



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Legislation Text

File #: 0663-19, **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 sewer construction projects of the Lexington-Fayette Urban County Government. [Div. of Finance, O'Mara]

Authorization for a Reimbursement Resolution to allow approved spending on the attached list of Capital Improvement Sewer revenue Bond Projects which was Budgeted and approved in the FY2020 Budget. This Resolution provides a mechanism for the projects to move forward prior to the sale of the bonds. Expenses incurred by the Bond Projects will be paid from the Sewer Fund. Upon the sale of the bonds later this fiscal year, the Sewer Fund will be reimbursed. The practice of approval of a reimbursement Resolution is consistent with prior practice and is a generally accepted mechanism in the accounting community. The anticipated debt service is \$960,000 for FY 2020. The annual debt service in following years is \$3,800,000. (L0663-19)(O'Mara)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: Yes, Completed by Dave Barberie, June 10, 2019

Risk Management: N/A

Fully Budgeted [select]: Yes

Account Number: 4002-141401-1680-78401

This Fiscal Year Impact: \$960,000.00

Annual Impact: \$

Project:

Activity:

Budget Reference:

Current Balance: \$1,420,000.00

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 \$33,550,000.00

(b) The Capital Expenditures to be reimbursed are expenses associated with various sewer construction 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.