



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 23-0005, Version: 1

Dept/ Agency: Finance

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

Purpose: Confirming Bond Sale

Amount to be Financed: \$35,598,000.00

Source of Appropriation: Bonds

Purchaser: Open Market

Project Information:

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

RESOLUTION OF THE CITY OF NEWARK PROVIDING FOR A SINGLE AND COMBINED ISSUE OF QUALIFIED GENERAL CAPITAL IMPROVEMENT BONDS; AUTHORIZING THE SALE OF UP TO \$35,598,000.00 PRINCIPAL AMOUNT OF QUALIFIED GENERAL CAPITAL IMPROVEMENT BONDS, SERIES 2023; 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:

To permanently finance outstanding Bond Anticipation Notes.

WHEREAS, the City of Newark, in the County of Essex, New Jersey (the "City") has adopted the Bond Ordinances listed on the attached Appendix A (the "Bond Ordinances") authorizing the issuance of obligations of the City for the purpose of financing the various general capital improvement projects described in the Bond Ordinances; and

WHEREAS, the City has determined to permanently finance a portion of the costs of the projects undertaken, pursuant to the Bond Ordinance through the issuance of not to exceed Thirty-Five Million Five Hundred Ninety-Eight Thousand Dollars and Zero Cents (\$35,598,000.00) principal amount of general obligation bonds of the City; and

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

WHEREAS, in accordance with the Municipal Qualified Bond Act (N.J.S.A. 40A:3-1 et seq.), on December 14, 2022, the Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey approved the issuance of the bonds as "Qualified Bonds" under said Act.

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

1. Combination of Qualified General Capital Improvement Bonds, Series 2023; Authorization of Sale. The principal amount of bonds authorized to be issued pursuant to the

respective Bond Ordinances described in Appendix A hereto are hereby combined into a single and combined issue of general obligation bonds in the aggregate principal amount of up to Thirty-Five Million Five Hundred Ninety-Eight Thousand Dollars and Zero Cents (\$35,598,000.00) to be designated as “Qualified General Capital Improvement Bonds, Series 2023” (the “2023 Bonds”), and are authorized to be sold in accordance with the terms of this Resolution.

The average period of usefulness for the general improvements financed by the 2023 Bonds, taking into consideration the respective amounts of obligations presently authorized to be issued pursuant to the Bond Ordinance described in Appendix A hereto and the period or average period of usefulness determined in the Bond Ordinance described in Appendix A hereto, is 12.60783 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 on the date of its delivery, shall be issued in book-entry only form, shall bear interest from their date, payable semi-annually on February 15 and August 15 commencing August 15, 2023, at the rate or rates to be specified by the successful bidder, and shall mature on February 15, 2024 and on each February 15 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>
2024	\$2,255,000.00
2025	2,365,000.00
2026	2,480,000.00
2027	2,600,000.00
2028	2,725,000.00
2029	2,860,000.00
2030	2,995,000.00
2031	3,145,000.00
2032	3,295,000.00
2033	3,455,000.00
2034	3,625,000.00
2035	3,798,000.00
<u>TOTAL</u>	<u>\$35,598,000.00</u>

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 of Bonds.

(A) The Bonds maturing on or before February 15, 2030, are not subject to redemption prior to maturity.

(B) The Bonds maturing on or after February 15, 2031, are subject to redemption prior to maturity at the option of the City, as a whole or in part on any date on or after February 15, 2030, and if in part, such maturity or maturities, or portions thereof, as determined by the City shall be redeemed, at the redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest thereon to the date fixed for redemption.

Any Bond subject to redemption as aforesaid may be called in part, provided that the portion not called for redemption shall be in the principal amount of \$5,000.00 or any integral multiple of \$1,000.00 in excess thereof. If less than all of the Bonds of a particular maturity are to be redeemed, Bonds of that maturity shall be selected by The Depository Trust Company (or any successor thereto) or, if the Bonds are subsequently registered in the names of the beneficial owners thereof, by the City.

When any Bonds are to be redeemed, the City shall give notice of the redemption of the Bonds by mailing such notice by first class mail in a sealed envelope postage prepaid to the registered owners of any Bonds or portions thereof which are to be redeemed, at their respective addresses as they last appear on the registration books of the City, at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. Notice of redemption having been given as aforesaid, the Bonds, or portions thereof so to be redeemed, shall, on the date fixed for redemption, become due and payable at the redemption price specified therein plus accrued interest to the redemption date and, upon presentation and surrender thereof at the place specified in such notice, such Bonds, or portions thereof, shall be paid at the redemption price, plus accrued interest to the redemption date. On and after the redemption date (unless the City shall default in the payment of the redemption price and accrued interest), such Bonds shall no longer be considered as outstanding.

During any period in which The Depository Trust Company (or any successor thereto) shall act as securities depository for the Bonds, the notices referred to above shall be given only to such depository and not to the beneficial owners of the Bonds. Any failure of such depository to advise any of its participants or any failure of any participant to notify any beneficial owner of any notice of redemption shall not affect the validity of the redemption proceedings.

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 Newark Municipal Council 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.

There is hereby delegated 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), there 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 proper City officials and advisors are hereby authorized and directed to prepare and to distribute to the prospective purchasers of the Bonds a Preliminary Official Statement and a final Official Statement containing information relating to the City, its financial condition and the terms of the Bonds and other material facts customarily included in official statements for general obligation bonds in the State of New Jersey. There is hereby delegated the authority to and the Chief Financial Officer is hereby authorized to approve the Preliminary Official Statement and its distribution to the investment community in connection with the sale of the Bonds and the Chief Financial Officer is hereby authorized to "deem final" the Preliminary Official Statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The proper City officials and advisors are hereby authorized and directed to make revisions to the Preliminary Official Statement reflecting the sale of the Bonds and such Preliminary Official Statement as revised shall constitute the Final Official Statement. The distribution of the Final Official Statement to the purchaser of the Bonds by the City is hereby authorized.

10. Approval of Form of Bonds. The form of the Bonds, substantially as set forth in Appendix D attached hereto and made a part hereof, is hereby approved. The Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor and 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 Acting 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 Chief Financial Officer is hereby authorized 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 Section 11 hereof.

13. Tax Covenant. The City hereby covenants with the holders from time to time of the Bonds that it will make no investment or other use of the proceeds of the Bonds or take any further action (or refrain from taking such action) which would cause the Bonds to be "arbitrage 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 Bonds 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 Bonds.

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 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 E is hereby approved, and the execution of the Continuing Disclosure Certificate by the 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 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. Bonds to be Qualified Bonds. The Bonds shall be issued as “qualified bonds” under, and shall be entitled to the benefits of, the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 et seq., and the City shall comply in all respects with the Resolutions of the Local Finance Board adopted on December 14, 2022 in connection therewith. The City hereby acknowledges and recognizes that the provisos as contained in said Local Finance Board resolutions shall constitute binding obligations upon all officials of the City. The Chief Financial Officer of the City is hereby authorized and directed to certify to the State Treasurer the name and address of the Paying Agent, the maturity schedules, the interest rate(s) and the dates of payment of debt service on the Bonds within ten (10) days after the issuance of the Bonds.

17. Further Action. The Director of the Department of Finance, Business Administrator and other designated officers of the City are hereby authorized and directed to take all such action 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 and combined issue of Qualified General Capital Improvement Bonds and authorizing the sale of up to \$35,598,000.00 principal amount of Qualified General Capital Improvement Bonds, Series 2023; 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.