



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

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File #: 20-0613, Version: 1

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**Dept/ Agency:** Finance

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

**Purpose:** Approving Form of Sale of City-Secured Bonds

**Amount to be Financed:** \$29,282,031.00

**Source of Appropriation:** Bond Anticipation Notes

**Purchaser:**

**Project Information:**

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

**RESOLUTION OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT IN CONNECTION WITH THE RENEWAL AND NEGOTIATED SALE OF SCHOOL PROMISSORY NOTES, SERIES 2020 OF THE CITY, APPROVING A CONTINUING DISCLOSURE CERTIFICATE AND NOTE PURCHASE AGREEMENT WITH RESPECT TO SAID NOTES, AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH.**

**Additional Information:**

**WHEREAS**, the City of Newark, in the County of Essex, New Jersey (the "City"), has heretofore issued on August 3, 2017, the principal amount of \$30,582,031.00, School Promissory Notes, Series 2017A that matured on August 2, 2018 (the "Original Notes"); and

**WHEREAS**, the Original Notes have been renewed from time to time including \$30,582,031.00 principal amount of School Promissory Notes issued July 30, 2019 and maturing July 29, 2020 (the "Prior Notes"); and

**WHEREAS**, the City's Director of Finance/Chief Financial Officer (the "CFO") and Business Administrator are desirous of issuing and selling School Promissory Notes, Series 2020, in the aggregate principal amount of not to exceed \$29,282,031.00 (the "Series 2020 Notes" or the "Notes") to refund the outstanding principal amount of Prior Notes (together with a budgetary appropriation of the City in the amount of \$1,300,000.00 for the required first paydown) 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, as defined below; and

**WHEREAS**, in anticipation of the issuance and sale of the Series 2020 Notes, the City expects to receive an offer to purchase the Series 2020 Notes from the underwriter (the "Underwriter") designated by the CFO upon such negotiated terms and conditions as set forth in a note purchase agreement (the "Note Purchase Agreement") by and between the City and the Underwriter, the form of which is 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 Agreement; and

**WHEREAS**, the City intends to issue the Series 2020 Notes on or about July 28, 2020; and

**WHEREAS**, in connection with the offering and sale of the Series 2018 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 2020 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 an ordinance entitled, "**BOND ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, ON BEHALF OF THE STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF NEWARK, PROVIDING FOR VARIOUS SCHOOL CAPITAL PROJECTS AND APPROPRIATING \$30,582,031.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$30,582,031.00 OF SCHOOL QUALIFIED BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE COSTS THEREOF**" heretofore adopted by the Municipal Council on May 17, 2017, approved and published as required by law (the "Ordinance") all other provisions for the sale and issuance of the Series 2020 Notes (including, without limitation, the aggregate principal amount, maturity date or dates and the interest rate or rates) shall be determined by the City's Director of Finance/Chief Financial Officer.

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

1. Confirmation of Intention to Issue School Promissory Notes. Pursuant to the provisions of the Ordinance, the Director of Finance/Chief Financial Officer is hereby authorized and directed to sell, issue, execute and deliver notes designated \$29,282,031.00 principal amount of School Promissory Notes, Series 2020 (the "Series 2020 Notes" or the "Notes") in accordance with this resolution. The Notes will be dated and shall mature within one (1) year from their issue date as shall be determined by the Director of Finance/Chief Financial Officer. The Notes may be renewed from time to time by the City in accordance with the provisions of the Local Bond Law (N.J.S.A. 40A:2-8.1). The Notes shall not be subject to redemption prior to maturity.

2. Authorization for Official Statement. The preparation by the City, and its Municipal Advisor, Public Financial Management ("PFM"), of a Preliminary Official Statement relating to the Series 2020 Notes (the "POS") is hereby authorized and the CFO of the City is hereby authorized and directed to approve the POS, with such insertions, deletions and changes therein and any supplements thereto as DeCotiis, FitzPatrick, Cole & Giblin, LLP, as Bond Counsel ("Bond Counsel") and PFM may advise the City and the Director of Finance/Chief Financial Officer executing the same may approve, such approval thereof 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 POS "final" within the meaning of the SEC Rule 15c 2-12 (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 to approve the contents and terms of the final Official Statement in respect of the aforementioned Series 2020 Notes in substantially the form of the POS. The Business Administrator or the Director of Finance/Chief Financial Officer are each hereby authorized to execute and deliver such final Official Statement on behalf of the City, in substantially such form of the POS, with such insertions, deletions and changes therein and any supplements thereto as Bond Counsel to the City and PFM 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 POS by the Underwriter in connection with the offering and sale of the Series 2020 Notes are hereby authorized by the City.

3. 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 A**. 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 2020 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 2020 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.

4. Form of Note. The form of the Series 2020 Note certificate substantially in the form attached hereto as **Exhibit B** is hereby approved. The Series 2020 certificate shall be executed in the name of the City by the Mayor and Chief Financial Officer and whose signatures will be attested to by the City Clerk and the seal of the City affixed thereto in accordance with the provisions of the Local Bond Law.

5. Tax Covenant. The City hereby covenants with the holders from time to time of the Series 2020 Notes that it will make no investment or other use of the proceeds of the Series 2020 Notes or take any further action (or refrain from taking such action) which would cause the Series 2020 Notes to be “arbitrage bonds” or “private activity bonds” within the meaning of the Internal Revenue Code of 1986, as amended, or under any similar statutory provision or any rule or regulation promulgated thereunder (the “Code”), or would cause interest on the Notes not to be excludable from gross income for federal income tax purposes, and that it will comply with the requirements of the Code and said regulations throughout the term of the Notes.

6. 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 Series 2020 Notes. The Series 2020 Notes shall be direct obligations of the City, and, unless paid from other sources, 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 Notes without limitation as to rate or amount.

7. Note Purchase Agreement. The Note Purchase Agreement 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, is hereby approved, and the execution of the Note Purchase Agreement by the Business Administrator and/or the Director of Finance/Chief Financial Officer is hereby authorized, which execution shall be conclusive evidence of the approval thereof. Following execution, the fully executed Note Purchase Agreement shall be filed with the City Clerk and the Underwriter.

8. Appointment of Underwriter. PFM is hereby authorized and directed to solicit proposals on behalf of the City to the investment community and the Chief Financial Officer is hereby

designated authorized and directed to select a proposal and designate an underwriter offering the best financial terms to the City accepted and for the purchase of the Series 2020 Notes.

9. Further Action. The terms and provisions of the Series 2020 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 as authorized by the Local Bond Law and the Ordinance heretofore adopted by the Municipal Council. The Mayor, the Business Administrator and the Director of Finance/Chief Financial Officer are 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 2020 Notes, including, but not limited to the execution of the Continuing Disclosure Certificate and the Note Purchase Agreement and closing certificates, documents and opinions in connection therewith.

10. Appointment of Municipal Advisor. Public Financial Management Financial Advisors, Inc., is hereby designated Municipal Advisor to the City in connection with the issuance and sale of the Series 2020 Notes.

11. Effectiveness. This resolution shall take effect immediately upon adoption.

### **STATEMENT**

Resolution authorizing the distribution of a Preliminary Official Statement and Final Official Statement, authorizing forms of the Series 2020 Notes, Note Purchase Agreement and Continuing Disclosure Certificate and related matters in connection with the issuance and sale of the Series 2020 Notes to refund a portion of the Prior Notes.