



Legislation Text

File #: RES 21-849, **Version:** 1

Requesting adoption of an ordinance; authorizing staff to take certain actions with respect to the EAB Project; and declaring the official intent of the City to reimburse certain original expenditures related to the capital project from the proceeds of tax-exempt bonds to be issued by the Port Authority.

WHEREAS, U.S. Treasury Regulations, Section 1.150-2 (the "Reimbursement Regulations"), promulgated pursuant to Section 150 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the allocation of the proceeds of tax-exempt bonds to expenditures for governmental purposes originally paid from a source other than such tax-exempt bonds will be treated as expenditures of such tax-exempt bonds only if certain requirements of the Reimbursement Regulations are satisfied by the issuer of such tax-exempt bonds; and

WHEREAS, the Port Authority of the City of Saint Paul (the "Port Authority"), in partnership with the City of Saint Paul (the "City"), expects to pay certain original capital expenditures for items such as, but not limited to, the replacement of approximately 13,000 ash trees on public boulevards in the City due to an infestation of the Emerald Ash Borer ("EAB") (collectively, the "EAB Project"), which original expenditures are expected to be financed temporarily from other temporary sources, and which original expenditures are expected to be reimbursed from the proceeds of one or more series of tax-exempt bonds; and

WHEREAS, the Port Authority and the City (i) are jointly working on the EAB Project that will be memorialized in a joint powers agreement to be negotiated by and entered into between the City and the Port Authority, and (ii) propose to finance the EAB Project through the Port Authority's issuance of one or more series of tax-exempt or taxable bonds that are a general obligation of the City (the "EAB Bonds").

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Saint Paul, Minnesota, as follows:

1. The Port Authority has requested that the City adopt an ordinance with respect to the EAB Bonds that pledges the full faith and credit of the City to the payment of the EAB Bonds. The City is having the first reading of such ordinance on the date hereof.

2. City staff is hereby authorized to (i) negotiate a joint powers agreement with the Port Authority that will relate to the EAB Project and the issuance of the EAB Bonds and administration of the EAB Project and such joint powers agreement will be brought back to this City Council for final approval, and (ii) while working in conjunction with Port Authority staff, the other necessary actions which may be determined necessary to finance the EAB Project and issue the EAB Bonds.

3. The City has a reasonable expectation (within the meaning of Treasury Regulations, Section 1.148-1(b)) that it will make expenditures for the EAB Project in the years 2021 through 2024. The City has a reasonable expectation that the Port Authority will issue one or more series of tax-exempt bonds (the "Bonds") in the estimated maximum principal amount of \$18,000,000 to finance the EAB Project and that the Port Authority and the City will make reimbursement allocations with respect to such original expenditures for the EAB Project from the proceeds of such Bonds for expenses the City or the Port Authority may incur with respect to the EAB Project.

4. This Resolution shall be maintained as part of the books and records of the City at the main administrative office of the City, and after adoption shall be continuously available during normal business hours of the City on every business day of the period beginning not more than thirty (30) days of this

Resolution and ending on the last date of issue of any Bonds.

5. This Resolution has been adopted not later than sixty (60) days after payment of any original expenditure for the EAB Project to be subject to a reimbursement allocation with respect to the proceeds of the Bonds.

6. All reimbursement allocations with respect to the Bonds will be made not later than eighteen (18) months after the later of: (i) the date the original expenditure is paid; or (ii) the date the EAB Project is placed in service or abandoned, but in no event more than three (3) years after an original expenditure is paid for the EAB Project. If the Bonds are eligible for the small issuer exception from arbitrage rebate, the "18-month" limitation above is extended to "three years" and the "three-year" maximum reimbursement period is disregarded.

7. This Resolution is an expression of the reasonable expectations of the City based on the facts and circumstances known to the City as of the date hereof. The anticipated original expenditures for the EAB Project are consistent with the City's budgetary and financial circumstances. No sources other than proceeds of Bonds to be issued by the Port Authority are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside pursuant to the City's budget or financial policies to pay such expenditures for the EAB Project.

8. This Resolution is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations.

9. No reimbursement allocation of the proceeds of the Bonds to expenditures for the EAB Project will employ an abusive arbitrage device (within the meaning of Treasury Regulations, Section 1.148-10) to avoid the arbitrage restrictions or to avoid the restrictions of Sections 141 through 150 of the Code.