



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Legislation Text

File #: 0694-18, 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, O'Mara]

Authorization to execute a reimbursement resolution to allow approved spending on the attached list of Capital Improvement bond projects which was budgeted and approved in the FY 2019 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 General Fund. Upon the sale of the bonds later this fiscal year, the General Fund will be reimbursed. The estimated cost of debt service for bond projects in the FY 2019 budget will be \$470,000 in FY 19. In future years, that cost is estimated to be \$2,760,000 for twenty years. (0694-18) (O'Mara)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: { Select Yes, Completed by [Attorney Name, Date]}

Risk Management: {Select Yes/No, Completed by [Official, Date]}

Fully Budgeted [select]: Yes

Account Number: 1101-141401-1680-78401

This Fiscal Year Impact: \$470,000

Annual Impact: \$2,760,000

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 \$24,978,500.00.

(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 _____, 2018.

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 _____, 2018.

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 _____, 2018, 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 _____, 2018.

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.

DINSMORE & SHOHL LLP

John C. Merchant

EXHIBIT A

PROJECT DESCRIPTION

Project Description	Amount
Facilities	\$ 1,000,000
Fleet	1,000,000
Parks Projects	2,619,500
PUP Continuation	225,000
Fire Infrastructure Improvements	1,000,000
Fire Roofs & Aprons	330,000
Paving (includes Pavement Management Study)	12,000,000
Corrections Hot H2O Plumbing	359,000
Street Sweeper	300,000
Police Vehicles	2,500,000
Fire Tower Trucks	2,460,000
Fire Light Fleet	325,000
Corridors	300,000
Sidewalks Old Todds Road from Woodhill to Palumbo	<u>560,000</u>
Total	<u>\$24,978,500</u>