

RESOLUTION NO. 32 - 2004

RESOLUTION DELEGATING AUTHORITY TO MAKE DECLARATIONS OF OFFICIAL INTENT AND ALLOCATIONS WITH RESPECT TO REIMBURSEMENTS OF TEMPORARY ADVANCES MADE FOR CAPITAL EXPENDITURES FOR CAPITAL IMPROVEMENTS IN THE TOWNSHIP 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 Board wishes to ensure compliance with the Reimbursement Regulations.

NOW THEREFORE, BE IT RESOLVED that the West Chester Township Board of Trustees does hereby agree to:

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 Township for such payments. "To allocate" means to make such an allocation.

"Authorized Officer" means the Township Administrator or the Clerk of the Township 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 Township 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 Township of money temporarily advanced from other funds, including moneys borrowed from other sources, of the Township 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 Township for Capital Expenditures, and for certain other expenses permitted by the 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 Township 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. Authorization to Make of Declarations of Official Intent and Allocations. Each Authorized Officer is hereby authorized to make Declarations of Official Intent, which satisfy the Reimbursement Regulations, on behalf of the Township, with respect to Capital Expenditures for Capital Improvements, in the Township to be paid from moneys temporarily available that are reasonably expected to be reimbursed (in accordance with applicable authorizations, policies and practices) from the proceeds of Reimbursement Bonds and to make timely Allocations, which satisfy the Reimbursement Regulations, of the proceeds of such Reimbursement Bonds to reimburse prior Capital Expenditures, and to take or cause to be taken any other actions that may be appropriate to satisfy the requirements of the Reimbursement Regulations, or any other Treasury Regulations, so that proceeds used for reimbursement will be treated as “spent” on the prior Capital Expenditures for purposes of Sections 103 and 141 to 150 of the Code. All Declarations of Official Intent and Allocations heretofore made on behalf of the Township are hereby ratified and adopted.

SECTION 3. Open Meeting. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were adopted in an open meeting of this Board; and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

Adopted this 8th day of June, 2004.

Catherine Stoker YES
Catherine Stoker, President Yes / No
Jose Alvarez Yes
Jose Alvarez, Vice President Yes / No
George Lang YES
George Lang, Trustee Yes / No

ATTEST:

Patricia Williams
Patricia Williams, Township Clerk

APPROVED AS TO FORM:

Donald L. Crain
Donald L. Crain, Law Director

CERTIFICATE OF PUBLICATION

May 25, 2004

Date

First Reading

Date

June 8, 2004

Date

Emergency Reading

Second Reading

June 14, 2004 Journal News

Date and Newspaper

June 17, 2004 Pulse Journal

First Publication
(After Approval)

June 21, 2004 Journal News

Date and Newspaper

June 24, 2004 Pulse Journal

Second Publication
(After Approval)

Patricia Williams, 11/4/04

Clerk Signature & Date

Certificate of Publication