

TEMPORARY ORDINANCE NO. 9-12

PERMANENT ORDINANCE NO. 9-12

AN ORDINANCE AUTHORIZING DECLARATIONS OF OFFICIAL INTENT UNDER U.S. TREASURY REGULATIONS WITH RESPECT TO REIMBURSEMENTS FROM OBLIGATION PROCEEDS OF TEMPORARY ADVANCES MADE FOR PAYMENTS PRIOR TO ISSUANCE, AND RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, United States Treasury Regulations §1.150-2 (the "Reimbursement Regulations") prescribe conditions under which proceeds of bonds, notes or other obligations ("Obligations") used to reimburse advances made for capital and certain other expenditures ("Original Expenditures") paid before the issuance of such Obligations will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141 through 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 Obligations, 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, this Council wishes to take steps to comply with the Reimbursement Regulations;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lancaster, Fairfield County, Ohio (the "City"), that:

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

"Auditor" means the Auditor of the City.

"Authorized Officer" means the Auditor or any person designated for the purpose by the Auditor.

"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 Obligations to be issued after those expenditures are paid.

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

“Reimbursement” or “reimburse” generally does not include the refunding or retiring of Obligations 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 Obligations, to make appropriate reimbursement and timely allocations from the proceeds of the Obligations to reimburse such prior 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 Obligations unless a Declaration of Official Intent with respect thereto is made within the time required by the Reimbursement Regulation.

SECTION 3. Open Meeting. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance, and that all deliberations of this Council and any of its committees that resulted in such formal action, were taken in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. Emergency. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to permit the reimbursement from the sale of Bonds of moneys already spent on projects; wherefore this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: 9/10/12 after 2nd reading. Vote: Yeas 8 Nays 0

Date Approved: 9/10/12

Clerk: Jessica Lee Sandy

Kenney J. O'Connell  
President of Council

Jeffrey H. Holt  
Mayor

The foregoing is a true and correct copy of Ordinance     -12 as adopted by the Council of the City of Lancaster, Ohio at its meeting on                     , 2012.

Offered by: Rudolph Brown

Second by: Joseph H. Hales

Requested by Finance Committee