



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Legislation Text

File #: 0661-22, **Version:** 1

Declaration of Official Intent with respect to Reimbursement of temporary advances made for Capital Expenditures to be made from subsequent borrowings, with respect to various Capital Improvement Projects of the Lexington-Fayette Urban County Government. [Dept. of Finance, Hensley] Authorization to approve the Reimbursement Resolution to allow approved spending of capital improvement bond projects which was Budgeted and approved in the FY2023 Budget. Projects include Mason Headley Road construction/improvements (\$1,372,000.00); High Street Road improvements (\$5,000,000.00); paving/ resurfacing/ maintenance/ crack seal/ rejuvenation (\$11,500,000.00); detention center roof repair and replacement (\$10,000,000.00); public art project (\$1,500,000.00); and PDR agricultural land easement acquisition (\$2,000,000.00). This is a supplemental Resolution to the previously approved Fleet Reimbursement Resolution (142-2022). (L0661-22) (Hensley)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by David Barberie, June 16, 2022

Risk Management: No

Fully Budgeted: Yes

Account Number: 1101-141401-1680-78401

This Fiscal Year Impact: \$4,600,000 in Debt Service

Annual Impact: \$4,600,000 yearly Debt Service for 10 years

Project:

Activity:

Budget Reference:

Current Balance:

WHEREAS, Treasury Regulation § 1.150-2 (the “Reimbursement Regulations”), issued pursuant to Section 150 of the Internal Revenue Code of 1986, as amended, (the “Code”) prescribes certain requirements by which proceeds of tax-exempt bonds, notes, certificates or other obligations included in the meaning of “bonds” under Section 150 of the Code (“Obligations”) used to reimburse advances made for Capital Expenditures (as hereinafter defined) paid before the issuance of such Obligations may be deemed “spent” for

purposes of Sections 103 and 141 to 150 of the Code and therefore, not further subject to any other requirements or restrictions under those sections of the Code; and

WHEREAS, such Reimbursement Regulations require that an Issuer (as hereinafter defined) make a Declaration of Official Intent (as hereinafter defined) to reimburse any Capital Expenditure encumbered prior to the issuance of the Obligations intended to fund such Capital Expenditure and require that such Declaration of Official Intent be made no later than sixty (60) days after procurement of the Capital Expenditure and further require that any Reimbursement Allocation (as hereinafter defined) of the proceeds of such Obligations to reimburse such Capital Expenditures occur no later than eighteen (18) months after the later of the date the Capital Expenditure was paid or the date the property acquired with the Capital Expenditure was placed in service, except that any such Reimbursement Allocation must be made no later than three years after such Capital Expenditure was paid; and

WHEREAS, the Lexington-Fayette Urban County Government (the “Issuer”) wishes to ensure compliance with the Reimbursement Regulations;

NOW, THEREFORE, be it resolved by the Lexington-Fayette Urban County Council (the “Urban County Council”) of the Issuer that:

SECTION 1. Definitions.

The following definitions apply to the terms used herein:

“Allocation” means written evidence that proceeds of Obligations issued subsequent to the procurement of a Capital Expenditure are to reimburse the Issuer for such payments. “To allocate” means to make such an allocation.

“Capital Expenditure” means any expense for an item that is properly depreciable or amortizable or is otherwise treated as a capital expenditure for purposes of the Code, as well as any costs of issuing Reimbursement Bonds.

“Declaration of Official Intent” means a written declaration that the Issuer intends to fund Capital Expenditures with an issue of Reimbursement Bonds and reasonably expects to be reimbursed from the proceeds of such an issue.

“Issuer” means a governmental unit that is reasonably expected to issue the Obligations.

“Reimbursement” means the restoration to the Issuer of money temporarily advanced from other funds, including moneys borrowed from other sources, of the Issuer to pay for Capital Expenditures before the issuance of Obligations intended to fund such Capital Expenditures. “To reimburse” means to make such a restoration.

“Reimbursement Bonds” means Obligations that are issued to reimburse the Issuer for Capital Expenditures, and for certain other expenses permitted by the Reimbursement Regulations, previously paid by or for the Issuer.

“Reimbursement Regulations” means Treasury Regulation § 150-2 and any amendments thereto or superseding regulations, whether in proposed, temporary or final form, as applicable, prescribing conditions under which the proceeds of Obligations may be allocated to reimburse the Issuer for Capital Expenditures and

certain other expenses paid prior to the issuance of the Obligations such that the proceeds of such Obligations will be treated as “spent” for purposes of Sections 103 and 141 to 150 of the Code.

SECTION 2. Declaration of Official Intent.

(a) The Issuer declares that it reasonably expects that the Capital Expenditures described in Section (b), which were encumbered no earlier than sixty (60) days prior to the date hereof, or which will be paid prior to the issuance of any Obligations intended to fund such Capital Expenditures, will be reimbursed with the proceeds of Obligations, representing a borrowing by the Issuer in the maximum principal amount, for such Reimbursement, of not to exceed \$31,372,000.00

(b) The Capital Expenditures to be reimbursed are expenses associated with various capital improvement projects of the Lexington-Fayette Urban County Government, identified on *Exhibit A* attached hereto.

SECTION 3. Reasonable Expectations.

The Issuer does not expect any other funds (including the money advanced to make the Capital Expenditures that are to be reimbursed), to be reserved, allocated on a long-term basis, or otherwise set aside by the Issuer or any other entity, with respect to the Capital Expenditures for the purposes described in Section 2 (b).

SECTION 4. Open Meeting.

It is found and determined that all formal actions of this Urban County Council of the Issuer concerning and relating to the adoption of this resolution were adopted in an open meeting of this Urban County Council of the Issuer; and that all deliberations of this Urban County Council of the Issuer and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SECTION 5. Effective Date of Resolution.

This Resolution shall become effective immediately upon the date of its passage.

[Remainder of page intentionally left blank]

GIVEN FIRST READING at a duly convened meeting of the Urban County Council of Lexington-Fayette Urban County Government on the ____ day of _____, 2022.

GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of the Urban County Council of Lexington-Fayette Urban County Government on the ____ day of _____, 2022.

Approved:
LEXINGTON-FAYETTE URBAN COUNTY

GOVERNMENT

_____ By:
Linda Gorton Mayor

ATTEST:

Abigail Allan Clerk Urban County Council

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of a Resolution duly enacted by the Council of Lexington-Fayette Urban County Government at a duly convened meeting held on the ____ day of _____, 2022, on the same occasion signed by the Mayor is evidence of her approval, and now in full force and effect, all as appears from the official records of Lexington-Fayette Urban County Government in my possession and under my control.

Witness my signature as of the ____ day of _____, 2022.

Abigail Allan Clerk Urban County Council

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

John C. Merchant

EXHIBIT A

PROJECT DESCRIPTION

Project Description	Amount
Mason Headley Road Construction / Improvements	\$ 1,372,000
High Street Road Improvements	5,000,000
Paving / Resurfacing / Maintenance / Crack Seal / Rejuvenation	11,500,000
Detention Center Roof Repair and Replacement	10,000,000
Public Art Project	1,500,000
PDR Agricultural Land Easement Acquisition	2,000,000
Total	\$31,372,000