Legislation Details (With Text)

File #:	18-0998	**Version:**	1	**Name:**	Ordinance - Lead Line Replacement Program Bonds
Type:	Ordinance			**Status:**	Adopted
File created:	6/19/2018			**In control:**	Finance
On agenda:	7/11/2018			**Final action:**	8/8/2018
Title:	AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR THE LEAD SERVICE LINE REPLACEMENT PROGRAM AND APPROPRIATING $75,000,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF $75,000,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME.				
Sponsors:	Council of the Whole				
Indexes:					
Code sections:					

Date	Ver.	Action By	Action	Result
8/8/2018	1	Municipal Council	Close on Public Hearing and Adopt	Pass
7/11/2018	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR THE LEAD SERVICE LINE REPLACEMENT PROGRAM AND APPROPRIATING $75,000,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF $75,000,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME.

WHEREAS, the Department of Water and Sewer Utilities of the City of Newark, with the assistance of CDM Smith, has heretofore prepared and filed with the New Jersey Infrastructure Bank (the “NJIB”) and the New Jersey Department of Environmental Protection (the “NJDEP”) a Planning Document for Environmental Decision Document pertaining to a Lead Service Line Replacement Program in the City of Newark (as the same may hereafter be modified or amended, the “Planning Document”), involving the replacement of full or partial lead service lines serviced by the City’s water distribution system; and

WHEREAS, the lead service lines connect to the City’s water distribution system, but are owned by the property owner; and

WHEREAS, the Planning Document contemplates that the lead service lines will be replaced in ten (10) phases over a projected 8-year period; and

WHEREAS, the City has filed an application with the NJIB and the NJDEP under the State Water Bank Financing Program for the financing of Phase I of the lead service line replacement program; and

WHEREAS, Senators Rice and Ruiz have sponsored and introduced legislation in the New Jersey Senate identified as Senate Bill 2695 and Assemblywomen Pintor, Marin and Tucker have

sponsored and introduced legislation in the New Jersey General Assembly identified as Assembly Bill 4120 (said legislation, together with any amended, similar or substitute legislation, the “Proposed Legislation”), authorizing, among other things, municipalities, including the City, to construct, reconstruct and finance the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into a privately-owned structure, in connection with a project undertaken for the purpose of replacing lead-contaminated service connections, regardless of possible private service connection ownership, so long as the project is (1) an environmental infrastructure project, as defined under section 3 of P.L.1985, c.334 (C.58:11B-3), and (2) funded either by loans from the NJIB or by loans issued through the NJDEP; and

WHEREAS, the United States Environmental Protection Agency (the “USEPA”) has adopted regulations to control lead and copper in drinking water and the NJDEP has directed the City to replace lead service lines in accordance with the USEPA’s lead and copper rule; and

WHEREAS, the City believes that the provision of clean, lead free drinking water to its residents is a public purpose beneficial to the City as a whole and any benefit to any private land owner in accomplishing this purpose in accordance with the Planning Document is incidental and subordinate to this primary public and governmental purpose.

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

Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the City of Newark, in the County of Essex, New Jersey (the "City"), as a general improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the amount of $75,000,000.00. No down payment is required hereunder as this ordinance involves an environmental infrastructure project to be funded by loans pursuant to the New Jersey Water Bank Financing Program.

Section 2. In order to finance the cost of the improvement or purpose not otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of $75,000,000.00 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for which the bonds or notes are to be issued is for the replacement of lead service lines in the City, from the water main in the street to the meter in the structure, and including all work and materials necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer; provided that, except as provided in N.J.S.A. 58:11B-9(e),

no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The notes shall be executed by the Chief Financial Officer and the Mayor of the City and shall be under the seal of the City and attested by the City Clerk. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Governing Body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the City Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. No part of the costs thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 30 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the Office of the City Clerk, and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by $75,000,000.00, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding $4,800,000.00 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose.

(e) The City reasonably expects to commence acquisition of the improvement or purpose described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes

authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law, and upon the Proposed Legislation being adopted and taking effect in accordance with laws of the State of New Jersey.

STATEMENT

Ordinance providing for the Lead Service Line Replacement Program and appropriating $75,000,000.00 therefore, and providing for the issuance of $75,000,000.00 in bonds or notes of the City of Newark to finance same.

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