

RESOLUTION 114-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA DECLARING THE COMMISSION'S OFFICIAL INTENT TO SEEK REIMBURSEMENT FOR CERTAIN PAST AND FUTURE CAPITAL EXPENDITURES FOR CAPITAL PROJECTS RELATING TO THE CITY'S COMBINED PUBLIC UTILITY SYSTEM FROM THE PROCEEDS OF ITS NOT TO EXCEED \$150,000,000 WATER AND SEWER REVENUE BONDS ISSUED FROM TIME TO TIME; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach, Florida (the "Commission") has and will authorize various capital projects to be constructed or acquired for the use and benefit of the combined public utility system (the "System") owned and operated by the City of Delray Beach, Florida (the "City") (herein, "Projects"); and

WHEREAS, the City proposes to issue debt obligations in one or more series (the "Bonds") to finance all or a portion of the costs of the Projects; and

WHEREAS, it is intended by the City that the interest on the Bonds will be excludable from gross income for federal income tax purposes; and

WHEREAS, the City has incurred or will incur certain preliminary expenditures ("Preliminary Expenditures") not exceeding 20% of the anticipated par amount of Bonds relating to the Projects; and

WHEREAS, the City has also incurred and anticipates that it will incur certain capital expenditures ("Capital Expenditures") relating to the Projects prior to the closing of the Bonds; and

WHEREAS, such Preliminary Expenditures and Capital Expenditures for a portion of the Projects were paid or will initially be paid from available revenues from the operation of the System prior to its intended reimbursement from the proceeds of the Bonds; and

WHEREAS, the Internal Revenue Code of 1986, as amended and applicable regulations (the "Regulations") require the City to declare its official intent in connection with incurring certain Capital Expenditures in connection with the Projects prior to the issuance of the Bonds in order to allow the City to be reimbursed for such expenditures from a portion of the proceeds of the Bonds; and

WHEREAS, it is intended by the Commission that this Resolution constitutes such official intent with respect to the reimbursement of the certain Capital Expenditures incurred or to be incurred prior to the closing of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1: The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2: The statements contained in this Resolution with respect to the reimbursement of the Preliminary Expenditures and Capital Expenditures referred to in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Section 1.150-2(e) of the Regulations.

Section 3: The expenditures to be reimbursed pursuant to this Resolution will be incurred prior and subsequent to the date hereof and prior to the closing of the Bonds of the related series in connection with the Projects.

Section 4: The maximum principal amount of the portion of the Bonds that may be issued for the Projects is approximately \$150,000,000. The Bonds are to be secured by the City's pledge of its net revenues and other charges of the System.

Section 5: The City reasonably expects to reimburse the expenditures contemplated under this Resolution with a portion of the proceeds of the Bonds of the City subsequent to the date hereof, and no funds from sources other than the "reimbursement bond issue" (as such term has the meaning assigned to it under the Regulations) portion of the Bonds are, or are reasonably expected to be reserved, allocated on a long term basis, or otherwise set aside by the City pursuant to the City's budget or financial policies to pay for such expenditures.

Section 6: The City will, upon receipt of the proceeds of the Bonds of each series (or within 30 days thereof), allocate in writing the amount of proceeds of such Bonds (i.e., the reimbursement bond issue) used to reimburse the prior Preliminary Expenditures and Capital Expenditures incurred in connection with the Projects (herein, the "Prior Expenditures"). Such allocation will be accomplished within the later of 18 months from the earliest date such Prior Expenditures were incurred or the date the particular Project is placed in service (but in no event later than 5 years after the first Prior Expenditures were made).

Section 7: This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney