

**ORDINANCE 2023 – 7**

**DELEGATING AUTHORITY TO MAKE DECLARATIONS OF OFFICIAL INTENT AND ALLOCATIONS WITH RESPECT TO REIMBURSEMENTS OF TEMPORARY ADVANCES DURING FISCAL YEAR 2023 MADE FOR CAPITAL IMPROVEMENTS FOR ROAD AND UTILITY IMPROVEMENTS 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" 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 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 Reimbursement Regulations provide that an Issuer may delegate the authority for making such Declarations of Official Intent and Allocations to one or more individuals; and

WHEREAS, this Council wishes to ensure compliance with the Reimbursement Regulations; and

WHEREAS, Council intends to enter into a Sewer Agreement (the "Agreement") with Western Row Land Development Inc. (the "Developer") relating to the construction of road and utility improvements for the Western Row development in Mason (the "Project"); and

WHEREAS, the City has committed to construct certain public sanitary sewer infrastructure improvements and to assess the benefitted properties for the cost of those improvements;

NOW, THEREFORE, be it ordained by the City Council of the City of Mason, Warren County, Ohio (the "City"):

**SECTION 1. Definitions.** That 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.

"Authorized Officer" means City Manager or Finance Director of the City and any persons with authority at the time to exercise functions of those offices.

"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 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 the Reimbursement Regulations, previously paid by or for the City.

"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 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 or other governmental issuer in the maximum principal amount, for such Reimbursements, of \$1,000,000; and

(b) The Capital Expenditures made in fiscal year 2023 to be reimbursed are to be used for the construction of public infrastructure utility improvements and related costs for the Wester Row Project in the City.

**SECTION 3. Reasonable Expectations.** The City 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 City 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 Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

Councilmember Mark Haake seconded the ordinance, and the roll being called upon its passage, the vote resulted as follows: 5-0.

PASSED this 9<sup>th</sup> day of January, 2023.

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Mayor

Attest:

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Clerk of Council

**DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

The undersigned has been authorized by Ordinance No. 2023-\_\_\_\_\_ adopted by the City Council of the City of Mason, Warren County, on \_\_\_\_\_, 2023, to make this declaration.

The City is, or will be, proceeding with the improvements to the Western Row Project (the "Project"). In connection with the Project, the City expects to make capital expenditures in the amount set forth below and expects to advance from its own funds money to pay for some or all of such capital expenditures.

The City reasonably expects to issue its notes or bonds to pay for such capital expenditures, and reasonably expects to reimburse itself from the proceeds of such issue for moneys advanced by it.

| <u>Project</u> | <u>Estimated Capital Expenditures</u> |
|----------------|---------------------------------------|
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**CITY OF MASON, WARREN  
COUNTY, OHIO**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 2023