



Legislation Text

File #: 14-0745, Version: 1

Dept/ Agency: Finance

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

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

Purpose: Approving official statement, continuing disclosure certificate and note purchase contract for sale of general obligation notes

Amount to be Financed: \$57,014,000.00

Project Information:

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

General Improvement Bond Anticipation Notes, Series 2014B and School Promissory Notes, 2014C

Additional Information:

Rollover and paydown of existing Notes related to General Improvements in the amount of \$33,328,000.00 (Series 2013D Notes), General Improvements in the amount of \$15,167,000.00 (Series 2013B) and School Promissory Notes in the amount of \$5,150,000.00 (Series 2013C) and \$4,600,000.00 in new money for general improvements

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 general improvement notes of the City: Ordinance No. 6S&FC, adopted on November 14, 2005, as amended by Ordinance No. 6PSFA, adopted on September 2, 2009, Ordinance No. 6S&FA, adopted on February 27, 2007, as amended by Ordinance No. 6S&FF, adopted on August 1, 2007, Ordinance No. 6S&FA (S-2), adopted on October 23, 2007, as amended by Ordinance No. 6PSFA, adopted on September 2, 2009, and by Ordinance No. 6PSF-A, adopted on November 18, 2013, and Ordinance No. 6S&FA, adopted on May 17, 2006 (collectively, the "General Improvement Ordinances"); and

WHEREAS, the Municipal Council of the City has previously adopted the following Ordinances, which authorized the issuance of school notes of the City: Ordinance No. 6S&FA, adopted on April 6, 2005, as amended by Ordinance No. 6S&FN, adopted on April 19, 2006, Ordinance No. 6S&FH, adopted on September 19, 2007, and by Ordinance No. 6PHS&FJ, adopted on June 4, 2008 (collectively, the "School Ordinances"); and

WHEREAS, the City intends to issue its General Improvement Notes in one or more series, and on a tax-exempt and/or taxable basis in an aggregate amount not to exceed \$51,864,000.00 (the "2014 General Improvement Notes") under the General Improvement Ordinances for the purpose of: (a) refunding a portion of the City's \$33,328,000.00 General Improvement Bond Anticipation Notes, Series 2013D, which were issued on December 11, 2013 to mature on June 26, 2014, and used to finance various general and capital improvements; (b) refunding the City's \$15,167,000.00 General Improvement Bond Anticipation Notes, Series 2013B, which were issued on June 27, 2013 and to mature on June 26, 2014, and used to finance various general and capital improvements; and (c) paying or reimbursing \$4,600,000.00 in costs of various additional general and capital improvements; and

WHEREAS, the City intends to issue School Promissory Notes in one or more series, and on a tax-exempt and/or taxable basis in an aggregate amount not to exceed \$5,150,000.00 (the "2014 School Promissory Notes", and together with the 2014 General Improvement Notes, the "Notes") under the School Ordinances for the purpose of refunding the City's \$5,150,000.00 School Promissory Notes, Series 2013C, which were issued on June 27, 2013 and to mature on June 26, 2014, and used to finance various school improvements; and

WHEREAS, on February 19, 2014, the Director of Finance received 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 solicitations; and

WHEREAS, the City presently intends to issue the 2014 General Improvement Notes and the 2014 School Promissory Notes, in the aggregate principal amount not to exceed \$57,014,000.00, on or about June 25, 2014; and

WHEREAS, all matters pertaining to the sale of the 2014 General Improvement Notes and the 2014 School Notes, have been delegated by the General Improvement Ordinances and the School Ordinances, 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 Contract") 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 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 Business Administrator, Acting Director of Finance or Chief Financial Officer may approve. The 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 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 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 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 Director of Finance or 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 General Improvement Ordinance or the School Ordinance to either the Acting Director of Finance or the Acting Chief Financial Officer may be performed by either of said officers. 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 Comptroller. 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 hereby 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 2014 General Improvement Notes and 2014 School Notes, in one or more series, and on a tax-exempt and/or taxable basis, in an aggregate amount not exceeding \$57,014,000.00.

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.

[SEAL]

ROBERT P. MARASCO, City Clerk

EXHIBIT A

PRELIMINARY OFFICIAL STATEMENT

EXHIBIT B

CONTINUING DISCLOSURE CERTIFICATE

EXHIBIT C

PURCHASE CONTRACT