



Legislation Text

File #: 19-0070, Version: 1

**Dept/ Agency:** Finance

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

**Purpose:** Confirming Bond Sale

**Amount to be Financed:** \$51,080,000.00

**Source of Appropriation:** Bonds

**Purchaser:** Competitive Bidding

**Project Information:**

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

**RESOLUTION OF THE CITY OF NEWARK PROVIDING FOR A SINGLE ISSUE OF QUALIFIED GENERAL OBLIGATION BONDS; AUTHORIZING THE SALE OF UP TO \$51,080,000.00 PRINCIPAL AMOUNT OF QUALIFIED GENERAL OBLIGATION BONDS (ECIA PROPERTY ACQUISITION), SERIES 2019; AUTHORIZING ADVERTISEMENT OF A NOTICE OF SALE; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SELL AND AWARD THE BONDS; DETERMINING THE FORM AND OTHER DETAILS OF THE BONDS; AND AUTHORIZING OTHER MATTERS RELATING THERETO**

**Additional Information:**

**WHEREAS**, the City of Newark, in the County of Essex, New Jersey (the "City") has adopted the Bond Ordinance listed on the attached Appendix A (the "Bond Ordinance") authorizing the issuance of bonds and/or bond anticipation notes of the City for the purpose of financing the acquisition of 16 properties from the Essex County Improvement Authority as described in the Bond Ordinance (the "Project") and paying costs of issuance related thereto; and

**WHEREAS**, the City has determined to permanently finance a portion of the costs of the Project undertaken pursuant to the Bond Ordinance through the issuance of not to exceed \$51,080,000.00 principal amount of general obligation bonds of the City; and

**WHEREAS**, the City has determined to finance on a short-term basis a portion of the costs of the Project through the issuance of not to exceed \$5,500,000.00 principal amount of general obligation bond anticipation notes of the City, such sale and issuance to be authorized by separate resolution to be adopted by the Municipal Council; and

**WHEREAS**, the City has determined to proceed with a competitive public sale of said bonds and notes for the purposes authorized in the Bond Ordinance.

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

1. Authorization of Sale of General Obligation Bonds. The principal amount of general obligation bonds authorized to be issued pursuant to the Bond Ordinance described in Appendix A

hereto are hereby authorized to be issued in an amount not to exceed \$51,080,000.00 Qualified General Obligation Bonds (ECIA Property Acquisition), Series 2019 (the "Bonds") and are authorized to be sold in accordance with the terms of this Resolution.

The Municipal Council delegates and authorizes the Director of Finance/Chief Financial Officer of the City the ability to adjust the principal amount of Bonds to be sold and issued and to reflect such adjustment in the Notice of Sale and Summary Notice of Sale prior to the publication thereof and in the maturity schedule contained in resolving clause 3 hereof and the Director of Finance/Chief Financial Officer is so authorized and directed to revise such documents to make such adjustment. Notwithstanding the above, no adjustment provided herein or as provided in the Notice of Sale shall cause the principal amount of the Bonds sold and issued to exceed \$55,500,000.00.

The period of usefulness for the general improvements financed by the Bonds, taking into consideration the amount of obligations presently authorized to be issued pursuant to the Bond Ordinance described in Appendix A hereto and the period of usefulness determined in the Bond Ordinance described in Appendix A hereto, is 30 years.

2. Public Sale of Bonds. The Bonds shall be issued and sold on a competitive basis at public sale in accordance with the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented. The Bonds have been qualified and are entitled to the benefits of the Municipal Qualified Bond Act, P.L. 1976, c.38, as amended.

3. Details of Bonds. The Bonds shall be dated their date of delivery, shall be issued in book-entry only form, shall bear interest from their date, payable semi-annually on May 1 and November 1 commencing May 1, 2019, at the rate or rates to be specified by the successful bidder, and shall mature on November 1, 2019 and on each November 1 thereafter in the annual principal amounts (subject to adjustment as provided herein) and in the years as set forth below:

QUALIFIED GENERAL OBLIGATION BONDS, SERIES 2018

<u>Year</u>	<u>Principal Amount</u>
2020	\$3,870,000
2021	3,360,000
2022	3,510,000
2023	3,675,000
2024	3,850,000
2025	4,030,000
2026	4,230,000
2027	4,440,000
2028	4,660,000
2029	4,900,000
2030	5,160,000
2031	5,395,000
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TOTAL	\$51,080,000

The Bonds shall contain such other terms and conditions as are specified in the Notice of Sale

approved in Section 5 hereof (the "Notice of Sale").

4. Redemption. The Bonds are NOT subject to redemption prior to maturity.

5. Approval of Notice of Sale. The Notice of Sale, containing other terms and provisions of the Bonds and setting forth the conditions of the sale thereof, all of which are hereby approved, shall be substantially in the form attached to this Resolution as Appendix B and made a part hereof, is hereby approved.

6. Approval of Summary Notice of Sale. The Summary Notice of Sale shall be substantially in the form attached to this Resolution as Appendix C and made a part hereof, and the Summary Notice of Sale is hereby approved.

7. Publication of Notice of Sale and Summary Notice of Sale. The Notice of Sale substantially in the form attached to this Resolution shall be published at least once in *The Star Ledger*, a newspaper published in the County of Essex and circulating in the City, and the Summary Notice of Sale substantially in the form attached to this Resolution shall be published at least once in *The Bond Buyer*, a newspaper published in the Borough of New York and State of New York, carrying municipal bond notices and devoted primarily to the subject of state and municipal bonds. The advertisement of said Notice of Sale and Summary Notice of Sale in each such newspaper shall be published not less than seven (7) days prior to the sale date for the Bonds.

8. Designation of Chief Financial Officer to Award Bonds; Delegation Regarding Postponement of Sale; Delegation to Chief Financial Officer to Adjust Maturity Schedule for Bonds. Proposals for the purchase of the Bonds shall be received by the Chief Financial Officer at such date and time as shall be determined by the Chief Financial Officer, as shall be provided in the Notice of Sale and the Summary Notice of Sale. The Municipal Council of the City hereby designates the Chief Financial Officer to sell and award the Bonds in accordance with this Resolution and the Notice of Sale. The Chief Financial Officer is hereby directed to report, in writing, to the Municipal Council at its first meeting after the sale of the Bonds as to the principal amount, interest rate and maturities of the Bonds sold, the price obtained and the name of the purchaser.

The Municipal Council is hereby delegating to the Chief Financial Officer the authority to postpone the public sale of the Bonds without re-advertisement in accordance with the provisions of the Notice of Sale. The public sale of the Bonds may not be postponed more than sixty (60) days without re-advertisement.

In accordance with N.J.S.A. 40A:2-26(g), it is hereby further delegated to the Chief Financial Officer the authority to adjust the maturity schedule for the Bonds at the times and in the amounts as provided in the Notice of Sale.

9. Authorization for Official Statement. The distribution by the City of a Preliminary Official Statement relating to the Bonds (a draft of which is attached hereto as Appendix D), which Preliminary Official Statement shall be filed with the records of the City, is hereby authorized in substantially the form attached hereto as Appendix D, 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 Rules 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 Bonds 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 Bonds, 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 Bonds is hereby authorized.

10. Approval of Form of Bonds. The form of the Bonds, substantially as set forth in Appendix E attached hereto and made a part hereof, is hereby approved. The Municipal Council directs that the Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor and/or his designee, the Chief Financial Officer and the seal of the City, or a facsimile impression thereof, shall be affixed to the Bonds and attested by the manual signature of the City Clerk.

11. Appointment of Securities Depository. The Depository Trust Company, New York, New York ("DTC"), shall act as securities depository for the Bonds. The ownership of one fully registered bond for each maturity of the Bonds, each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as nominee for DTC.

Pursuant to the book-entry only system, any person for whom a DTC Participant acquires an interest in the Bonds (the "Beneficial Owner") will not receive certificated Bonds and will not be the registered owner thereof. Ownership interests in the Bonds may be purchased by or through DTC Participants. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. Receipt by the Beneficial Owners (through any DTC Participant) of timely payment of principal, premium, if any, and interest on the Bonds, is subject to DTC making such payment to DTC Participants and such DTC Participants making payment to Beneficial Owners. Neither the City nor the Paying Agent will have any direct responsibility or obligation to such DTC Participants or the persons for whom they act as nominees for any failure of DTC to act or make any payment with respect to the Bonds.

The appropriate officers of the City are hereby authorized to execute a Letter of Representation to DTC and such other documents as may be necessary or desirable in connection with DTC's services as securities depository.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances, or if the City determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City shall designate a successor securities depository or shall deliver certificates to the beneficial owners of the Bonds registered in the names of the beneficial

owners thereof.

12. Paying Agent. The Municipal Council is hereby authorizing the Chief Financial Officer to select, approve and to enter into an agreement with a Paying Agent to ensure that the City can meet its obligations undertaken herein to the holders of the Bonds. The Chief Financial Officer shall select a Paying Agent upon any determination to cause the Bonds to be registered in the names of the beneficial owners thereof, as provided in resolving clause 11.

13. Tax Covenant. The Bonds will be issued as federally taxable obligations of the City. Interest on the Bonds and any gain from the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

14. Pledge of City. The full faith and credit of the City is hereby pledged for the payment of the principal of and interest on the Bonds. The Bonds shall be direct 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 principal of and interest on the Bonds without limitation as to rate or amount.

15. Continuing Disclosure. The form of the Continuing Disclosure Certificate in substantially the form attached hereto as Appendix F is hereby approved by the Municipal Council, and the Municipal Council authorizes the execution of the Continuing Disclosure Certificate by the Chief Financial Officer. 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 Bonds, 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 Bonds; however, any Bondholder 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.

16. ECIA Bonds. In connection with the delivery of the Bonds, the City shall deposit the proceeds of such Bonds 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. As such, the Director of Finance/Chief Financial Officer of the City is hereby authorized and directed 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 from the ECIA and to release the lien of the Lease between the City and the ECIA.

17. Further Action. The Director of Finance, Business Administrator and other designated officers of the City are hereby authorized and directed to take all actions as may be necessary to effectuate the terms of this Resolution, the Notice of Sale and the issuance and delivery of the Bonds.

**STATEMENT**

This resolution provides for a single issue of Qualified General Obligation Bonds; authorizing the sale of up to \$51,080,000.00 principal amount of Qualified General Obligation Bonds, Series 2019; authorizing advertisement of a notice of sale; authorizing the Chief Financial Officer to sell and award the bonds; determining the form and other details of the bonds; and authorizing other matters relating thereto.