



Legislation Text

File #: RES 18-2052, **Version:** 1

Authorizing the issuance and direct placement of a Revenue Note (Trash Cart Project), Series 2018, to finance the acquisition of trash carts for use in the solid waste and recycling program of the City.

WHEREAS, under the provisions of Resolution 18-342, adopted on February 28, 2018; the City Council of the City: (i) granted preliminary approval to the issuance of trash cart revenue notes, in a principal amount of up to \$4,000,000, to fund the purchase and implementation of new trash carts and pay the costs of issuing such notes; (ii) authorized cash expenditures for such purposes from sources other than the proceeds of trash cart revenue notes; and (iii) declared the official intent of the City, for purposes of Treasury Regulations, Section 1.150-2, to reimburse such original cash expenditures with the proceeds of the trash cart revenue notes; and

WHEREAS, under the provisions of Resolution 18-114, adopted on April 25, 2018, the 2018 Recycling and Solid Waste Fund budget was amended to authorize the expenditure by the City of up to \$4,000,000 for the purchase of new wheeled, lidded trash carts (the "Trash Carts") for use in the City-wide solid waste and recycling program; and

WHEREAS, under Minnesota Statutes, Chapter 475, as amended (the "Municipal Debt Act"), the City is authorized to issue revenue obligations payable wholly from the income of revenue-producing conveniences to finance the purposes authorized by the Municipal Debt Act, including the means of garbage disposal and utility or other public convenience from which a revenue is or may be derived; and

WHEREAS, the Office of Financial Services has recommended that the City issue a Revenue Note (Trash Cart Project), Series 2018 (the "Series 2018 Note" or the "Note"), under the terms of the Municipal Debt Act, in the original aggregate principal amount not to exceed \$4,000,000, and apply the proceeds derived from the sale of the Series 2018 Note to: (i) the payment or reimbursement to the City of the costs of the acquisition and distribution of the Trash Carts; (ii) payment of the costs of issuing the Series 2018 Note; and (iii) other related costs authorized by the terms of the Municipal Debt Act; and

WHEREAS, the City has retained Ehlers & Associates, Inc. as its independent municipal advisor (the "Municipal Advisor") with respect to the issuance and sale of the Series 2018 Note; and

WHEREAS, in order to provide for the most efficient and cost-effective financing structure, the Office of Financial Services has recommended that the City sell the Series 2018 Note to Bremer Bank, National Association, a national banking association (the "Bank"), in a direct placement; and

WHEREAS, the Office of Financial Services has presented a proposal to delegate to a pricing committee (the "Pricing Committee") the authority to establish the terms and conditions of the Series 2018 Note with the Bank; and

WHEREAS, the Pricing Committee shall consist of the Director, Office of Financial Services or his designee, the City Treasurer or his designee, and a representative of the Municipal Advisor; and

WHEREAS, the Series 2018 Note is not secured by a pledge of the full faith and credit or taxing powers of the City, but is secured solely by a pledge of the solid waste and recycling fees paid by the residents of the City for the solid waste and recycling services provided by the City (the "Pledged Revenues");

WHEREAS, on February 22, 2017, the City issued its Revenue Note (Recycling Cart Project), Series 2017 (the "Series 2017 Note"), and sold the Series 2017 Note to the Bank; and

WHEREAS, the Series 2017 Note is secured by a pledge of the Pledged Revenues;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Saint Paul, Minnesota, as follows:

Section 1. Sale and Issuance of Series 2018 Note.

1.01. Issuance of Series 2018 Note. The Series 2018 Note is hereby authorized to be issued, sold, and delivered in a principal amount not to exceed \$4,000,000. The Series 2018 Note shall be issued as a special, limited obligation of the City and shall be payable solely from the Pledged Revenues pledged therefor under the terms of the Series 2018 Note and a Revenue and Pledge Agreement, dated on or after December 1, 2018 (the "Revenue Agreement"), between the City and the Bank. The Series 2018 Note shall be issued as a fixed-rate obligation. The Series 2018 Note shall be designated, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, shall be in such form, and shall have such other terms, details, and provisions as are prescribed in the Series 2018 Note and the Revenue Agreement (in the forms now on file with the City, with the amendments referenced herein). The Series 2018 Note is hereby authorized to be issued as a "tax-exempt obligation" the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. The Series 2018 Note is hereby authorized to be issued in accordance with the provisions of the Municipal Debt Act and under the terms of this resolution (the "Resolution") and the terms of the Revenue Agreement. The proceeds derived from the sale of the Series 2018 Note shall be applied to: (i) the payment or reimbursement to the City of the costs of the acquisition and distribution of the Trash Carts; (ii) payment of the costs of issuing the Series 2018 Note; and (iii) other related costs authorized by the terms of the Municipal Debt Act.

1.02. Sale of Series 2018 Note. It is hereby found and determined to be in the best interests of the City to issue and sell the Series 2018 Note to the Bank, subject to the approval of the Pricing Committee and compliance with the parameters set forth below. The Pricing Committee may approve the sale of the Series 2018 Note to the Bank on terms and at a purchase price within the following limitations: (a) the total original aggregate principal amount of the Series 2018 Note shall not exceed \$4,000,000; (b) the interest rate on the Series 2018 Note shall not exceed three-and-three-quarters percent (3.75%) per annum; and (c) the Series 2018 Note shall mature not later than five (5) years from its date of issuance.

1.03. Revenue Obligations Neither the Series 2018 Note, nor the interest thereon, shall constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation; nor shall the Series 2018 Note constitute or give rise to a pecuniary liability of the City, except from the Pledged Revenues. The Series 2018 Note shall not constitute a charge against any taxing powers of the City and the full faith and credit of the City is not pledged to the payment of the Series 2018 Note or the interest thereon.

1.04. Form of Series 2018 Note; Execution and Delivery. All of the provisions of the Series 2018 Note, when executed as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Series 2018 Note shall be substantially in the form on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the name of the Series 2018 Note, the aggregate principal amount of the Series 2018 Note, the stated maturity of the Series 2018 Note, the interest rate on the Series 2018 Note, and the terms of optional and mandatory redemption of the Series 2018 Note) as the Pricing Committee, in its discretion, shall determine. The execution of the Series 2018 Note with the manual or facsimile signatures of the Mayor or the Mayor's designee, the City Clerk or the City Clerk's designee, and the Director, Office of Financial Services or the Director's designee (collectively, the "City Officials"), and the delivery of the Series 2018 Note by the City

shall be conclusive evidence of such determination.

Section 2. Principal Documents.

2.01. Revenue Agreement. The City Officials are hereby authorized to execute and deliver the Revenue Agreement. The Revenue Agreement establishes the terms and conditions for the issuance, payment, and prepayment of the Series 2018 Note, and provides representations and warranties, affirmative covenants, and negative covenants of the City with respect to the Series 2018 Note. All of the provisions of the Revenue Agreement, when executed as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Revenue Agreement shall be substantially in the form now on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, or as the Director, Office of Financial Services, in his discretion, shall determine, and the execution and delivery thereof by the City Officials shall be conclusive evidence of such determination.

2.02. Creditor Agreement. The City Officials are hereby authorized to execute and deliver the Creditor Agreement, dated on or after December 1, 2018 (the "Creditor Agreement"), between the City, the Bank as owner of the Series 2018 Note, and the Bank, as owner of the Series 2017 Note. The Creditor Agreement: (i) authorizes the issuance of the Series 2018 Note as a parity obligation of the City with the Series 2017 Note; (ii) provides that the Series 2018 Note and the Series 2017 Note are equally secured by the Pledged Revenues; and (iii) under circumstances set forth in the Creditor Agreement, authorizes the issuance of additional parity obligations of the City to be equally secured by the Pledged Revenues. All of the provisions of the Creditor Agreement, when executed as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Creditor Agreement shall be substantially in the form now on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, or as the Director, Office of Financial Services, in his discretion, shall determine, and the execution and delivery thereof by the City Officials shall be conclusive evidence of such determination.

2.03. Execution and Delivery of Documents. It is hereby found, determined, and declared that: (i) the issuance and sale of the Series 2018 Note and the execution and delivery by the City of the Revenue Agreement and the Creditor Agreement, and the performance of all covenants and agreements of the City contained in the Series 2018 Note, the Revenue Agreement, and the Creditor Agreement (collectively, the "Documents"), and of all other acts and things required under the Constitution and laws of the State of Minnesota to make the Documents the valid and binding obligations of the City in accordance with their terms, are authorized by the Municipal Debt Act; and (ii) it is desirable that the Series 2018 Note be issued by the City and that the Documents be prepared and executed to facilitate that issuance on the general terms described herein.

2.04. Closing Documents. The City Officials are authorized and directed to prepare and furnish to the Bank and to Kennedy & Graven, Chartered, as bond counsel to the City ("Bond Counsel"), certified copies of proceedings and records of the City relating to issuance of the Series 2018 Note and the other transactions herein contemplated, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Series 2018 Note and the other transactions herein contemplated as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

2.05. Additional Documents. The approval hereby given includes authorization for the City Officials to negotiate and finalize the Documents and includes approval of, among other things, such related

instruments, contracts, and other documents as may be required to satisfy the conditions of the Bank, the parties to the Documents, and the City Attorney and Bond Counsel. The Director, Office of Financial Services is hereby further authorized to execute and deliver, on behalf of the City, all other certificates, instruments, and other written documents that may be requested by Bond Counsel, the Bank, or other persons or entities in connection with the issuance of the Series 2018 Note and the expenditure of the proceeds of the Series 2018 Note. Without imposing any limitations on the scope of the preceding sentence, the Director, Office of Financial Services is specifically authorized to execute and deliver an Information Return for Tax-Exempt Governmental Obligations, Form 8038-G with respect to the Series 2018 Note, a tax certificate as to arbitrage, rebate, and other federal tax matters executed and delivered in connection with the issuance of the Series 2018 Note, and all other instruments and documents necessary to accomplish the purposes for which the Series 2018 Note is to be issued. The preparation and filing of a Uniform Commercial Code financing statement with respect to the pledge of the Pledged Revenues and the collateral assignment of the Trash Carts under the terms of the Revenue Agreement, is hereby authorized. The City hereby authorizes Bond Counsel to prepare, execute, and deliver its approving legal opinion with respect to the Series 2018 Note

Section 3. Amendments to Documents. The authority to approve, execute, and deliver future amendments to the Documents and other financing documents entered into by the City in connection with the issuance of the Series 2018 Note and the other transactions herein contemplated, is hereby delegated to the Director, Office of Financial Services, subject to the following conditions: (i) such amendments do not require the consent of the holder of the Series 2018 Note, or if such consent is required it has been obtained; (ii) such amendments do not materially adversely affect the interests of the City as the issuer of the Series 2018 Note; (iii) such amendments do not contravene or violate any policy of the City; and (iv) such amendments are acceptable in form and substance to the City Attorney and Bond Counsel. The execution of any instrument by the Director, Office of Financial Services shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof.

Section 4. Limitations on Liability. No covenant, stipulation, obligation, or agreement contained herein or in the Documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council, or any officer, agent, or employee of the City in that persons individual capacity, and neither the City Council nor any officer executing the Series 2018 Note shall be liable personally on the Series 2018 Note or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 6. Severability. In case any one or more of the provisions of this Resolution, or of the aforementioned Documents, shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, or of the aforementioned Documents, but this Resolution and the aforementioned Documents shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

Section 7. Headings. Headings in this Resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.