



## Legislation Text

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File #: 18-1705, Version: 1

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**Dept/ Agency:** Finance

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

**Type of Service:** Preliminary/Official Statement, Disclosure Certificate and Note Purchase Contract for Issuance of Notes

**Purpose:** Approving official statement and disclosure agreement for sale of tax appeal refunding notes

**Amount to be Financed:** \$10,100,000.00

**Project Information:**

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

**RESOLUTION OF THE CITY OF NEWARK AUTHORIZING THE CIRCULATION OF A PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT IN CONNECTION WITH THE NEGOTIATED SALE OF \$10,100,000.00 TAX APPEAL REFUNDING NOTES, SERIES 2018D, OF THE CITY, APPROVING A CONTINUING DISCLOSURE CERTIFICATE AND NOTE PURCHASE CONTRACT WITH RESPECT TO SAID NOTES, AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH**

**Additional Information:**

This resolution must be on the Special Council Meeting of 11/27/18

**WHEREAS**, on November 8, 2018 the Municipal Council of the City of Newark, in the County of Essex, State of New Jersey (the "City") finally adopted Refunding Bond Ordinance which was approved and published as required by law (the "Ordinance"), which Ordinance appropriated the amount of \$10,100,000.00 and authorized the issuance of \$10,100,000.00 Tax Appeal Refunding Notes to finance the payment of tax appeal refunds owed to others by the City for taxes levied in and by the City and to pay issuance expenses; and

**WHEREAS**, the City's Director of Finance/Chief Financial Officer and Business Administrator are desirous of issuing \$10,100,000.00 Tax Appeal Refunding Notes, Series 2018D (the "Series 2018D Notes") and are authorized to do so pursuant to the Local Bond Law, specifically N.J.S.A. 40A:2-28 (the "Local Bond Law") and the Ordinance; and

**WHEREAS**, in anticipation of the issuance and sale of the Series 2018D Notes, the City expects to receive an offer to purchase the Series 2018D Notes from the underwriter designated by the City (the "Underwriter") upon such negotiated terms and conditions as set forth in a note purchase contract (the "Note Purchase Contract") by and between the City and the Underwriter, the form of which was presented at this meeting and on file in the Office of the City Clerk and incorporated herein by reference, and City wishes to approve the form and execution of the Note Purchase Contract; and

**WHEREAS**, the City intends to issue the Series 2018D Notes on or about December 21, 2018; and

**WHEREAS**, in connection with the offering and sale of the Series 2018D Notes, the Underwriter intends to distribute a Preliminary Official Statement on behalf of the City and a final Official Statement setting forth certain information relating to the City and the sale of the Series 2018D Notes, and to enter into a Continuing Disclosure Certificate as required by Rule 15c2-12, as amended, promulgated by the Securities and Exchange Commission (the “Rule”); and

**WHEREAS**, pursuant to the Ordinance, all other provisions of the Series 2018D Notes (including, without limitation, maturity date and the interest rate) shall be determined by the Director of Finance/Chief Financial Officer.

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

1. Authorization for Official Statement. The preparation by the City, and its Financial Advisor, NW Financial (the “Financial Advisor”), of a Preliminary Official Statement relating to the Series 2018D Notes (the “Preliminary Official Statement”) is hereby authorized in substantially the form presented at this meeting and attached hereto as **Exhibit A** and on file in the Office of the City Clerk i and incorporated herein by reference, with such insertions, deletions and changes therein and any supplements thereto as bond counsel to the City (“Bond Counsel”) and the Financial Advisor to the City may advise and the Director of Finance/Chief Financial Officer executing the same may approve, such approval to be evidenced by such City officer’s execution thereof. The Business Administrator or the Director of Finance/Chief Financial Officer are each hereby authorized and directed to deem the Preliminary Official Statement “final” within the meaning of the Rule 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 Series 2018D Notes in substantially the form of the Preliminary Official Statement. The Business Administrator or the Director of Finance/Chief Financial Officer are each hereby authorized to execute and deliver such Official Statement on behalf of the City, in substantially such form of the Preliminary Official Statement, with such insertions, deletions and changes therein and any supplements thereto as Bond Counsel to the City may advise and the City officer executing the same may approve, such approval to be evidenced by such City officer’s execution thereof. The use and distribution of the Preliminary Official Statement by the Underwriter in connection with the offering and sale of the Series 2018D Notes are hereby authorized by the City.

2. Continuing Disclosure. The form of the Continuing Disclosure Certificate is hereby approved in substantially the form presented at this meeting and on file in the Office of the City Clerk and incorporated herein by reference as **Exhibit B**, and the execution of the Continuing Disclosure Certificate by the Director of Finance/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 executed by the City and dated the date of issuance and delivery of Series 2018D 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, the failure of the City to comply with the provisions of the Continuing Disclosure Certificate shall not be considered a default on the Series 2018D 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 the Continuing Disclosure Certificate.

3. Note Purchase Contract. The Note Purchase Contract in substantially the form presented at this meeting as **Exhibit C** and on file in the Office of the City Clerk and incorporated herein by reference, with such changes as may be approved by the Business Administrator or the Director of Finance/Chief Financial Officer, upon the recommendations of Bond Counsel to the City and the City's Financial Advisor, is hereby approved, and the execution of the Note Purchase Contract by the Business Administrator and/or the Director of Finance/Chief Financial Officer of the City is hereby authorized, which execution shall be conclusive evidence of the approval thereof. Following execution, the fully executed Note Purchase Contract shall be filed with the City Clerk and the Underwriter.

4. Appointment of Underwriter. TD Securities (USA) LLC is hereby appointed Underwriter for the Series 2018D Notes. Compensation to the Underwriter relating to the sale and issuance of the Series 2018D Notes shall not exceed \$0.79 per \$1,000.00 of Series 2018D Notes issued, including expenses (equal to \$0.75 per \$1,000.00 in Notes, plus not to exceed \$0.04 per \$1,000.00 in Notes for expenses), plus \$5,000.00 for underwriter's Counsel compensation.

5. Further Action. The terms and provisions of the Series 2018D Notes (including, without limitation, registered or book-entry only form, the aggregate principal amount, the maturity date, interest rate and redemption provisions) shall be determined by the Director of Finance/Chief Financial Officer of the City as authorized by the Local Bond Law and the Ordinance heretofore adopted by the Municipal Council. The Mayor, the Business Administrator, the City Clerk and the Director of Finance/Chief Financial Officer are each authorized and directed to take all actions which are necessary or convenient to effectuate the terms of this Resolution and the issuance, sale and delivery of the Series 2018D Notes, including, but not limited to the execution of the Continuing Disclosure Certificate and the Note Purchase Contract and closing certificates, documents and opinions in connection therewith, in consultation with and upon the advice of Bond Counsel.

6. Effectiveness. This Resolution shall take effect immediately upon adoption and the effective date of the Ordinance.

### **STATEMENT**

This resolution authorizes the distribution of a Preliminary Official Statement and Final Official Statement, authorizing forms of Note Purchase Contract and Continuing Disclosure Certificate and related matters in connection with the issuance and sale of the Series 2018D Notes to finance the payment of tax appeal refunds and to pay issuance expenses in the amount of \$10,100,000.00.