

City of St. Charles, Illinois
Resolution No. 2012- _____

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**A Resolution Approving a Bond Record-Keeping Policy for the
City of St. Charles, Kane and DuPage Counties, Illinois**

**Presented & Passed by the
City Council on _____**

WHEREAS, the City of St. Charles, Kane and DuPage Counties, Illinois (the "City"), has issued and is expected to continue to issue bonds or other obligations (collectively, the "Tax Exempt Obligations") the interest on which is excludable from gross income for federal income tax purposes; and

WHEREAS, the City may at some time in the future issue bonds or other obligations, other than Tax Exempt Obligations, that enable the issuer or holder to receive federal tax benefits, including, but not limited to, qualified tax credit bonds and specified tax credit bonds (the "Tax-Advantaged Bonds" and, collectively with the Tax Exempt Obligations, the "Obligations");

WHEREAS, incidental to its issuance of the Obligations, the City has covenanted or will covenant, generally to take all action necessary to comply with applicable federal tax rules and regulations relating to such Obligations, including covenants (i) necessary to preserve the excludability of interest on the Tax Exempt Obligations from gross income for federal income taxation purposes, (ii) pertaining to the entitlement of the City to receive direct payments from the United States Treasury of applicable percentages of interest due and owing on the Tax-Advantaged Bonds, and (iii) necessary to preserve the entitlement of the holders of certain Tax-Advantaged Bonds to credits against income tax liability, respectively; and

WHEREAS, it is necessary and in the best interest of the City to maintain sufficient records to demonstrate compliance with such covenants and to adopt policies with respect thereto:

Title Bond Record-Keeping Policy
Policy # 2012-
Approval Date October 15, 2012
Revision Date



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I. Introduction

The City of St. Charles has issued and is expected to continue to issue bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes and the City may at some time in the future issue bonds or other obligations, other than Tax Exempt Obligations, that enable the issuer or holder to receive federal tax benefits (collectively referred to as “Obligations”). Incidental to its issuance of these Obligations, the City has a contractual obligation to take all action necessary to comply with applicable federal tax rules and regulations relating to the Obligations and to preserve the excludability of interest on the Tax Exempt Obligations from gross income for federal income taxation purposes or qualify for other tax advantaged benefits applicable to the Obligations. Because of this contractual obligation, it is necessary and in the best interest of the City to maintain sufficient records to demonstrate compliance with Federal tax regulations as they pertain to the Obligations.

II. Compliance Officer Is Responsible for Records

The Finance Director of the City (the “Compliance Officer”) is hereby designated as the keeper of the records of the City with respect to the Obligations, and shall report to the City Council at least annually that he or she has all of the required records in his or her possession, or is taking appropriate action to obtain or recover such records.

III. Closing Transcripts

For each issue of the Obligations, the Compliance Officer shall receive and maintain, a true, correct and complete counterpart of each and every document and agreement delivered in connection with the issuance of the Obligations, including:

- the proceedings of the City and the Council authorizing the Obligations;
- any offering document with respect to the offer and sale of the Obligations;
- any legal opinions with respect to the Obligations delivered by any lawyers;
- all written representations of any person delivered in connection with the issuance and initial sale of the Obligations.

IV. Arbitrage Rebate Liability

On an annual basis, the Compliance Officer shall prepare a report for each issue of Obligations detailing any arbitrage liability that the City may have with respect to any of the Obligations. Additionally, the report shall include any relevant exemptions if it is determined that there is no arbitrage liability. The Compliance Officer is expressly authorized, without further City Council action, to hire outside, independent counsel to assist in the review.

V. Recommended Records

The Compliance Officer shall review the records related to each issue of the Obligations and shall determine what requirements the City must meet in order to maintain the tax exemption of interest paid on the Tax Exempt Obligations and any tax advantaged benefits pertaining to other Obligations of the City. The Compliance Officer shall then prepare a list of the contracts, requisitions, invoices, receipts and other information that may be needed in order to establish compliance with those requirements. Notwithstanding any other policy of the City, such records shall be kept for as long as the Obligations, or any Obligations issued to refund the original Obligations are outstanding, plus three years, and shall at least include:

- copies of the bond transcripts from the original issue of the Obligations;
- copies of account statements showing the disbursements of all bond proceeds for their intended purposes;
- copies of account statements showing all investment activity of any and all accounts in which the proceeds of any issue of Obligations has been held;
- copies of all bid requests and bid responses used in the acquisition of any special investments related to the Obligations in order to establish that such investments were purchased at fair market value;
- copies of any subscriptions to the U.S. Treasury for the purchase of State and Local Government Series (SLGS) obligations;

- copies of all Federal Information Reporting Forms;
- any calculations related to arbitrage liability for any of the Obligations (including calculations that no such liability is due, and any documentation evidencing payment of any arbitrage liability);
- copies of all contracts of the City, including any leases, with respect to the use of any property owned by the City and acquired or financed with the proceeds of the Obligations;
- copies of all records relating to any required compliance with federal prevailing wage standards for projects financed with the proceeds of Tax Advantaged Bonds.

VI. Allocations of Obligation Proceeds to Expenditures

The Compliance Officer shall compile an allocation of all spent proceeds of the Obligations and earnings thereon to particular expenditures. The Compliance Officer may change the allocations of proceeds periodically as allowed by federal law. Allocations may include allocations to expenditures made prior to the issuance of the Obligations. After the expenditure of all proceeds of an Obligation, the Compliance Officer will maintain a final allocation of proceeds to expenditures and maintain this final allocation with other records of the Obligation.

VII. List of Financed Facilities

The Compliance Officer shall, on the basis of the then operative allocation of Obligation proceeds to expenditures, compile a list of Obligation financed facilities including a complete description of such facilities including the location of such facilities, the expected useful life of such facilities, the expected or actual placed in service date of such facilities, the cost of such facilities, and the amount of Obligation proceeds spent for such facilities. If any such facilities become worn out, destroyed, obsolete or otherwise no longer useable by the City, the list shall so indicate. If any such facility is disposed of, the list shall include the date it was disposed of, the manner of disposal, the sale price if sold and the person to whom the facility was disposed. Any such disposal shall be recorded within 30 days of the date the Compliance Officer learns of any such disposal. The Compliance Officer acknowledges that tax covenants with respect to the Obligations may require that any such disposal be followed by a remedial action.

VIII. Contracts Related to Obligation Financed Facilities

The Compliance Officer shall obtain and keep copies of all contracts that may provide for the use of Obligation financed facilities and prepare a listing of such contracts. The Compliance Officer shall cause such contracts to be reviewed either by staff of the District or by an outside consultant to determine if such contracts violate any tax covenants made with respect to the Obligations.

IX. Remedial Actions

The Compliance Officer acknowledges that if private use (including use in an unrelated trade or business) exceeds the limits related to each issue of the Obligations, a remedial action may be required in accordance with the United States Treasury Regulations. The Compliance Officer shall (with the aid of staff and outside consultants and counsel) determine if such remedial actions are either warranted or possible. The Compliance Officer shall prepare or cause to be prepared a memorandum describing any such remedial action or proposed remedial action. The memorandum shall describe whether such remedial action will serve to cure any particular private use concerns. If any actions are required by the District for such remedial action, the memorandum shall include a full description of such required actions. A copy of any such memorandum shall be given to the Council. Following any such remedial action, the Compliance Officer shall prepare a report describing the effect of such remedial action.

X. Voluntary Closing Agreement Program

The Compliance Officer acknowledges that if private use exceeds relevant limits and a remedial action is not undertaken or is not possible or if another violation of the tax covenants of the City occurs, then the District may be required to enter into a Voluntary Closing Agreement with the Internal Revenue Service ("IRS"). The Compliance Officer shall prepare or cause to be prepared a memorandum describing any proposed application for a Voluntary Closing Agreement or proposed Voluntary Closing Agreement. If any actions are required by the City for such Voluntary Closing Agreement application, the memorandum shall include a full description of such required actions. The District may retain counsel to attempt to obtain a Voluntary Closing Agreement. Following the execution of any such Voluntary Closing Agreement, the Compliance Officer shall prepare a report describing the effect of such Voluntary Closing Agreement.

XI. IRS Examination

In the event the IRS commences an examination of any Obligations, the Compliance Officer, in cooperation with the City's general counsel, is expressly authorized, without further official action of the Council, to respond to inquiries of the IRS and to hire outside, independent professional counsel to assist in the response to the examination. The Compliance Officer or the City's general counsel shall advise the Council of any such examination when, as and in such manner as the Compliance Officer may deem appropriate, it being hereby expressly agreed and understood that the Compliance Officer and the City's general counsel shall maintain such confidentiality for so long and as they shall deem necessary in order best to protect the interests of the City.

XII. IRS Compliance Checks

In the event the IRS commences a Compliance Check or other action short of an examination of the City or of any Obligations, the Compliance Officer, in cooperation with the City's general counsel, is expressly authorized, without further official action of the Council, to respond to inquiries of the IRS and to hire outside, independent professional counsel to assist in the response to the Compliance Check. The Compliance Officer and the City's general counsel shall advise the

Council of any such Compliance Check when, as and in such manner as they may deem appropriate, it being hereby expressly agreed and understood that the Compliance Officer and general counsel shall maintain such confidentiality for so long and as the Compliance Officer and general counsel shall deem necessary in order best to protect the interests of the City.

XIII. Annual Review

The Compliance Officer shall conduct an annual review of contracts and other records to determine whether each issue of Obligations complies with the tax requirements applicable to such issue. The Compliance Officer is expressly authorized, without further official action of the Council, to hire outside, independent professional counsel to assist in such review. To the extent that any violations or potential violations of tax requirements are discovered incidental to such review, the Compliance Officer may make recommendations or take such actions as the Compliance Officer shall reasonably deem necessary to assure the timely correction of such violations or potential violations.

XIV. Training

The Compliance Officer shall undertake to maintain a reasonable level of knowledge concerning the rules related to the Obligations so that such officer may fulfill the duties described herein. The Compliance Officer may consult with counsel, attend conferences and presentations of trade groups, read materials posted on various web sites, including the web site of the Tax Exempt Bond function of the IRS, and use other means to maintain such knowledge. The Compliance Officer may consult with outside counsel, consultants and experts to assist him or her in exercising his or her duties hereunder. The Compliance Officer will review this Resolution and each of the Tax Agreements periodically to determine if there are portions that need further explanation and, if so, will attempt to obtain such explanation from counsel or from other experts, consultants or staff.