RESOLUTION NO. 2016-29612

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING DECLARATIONS OF OFFICIAL INTENT UNDER U.S. TREASURY REGULATIONS WITH RESPECT TO REIMBURSEMENTS FROM BOND, NOTE AND OTHER OBLIGATION PROCEEDS OF TEMPORARY ADVANCES MADE FOR PAYMENTS PRIOR TO ISSUANCE, AND RELATED MATTERS.

WHEREAS, United States Treasury Regulations §1.150-2 (the "Reimbursement Regulations") prescribe conditions under which proceeds of bonds, notes or other obligations ("Bonds") used to reimburse advances made for capital and certain other expenditures ("Original Expenditures") paid before the issuance of such Bonds will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), upon such reimbursement so that the proceeds so used will no longer be subject to requirements or restrictions under those sections of the Code; and

WHEREAS, certain provisions of the Reimbursement Regulations require that there be a Declaration of Official Intent not later than 60 days following payment of the Original Expenditures expected to be reimbursed from proceeds of Bonds, and that the reimbursement occur within certain prescribed time periods after an Original Expenditure is paid or after the property resulting from that Original Expenditure is placed in service; and

WHEREAS, the Mayor and City Commission of the City of Miami Beach, Florida (the "City") wishes to take steps to comply with the Reimbursement Regulations;

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

Section 1. Definitions. The following definitions apply to the terms used herein:

"Authorized Officer" means the City Manager of the City, the Chief Financial Officer of the City or in the absence of both, the Treasury and Debt Manager of the City.

"Declaration of Official Intent" means a declaration of intent, in the form, manner and time contemplated in the Reimbursement Regulations, that the advances for expenditures referred to therein are reasonably expected to be reimbursed from the proceeds of Bonds to be issued after those expenditures are paid.

"Reimbursement" or "reimburse" means the restoration to the City of money temporarily advanced from its own funds and spent for Original Expenditures before the issuance of the Bonds, evidenced in writing by an allocation on the books and records of the City that shows the use of the proceeds of the Bonds to restore the money advanced for the Original Expenditures.

"Reimbursement" or "reimburse" generally does not include the refunding or retiring of Bonds previously issued and sold to, or borrowings from, unrelated entities.

Section 2. Authorization and Requirement of Declarations of Official Intent. Each Authorized Officer is authorized to prepare and sign Declarations of Official Intent in substantially the form attached with respect to Original Expenditures to which the Reimbursement Regulations apply, to be made from money temporarily advanced and that is reasonably expected to be reimbursed (in accordance with applicable authorizations, policies and practices) from the proceeds of Bonds, to make appropriate reimbursement and timely allocations from the proceeds of the Bonds to reimburse such Original Expenditures, and to take any other actions as may be appropriate, all at the times and in the manner required under the Reimbursement Regulations in order for the reimbursement to be treated as an expenditure of such proceeds for purposes of Sections 103 and 141 to 150 of the Code. No advance from any fund or account or order for payment may be made for Original Expenditures (other than expenditures excepted from such requirement under the Reimbursement Regulations) that are to be reimbursed subsequently from proceeds of Bonds unless a Declaration of Official Intent with respect thereto is made within the time required by the Reimbursement Regulations.

Section 3. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 19 day of October, 2016.

Mayor

(Seal)

Attest:

10/27/16

City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

9/28/16

City Attorney Date

DECLARATION OF OFFICIAL INTENT

For Reimbursement of Expenditures from Bonds/Notes

This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Code").

1. The undersigned, on behalf of the City of Miami Beach, Florida (the "City") declares that the City reasonably expects that the capital and other expenditures described in paragraph 2 (the "Project") will be reimbursed with the proceeds of "bonds" (as defined in Section 150 of the Code). The maximum principal amount of bonds expected to be issued for the Project is $_____.

2. Description of capital and other expenditures to be reimbursed. ***[Complete either the first option or the second option but do not use the second option unless the functional purpose of the fund or account is generally descriptive of the purpose of the expenditures.]***

   Expenditures for (insert a general functional description of property, project, program or purpose):

   _____

   _____

   [OR]

   Expenditures initially made from and to be reimbursed to the fund or account entitled _____, the general functional purpose of which fund or account is _____

The undersigned has been authorized by the City to make and sign this Declaration on behalf of the City.

Date of Declaration:

_____, 20__

CITY OF MIAMI BEACH, FLORIDA

By _____
(Signature)

_____
(Type or print Name and Title)

Caution: This Declaration of Official Intent will not be effective unless the bonds providing moneys for the reimbursement are issued and the reimbursement for the Project described above is made (by an allocation on the books and records identifying the expenditures as in paragraph 2 above) within the applicable period prescribed in the Treasury Regulations – generally, 18 months after the later of the date of the expenditure or the date the Project is placed in service, but in no event later than three years after the date of the expenditure.

INSTRUCTIONS
for
DECLARATION OF OFFICIAL INTENT
for
Reimbursement From Tax-Exempt Bonds/Notes

PURPOSE

The form to which these instructions pertain is intended for use under Treasury Regulations §1.150-2 (the "Reimbursement Regulations") in order that capital and certain other expenditures paid with moneys temporarily advanced from other funds that are reasonably expected to be reimbursed from proceeds of subsequently issued notes, bonds or other obligations ("Bonds") may qualify for such reimbursement. Failure to comply can result in the inability for federal income tax purposes to treat proceeds of the Bonds used to reimburse the expenditures as spent for arbitrage/rebate purposes. With certain exceptions for qualified "preliminary expenditures" and certain de minimis expenditures, a Declaration of Official Intent must be made not later than 60 days after payment of any expenditure expected to be reimbursed from proceeds of Bonds. Declarations of Official Intent should not be made systematically for all expenditures or in exaggerated amounts regardless of actual expectations, but only when it is realistically expected that the expenditure will be reimbursed from the proceeds of Bonds. In general only capital expenditures can be reimbursed from the proceeds of Bonds. "Capital expenditures" include (subject to any more restrictive state law) any costs related to the acquisition or construction of land or interests in real estate, buildings, structures, additions thereto, or other permanent improvements, and restoration or betterments made to increase the value of property or substantially prolong its useful life, and machinery, equipment, furniture and fixtures or other property having a useful life of at least one year or such longer period as is required by applicable state law. Costs of issuance of the Bonds are capital expenditures. Certain other expenditures also qualify for reimbursement. The Regulations do not apply to, and this form is not needed in connection with, the use of proceeds of Bonds to finance expenditures paid on or after the date of issuance of the Bonds. This form also generally is not needed in connection with the issuance of Bonds to refinance external borrowings (taxable or tax-exempt).

INSTRUCTIONS

These instructions are based on the Reimbursement Regulations currently in effect. The references are to the particular paragraphs on the form of Declaration of Official Intent.

Paragraph 1. Insert the anticipated maximum principal amount of Bonds expected to be issued for the Project. The amount should include the maximum principal amount of all Bonds to be issued for the Project (i.e., Bonds for reimbursement of prior expenditures and Bonds to finance expenditures to be paid on or after the date of issuance of the Bonds). A Project includes any property, project, or program (e.g., highway capital improvement program, hospital equipment acquisition, or school building renovation).

Paragraph 2. The general description of the capital expenditures to be reimbursed may be set forth in one of two ways -- either by a functional description of the property, project or program for which the expenditures are made --

> Examples -- "highway capital improvement program"; "street and bridge improvements"; "hospital equipment acquisition"; "school buildings renovation";

or by identification of the fund or account from which the money will be advanced to pay the expenditures that will be reimbursed subsequently from Bonds, and a statement of the general functional purpose of that fund or account --

Example -- "parks and recreation fund, the general functional purpose of which fund or account is recreational facility capital improvement program."

The second option concerning identification and description of the fund can be used where the fund purpose, in effect, describes the generic purpose of the project, property or program, such as a waterworks improvement for which money is advanced from the water utility capital improvement fund. If the money is to be advanced from a general purpose fund such as the general fund or a capital improvements fund that is available for any type of capital improvement, use the first option by stating the generic function of the project, property or improvement.

501(c) Organizations. If the proceeds of the Bonds will be loaned to a 501(c)(3) organization, either the 501(c)(3) organization or the issuer of the Bonds may make the Declaration with respect to expenditures of the 501(c)(3) organization that are to be reimbursed.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: October 19, 2016

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING DECLARATIONS OF OFFICIAL INTENT UNDER U.S. TREASURY REGULATIONS WITH RESPECT TO REIMBURSEMENTS FROM BOND, NOTE AND OTHER OBLIGATION PROCEEDS OF TEMPORARY ADVANCES MADE FOR PAYMENTS PRIOR TO ISSUANCE, AND RELATED MATTERS.

RECOMMENDATION

Adopt the Resolution.

ANALYSIS

This Resolution is intended for use under Treasury Regulations §1.150-2 (the "Reimbursement Regulations") in order that capital and certain other expenditures paid with moneys temporarily advanced from other funds that are reasonably expected to be reimbursed from proceeds of subsequently issued notes, bonds or other obligations ("Bonds") may qualify for such reimbursement. Failure to comply can result in the inability for federal income tax purposes to treat proceeds of the Bonds used to reimburse the expenditures as spent for arbitrage/rebate purposes. With certain exceptions for qualified "preliminary expenditures" and certain de minimis expenditures, a Declaration of Official Intent must be made not later than 60 days after payment of any expenditure expected to be reimbursed from proceeds of Bonds. Declarations of Official Intent should not be made systematically for all expenditures or in exaggerated amounts regardless of actual expectations, but only when it is realistically expected that the expenditure will be reimbursed from the proceeds of Bonds. In general only capital expenditures can be reimbursed from the proceeds of Bonds. "Capital expenditures" include (subject to any more restrictive state law) any costs related to the acquisition or construction of land or interests in real estate, buildings, structures, additions thereto, or other permanent improvements, and restoration or betterments made to increase the value of property or substantially prolong its useful life, and machinery, equipment, furniture and fixtures or other property having a useful life of at least one year or such longer period as is required by applicable state law. Costs of issuance of the Bonds are capital expenditures. Certain other expenditures also qualify for reimbursement. The Regulations do not apply to, and this Resolution is not needed in connection with, the use of proceeds of Bonds to finance expenditures paid on or after the date of issuance of the Bonds. This Resolution also generally is not needed in connection with the issuance of Bonds to refinance external borrowings

(taxable or tax-exempt).

An Authorized Officer is authorized to prepare and sign a Declaration of Official Intent in the form attached to this resolution with respect to the expenditures to which the reimbursement regulations apply to be made from money temporarily advanced and that is reasonable expected to be reimbursed from the proceeds of the bonds. The Authorized Officers are defined in the resolution as the City Manager, the Chief Financial Officer, or in the absence of both, the Treasury Manager.

CONCLUSION

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, adopt the attached resolution authorizing declarations of official intent under U.S. Treasury Regulations with respect to reimbursements from bond, note and other obligation proceeds of temporary advances made for payments prior to issuance, and related matters.

KEY INTENDED OUTCOMES SUPPORTED

Ensure Expenditure Trends Are Sustainable Over The Long Term

FINANCIAL INFORMATION

This Resolution does not have any financial impact. It only requires a Declaration of Intent to reimburse the City from future "bonds" for expenditures made prior to the issuance of those bonds.

Legislative Tracking

Finance

ATTACHMENTS:

Description

- Finance - Oct. 2016 Resolution

DECLARATION OF OFFICIAL INTENT

For Reimbursement of Expenditures from Bonds/Notes

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1. The undersigned, on behalf of the City of Miami Beach, Florida (the "City") declares that the City reasonably expects that the capital and other expenditures described in paragraph 2 (the "Project") will be reimbursed with the proceeds of "bonds" (as defined in Section 150 of the Code). The maximum principal amount of bonds expected to be issued for the Project is $_____.

2. Description of capital and other expenditures to be reimbursed. ***[Complete <u>either</u> the first option or the second option but do not use the second option unless the functional purpose of the fund or account is generally descriptive of the purpose of the expenditures.]***

   Expenditures for (insert a general functional description of property, project, program or purpose):

   _____

   _____

   [OR]

   Expenditures initially made from and to be reimbursed to the fund or account entitled _____, the general functional purpose of which fund or account is _____

The undersigned has been authorized by the City to make and sign this Declaration on behalf of the City.

Date of Declaration:

_____, 20__

CITY OF MIAMI BEACH, FLORIDA

By _____
(Signature)

_____
(Type or print Name and Title)

<u>Caution</u>: This Declaration of Official Intent will not be effective <u>unless</u> the bonds providing moneys for the reimbursement are issued <u>and</u> the <u>reimbursement</u> <u>for</u> the <u>Project described above is made</u> (by an allocation on the books and records identifying the expenditures as in paragraph 2 above) within the applicable period prescribed in the Treasury Regulations – generally, 18 months after the later of the date of the expenditure or the date the Project is placed in service, but in no event later than three years after the date of the expenditure.

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> Examples -- "highway capital improvement program"; "street and bridge improvements"; "hospital equipment acquisition"; "school buildings renovation";

or by identification of the fund or account from which the money will be advanced to pay the expenditures that will be reimbursed subsequently from Bonds, and a statement of the general functional purpose of that fund or account --

Example -- "parks and recreation fund, the general functional purpose of which fund or account is recreational facility capital improvement program."

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