



Legislation Text

File #: 22-1192, Version: 1

Dept/ Agency: Finance

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

Purpose: Approving Form of Sale of City-Secured Bonds

Amount to be Financed: \$74,476,000.00

Source of Appropriation: Bond Anticipation Notes

Purchaser: Open Market

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 AND ISSUANCE OF GENERAL OBLIGATION NOTES, SERIES 2022, OF THE CITY OF NEWARK, APPROVING A CONTINUING DISCLOSURE CERTIFICATE AND NOTE PURCHASE CONTRACT WITH RESPECT TO SAID NOTES, AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH.

Additional Information:

Authorizing the sale of Notes to “roll-over” maturing Notes previously authorized.

WHEREAS, the City of Newark, in the County of Essex, New Jersey (the "City"), has heretofore issued on October 4, 2021, \$68,024,550.00 of its General Obligation Notes, Series 2021, consisting of \$4,040,000.00 Tax Appeal Refunding Notes, Series 2021D, \$53,884,550.00 General Capital Improvement Bond Anticipation Notes, Series 2021E, and \$10,140,000.00 Special Emergency Notes, Series 2021F (Federally Taxable), maturing October 5, 2021 (collectively, the “Prior Notes”); and

WHEREAS, the City’s Director of Finance/Chief Financial Officer is desirous of selling and issuing \$74,476,000.00 aggregate principal amount of the City’s General Obligation Notes, Series 2022, consisting of \$33,223,000.00 General Capital Improvement Bond Anticipation Notes, Series 2022C, \$31,628,000.00 General Capital Improvement Bond Anticipation Notes, Series 2022D, \$2,020,000.00 Tax Appeal Refunding Notes, Series 2022E, and \$7,605,000.00 Special Emergency Notes, Series 2022F (Federally Taxable) (collectively, the “Series 2022 Notes”) to refund, together with budgetary appropriations of the City, the Prior Notes and to provide \$12,564,450 in new money to fund certain capital projects authorized by a bond ordinance adopted June 22, 2021, all pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the “Local Bond Law”), the Local Budget Law, N.J.S.A. 40A:4-1 et seq. (the “Local Budget Law”), the Ordinances (as defined below) and this Resolution; and

WHEREAS, in anticipation of the issuance and sale of the Series 2022 Notes, the City expects to receive an offer to purchase the Series 2022 Notes from an 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 to this meeting and is on file in the Office of the City Clerk and incorporated herein by

reference, and the City wishes to approve the form and execution of the Note Purchase Contract; and

WHEREAS, the City intends to issue the Series 2022 Notes on or about September 30, 2022; and

WHEREAS, in connection with the offering and sale of the Series 2022 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 Series 2022 Notes, and the City shall 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, the Series 2022 Notes are authorized to be issued pursuant to the following ordinances of the City: (i) in the case of the General Capital Improvement Bond Anticipation Notes, Series 2022C, Bond Ordinance 6PSF-a(s) adopted by the Municipal Council on March 21, 2017 and Bond Ordinance 6PSF-b adopted by the Municipal Council on April 19, 2017, (ii) in the case of the General Capital Improvement Bond Anticipation Notes, Series 2022D, Bond Ordinance 6PSF-a(s) adopted by the Municipal Council on June 22, 2021, (iii) in the case of the Tax Appeal Refunding Notes, Series 2022E, Refunding Bond Ordinance 6PSF-c adopted by the Municipal Council on November 8, 2018; and (iv) in the case of the Special Emergency Notes, Series 2022F, Ordinance 6PSF-e adopted by the Municipal Council on August 5, 2020 (collectively, the "Ordinances"), approved and published as required by law. All other provisions for the issuance of the Series 2022 Notes (including, without limitation, the maturity dates and the interest rate or rates) not determined herein shall be determined by the Director of the Department of Finance/Chief Financial Officer.

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

Not less than a majority of the full membership of the Municipal Council thereof affirmatively concurring.

1. The Series 2022 Notes shall be designated as follows:
 - (a) \$33,223,000.00 General Capital Improvement Bond Anticipation Notes, Series 2022C (the "Series 2022C Notes");
 - (b) \$31,628,000.00 General Capital Improvement Bond Anticipation Notes, Series 2022D (the "Series 2022D Notes");
 - (c) \$2,020,000.00 Tax Appeal Refunding Notes, Series 2022E (the "Series 2022E Notes"); and
 - (d) \$7,605,000.00 Special Emergency Notes, Series 2022F (Federally Taxable) (the "Series 2022F Notes").

2. Authorization for Official Statement. The preparation by the City and its municipal advisor, NW Financial Group, LLC (the "Municipal Advisor"), of a Preliminary Official Statement relating to the Series 2022 Notes is hereby authorized. There is hereby delegated to the Director of Finance/Chief Financial Officer of the City the authorization to approve the form of a Preliminary Official Statement, with such insertions, deletions and changes therein and any supplements thereto as bond counsel to the City ("Bond Counsel") and the Municipal Advisor to the City may advise and recommend and the Director of the Department of Finance/Chief Financial Officer may approve, such

approval to be evidenced by such City officer's execution of the final Official Statement as described herein. The Business Administrator or the Director of the Department of Finance/Chief Financial Officer are each hereby authorized and directed to deem the Preliminary Official Statement (the "POS") "final" within the meaning of the Rule and to execute and deliver a certificate to that effect to the Underwriter. The Director of the Department of Finance/Chief Financial Officer is each hereby authorized and directed to approve the contents and terms of the final Official Statement reflecting the pricing, as applicable, of the Series 2022 Notes in substantially the form of the POS. The Director of the Department of Finance/Chief Financial Officer is hereby authorized to execute and deliver the 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 and the Municipal Advisor 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 POS by the Underwriter in connection with the offering and sale of the Series 2022 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 as Exhibit A and on file in the Office of the City Clerk and incorporated herein by reference, and the execution of the Continuing Disclosure Certificate by the Director of the Department 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 the Series 2022 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 2022 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. Note Purchase Contract. The form of the Note Purchase Contract with respect to the Series 2022 Notes, in substantially the form presented at this meeting as Exhibit B and on file in the Office of the City Clerk and incorporated herein by reference, with such changes as may be approved by the Director of Finance/Chief Financial Officer, upon the recommendations of Bond Counsel to the City and the City's Municipal 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 Acting City Clerk and the Underwriter.

5. Appointment of Underwriter. It is hereby delegated to the Director of the Department of Finance/Chief Financial Officer of the City the authority to solicit proposals from the investment banking community and to select an Underwriter who will purchase the Series 2022 Notes pursuant to the provisions of the Note Purchase Contract authorized herein. The Chief Financial Officer is also authorized and directed to negotiate and determine the compensation to the Underwriter, including fees and expenses and the underwriter counsel fee for the sale of the Series 2022 Notes. 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 Series 2022 Notes pursuant to this Resolution is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Series 2022 Notes sold, the price obtained and the name of the purchaser, and such report shall

be entered in full on the minutes of such meeting.

6. Sale and Issuance of all Series 2022 Notes. The sale and issuance of the Series 2022 Notes is hereby authorized and approved. The terms and provisions of the Series 2022 Notes (including, without limitation, registered or book-entry only form, the maturity dates, the interest rate or rates and redemption provisions and any revision or revisions to the principal amounts or series designations of the Series 2022 Notes) shall be determined by the Director of Finance/Chief Financial Officer of the City as authorized by the Local Bond Law, the Local Budget Law and the Ordinances heretofore adopted by the Municipal Council and this Resolution. The Mayor of the City of Newark, the Business Administrator, the Acting City Clerk and the Director of the Department 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 each series of the Series 2022 Notes, including, but not limited to the execution of the Continuing Disclosure Certificate, the Note Purchase Contract, and closing certificates, documents and opinions in connection therewith, in consultation with and upon the advice of Bond Counsel.

7. Tax Exemption. To the extent that one or more series of the Series 2022 Notes are issued as tax exempt obligations (which determination shall be made prior to sale), the City shall covenant in a Tax and Arbitrage Certificate that it will comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and that it will take no action or omit to take any action that would cause the interest on such series of Series 2022 Notes to lose its tax exemption under the Code. The Director of the Department of Finance/Chief Finance Officer of the City is hereby authorized and directed to execute and deliver the Tax and Arbitrage Certificate in connection with the issuance of the Series 2022 Notes.

8. Pledge of the City. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the Series 2022 Notes authorized by this Resolution. The Series 2022 Notes shall be direct, unlimited obligations of the City. The powers and obligations of the City to pay any Series 2022 Note issued pursuant to this Resolution shall be unlimited and the City shall have the power and be obligated to levy ad valorem taxes upon all taxable property within the City for the payment of such Series 2022 Notes and interest thereon, without limitation as to rate or amount.

9. Execution of Series 2022 Notes. All Series 2022 Notes issued pursuant to this Resolution shall be executed by the Chief Financial Officer and the Mayor of the City of Newark under the seal of the City and attested by the Acting City Clerk. Such officers are hereby authorized and directed to execute and deliver all documents necessary or convenient in connection with the issuance, sale and delivery of the Series 2022 Notes.

10. Effectiveness. This Resolution shall take effect immediately upon adoption.

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 2022 Notes.

