliminary Official Statement "final" within the meaning of Rule 15c2-12 of the Securities and Exchange Commission and to execute and deliver a certificate to that effect. The Business Administrator and the Director of Finance/Chief Financial Officer are each hereby authorized and directed to approve the contents and terms of the final Official Statement in respect of the aforementioned General Obligation Notes in substantially the form of the Preliminary Official Statement. The Business Administrator and the Director of Finance/Chief Financial Officer are each hereby authorized and directed to execute 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, including revisions to reflect the terms of the sale of the General Obligation Notes, including purchase price, interest rate and yield, and the City officer executing the same may approve, such approval to be conclusively evidenced by such City officer's execution thereof. The distribution of the Preliminary Official Statement and Official Statement by the Financial Advisor of the City in connection with the offering and sale of the General Obligation Notes is hereby authorized and approved.

4. Continuing Disclosure. The form of the Continuing Disclosure Certificate in substantially the form attached hereto as **Exhibit C** is hereby approved, and the execution of such Continuing Disclosure Certificate by the Director of Finance/Chief Financial Officer of the City is hereby authorized by the Municipal Council. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the General Obligation 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 shall not be considered a default on the General Obligation 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.

5. Form of Note. The form of the Note certificate substantially in the form attached hereto as **Exhibit D** is hereby approved. The Note certificate shall be executed in the name of the City by the Mayor, the Chief Financial Officer and attested to by the City Clerk and the seal of the City affixed thereto.

6. Further Action. Any matter relating to the award, sale or execution of the General Obligation Notes which has been delegated by the Ordinance to the Director of Finance/Chief Financial Officer may be performed, and any document authorized by this Resolution may be executed by the Business Administrator or Director of Finance (collectively, the "Authorized Officers"). On behalf of the City, the Authorized Officers 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, execution and delivery of the General Obligation Notes, including, but not limited to the execution of all other closing documentation. All such actions heretofore or hereafter taken are hereby ratified, approved and confirmed.

7. Application of Proceeds. Pursuant to the provisions of the Local Lands and Buildings Law (N.J.S.A. 40A:12-17), if the Finance Building (located at 528-530 Broad Street in the City) is disposed of, any bonds or notes issued to finance the purchase thereof, the whole of such proceeds of such disposal (or the amount necessary to retire such bonds or notes) shall be applied and paid to pay the principal of and interest on such General Obligation Notes so as to retire the same at or prior to maturity and the Director of Finance/Chief Financial Officer is hereby authorized and directed by the Municipal Council to retire such General Obligation Notes in accordance therewith.

8. ECIA Bonds. In connection with the delivery of the General Obligation Notes, the City shall deposit the proceeds of such Notes with The Bank of New York Mellon (the "Trustee"), the Trustee for the Lease Revenue Bonds (City of Newark Project), Series 2010 (the "ECIA Bonds") of the Essex County Improvement Authority (the "ECIA") to effectuate the defeasance of the existing outstanding ECIA Bonds and to release the lien of the Lease between the City and the ECIA. As such, the Director of Finance/Chief Financial Officer of the City is hereby authorized and directed by the Municipal Council to approve, execute and deliver all certificates, documents and agreements, including an Escrow Deposit Agreement, relating to such defeasance. The execution and delivery of such documents shall be conclusive evidence of any approval required by this section and no further action on the part of the Municipal Council of the City shall be required. Upon the defeasance of the ECIA Bonds, the Business Administrator, Director of Finance/Chief Financial Officer and the City Clerk are hereby authorized and directed to undertake all actions and to execute and deliver all documents, certificates and agreements necessary to acquire title to 16 properties owned by ECIA.

STATEMENT

This resolution authorizes the issuance and sale of the Notes, the distribution of a Preliminary Official Statement and Final Official Statement, and approval of the form of a Notice of Sale and the

distribution thereof containing the terms for the offering and sale of the General Obligation Notes and Continuing Disclosure Certificate regarding the sale of the City's General Obligation Notes, in an aggregate amount not exceeding \$5,500,000.00.