

The City Council of the City of Erlanger (the “City”), met in regular session at 7:00 P.M. on the 5th day of December, 2023, in the Council Chambers located at the Erlanger Municipal Building in Erlanger, Kentucky, with the following members present:

Councilmember: \_\_\_\_\_ moved the adoption of the following resolution:

## **RESOLUTION**

### **DECLARATION OF OFFICIAL INTENT WITH RESPECT TO REIMBURSEMENT OF TEMPORARY ADVANCES MADE FOR CAPITAL EXPENDITURES TO BE MADE FROM SUBSEQUENT BORROWINGS.**

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” in Section 150 of the Code (“Obligations”) used to reimburse advances made for Capital Expenditures (as hereinafter defined) paid before the issuance of such Obligations are deemed “spent” for purposes of Sections 103 and 141 to 150 of the Code and the further subject to any other requirements or restrictions under those sections of the Code; and

WHEREAS, such Reimbursement Regulations require that the Issuer (as hereinafter defined) make a Declaration of Official Intent (as hereinafter defined) to reimburse any Capital Expenditure paid 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 payment 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 City Council of the City wishes to ensure compliance with the Reimbursement Regulations;

NOW, THEREFORE, be it resolved by the City Council of the City:

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

“Allocation” means written evidence that proceeds of Obligations issued subsequent to the payment of a Capital Expenditure are to reimburse the City 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 City 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 either a governmental unit (including the City) that is reasonably expected to issue Obligations, or any governmental entity or 501(c)(3) organization that is reasonably expected to borrow funds from the actual issuer of the Obligations.

“Reimbursement” means the restoration to the City of money temporarily advanced from other funds, including moneys borrowed from other sources, of the City 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 City for Capital Expenditures, and for certain other expenses permitted by Reimbursement Regulations, previously paid by or for the Township.

“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 City 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 City declares that it reasonably expects that the Capital Expenditures described in Section (b), which were paid 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 City in the maximum principal amount, for such Reimbursements, of \$3,000,000; and

(b) the Capital Expenditures to be reimbursed are to be used to pay for public infrastructure improvements related to the development of the Circleport project including the following (with estimated costs for each category listed): (1) excavation and clearing- \$2,475,000, (2) landscaping - \$200,000, (3)

professional fees - \$250,000, and (4) permitting and inspection and other - \$75,000.

**Section 3. Reasonable Expectations.** Other than the funds to be derived by the sale of the Obligations, no funds will be reserved, allocated on a long-term basis, or otherwise set aside by the City or any other entity, with respect to the Capital Expenditures for the project described in Section 2(b).

**Section 4. Terms of Obligations.** This resolution is preliminary in nature to comply with the Reimbursement Regulations. The City is not committed to issue the Obligations unless and until its approves the terms of the Obligations which will be evidenced by the legislation authorizing such Obligations and the various documents, certificates and agreements related to the issuance thereof. In addition, the City is under no obligation to advance funds to pay for the Capital Expenditures, except from the proceeds of the Obligations, and will have no obligation to pay debt service on the Obligations, except from the incremental revenues produced by the Circleport development, and no public funds will be used for such debt service.

**Section 5. Effective Date.** This resolution shall take effect immediately upon its adoption.

**INTRODUCTION AND VOTE RECORD:** Councilmember \_\_\_\_\_ introduced the foregoing resolution and moved its adoption. Councilmember \_\_\_\_\_ seconded the motion. The roll being called by the City Clerk upon the question of adoption of the resolution, the vote resulted as follows:

Adopted at the meeting of the Erlanger City Council this 5<sup>th</sup> day of December, 2023.

\_\_\_\_\_  
Mayor

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City Clerk

**AUTHENTICATION**

This is to certify that this resolution was duly adopted by the City Council this 5<sup>th</sup> day of December, 2023.

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City Clerk