



# Lexington-Fayette Urban County Government

200 E. Main St  
Lexington, KY 40507

## Legislation Text

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File #: 0887-15, Version: 2

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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. [Council Office, Maynard]

**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 \$27,294,280.00.

(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.

**GIVEN FIRST READING** at a duly convened meeting of the Urban County Council of Lexington-Fayette Urban County Government on the \_\_\_\_ day of \_\_\_\_\_, 2015.

**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 \_\_\_\_\_, 2015.

Approved:

**LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT**

By:

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Urban County Council Clerk

**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 \_\_\_\_\_, 2015, 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 \_\_\_\_\_, 2015.

\_\_\_\_\_  
Urban County Council Clerk

[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.

**PECK, SHAFFER & WILLIAMS, a division of Dinsmore and Shohl LLP**

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John C. Merchant

### EXHIBIT A

#### PROJECT DESCRIPTION

<u>Project Description</u>	<u>Amount</u>
Budgeting Enterprise System	\$1,000,000
Public Safety Operations Center	172,210
Purchase of Development Rights	1,150,000
Morton House improvement	180,000
New Tax Revenue System	50,000
Information Security and Network Infrastructure	1,000,000
On Base Enhancement	100,000
PeopleSoft Security and Upgrades	500,000
Collaboration Tool	100,000
Salt Facility Design	125,000
Sidewalk and Catch Basin Repair MOW	150,000
Asphalt Preventative Maintenance	211,150
High Friction Asphalt	100,000
Base Failures	250,000
Paving	6,900,000
Major Arterial Paving	2,400,000
Mercer Road Re-build	150,000
Public Safety Operations Center	2,757,970
Install New Sirens	30,000
Upgrade Outdoor Warning System	60,000
Public Safety Operations Center Radio Tower	1,548,700

Virtual Desktop Interface	90,250
Jail Management System Upgrade	1,500,000
Paddock Property	350,000
Divisional Infrastructure Repairs and Upgrades	500,000
Courthouse Campus Main Waterline Valve	200,000
Downtown Arts Center Renovation	15,000
Arts Place General Repair	150,000
General Flooring Replacements	100,000
Black and Williams Center Windows	150,000
Police West Roll Call Exterior	30,000
Downtown Arts Center Boiler	10,000
Police HQ HVAC Liebert	150,000
Carnegie Center WHAPs Replacement	15,000
Infrastructure Improvements	250,000
Environmental Remediation	500,000
Arts Place Roof Repair	200,000
Black and Williams Center Roof	125,000
Family Care Center Roof	30,000
Carver Center Parking	244,000
Ecton Tennis Courts	150,000
Sports Complex Study	50,000
ADA Compliance	75,000
Parks Enhancements	90,000
Wolf Run Ball Field Fence Replacement	50,000
Highlands Trail	130,000
MLK Restroom	200,000
Lansdowne Merrick Restroom	200,000
Woodland Playground Renovation	125,000
Veterans Playground Construction	125,000
Masterson Station Picnic Shelter - Rental	75,000
Southland Tennis Court	100,000
Castlewood Community Center Renovation Design	50,000
Bell House Environmental Remediation	50,000
Mary Todd and Ecton Dugout Replacements	80,000
Valley Park Skate Pad	50,000
Parks Master Plan	250,000
Brighton Rail Trail Bridge	150,000
Southland Drive Sidewalks	250,000

Euclid Avenue Streetscape	350,000
People's Bank Relocation	150,000
Bluegrass Community & Technical College	<u>1,000,000</u>
Total CIP	<u>\$27,294,280</u>

**EXHIBIT A**  
**PROJECT DESCRIPTION**

Software Systems	\$4,340,250.00
Safety Operation Center, Safety Projects	4,568,880.00
Road Resurfacing, Maintenance, Upgrades, Street Scapes	10,761,150.00
Building Renovation and Repairs, Upgrades	3,205,000.00
Parks Projects - Renovations, Repairs and Upgrades	2,269,000.00
Bluegrass Community & Technical College	1,000,000.00
PDR	<u>1,150,000.00</u>
TOTAL	<u>\$27,294,280.00</u>