

RESOLUTION NO. 140597

A RESOLUTION TO ADOPT WRITTEN POLICIES AND PROCEDURES TO MONITOR THE REQUIREMENTS OF SECTION 148 OF THE INTERNAL REVENUE CODE AND TO ENSURE THAT ALL NONQUALIFIED BONDS OF THE ISSUER ARE REMEDIATED ACCORDING TO THE REQUIREMENTS UNDER THE INTERNAL REVENUE CODE AND REGULATIONS; PROVIDING OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gainesville, Florida doing business as Gainesville Regional Utilities (the "Issuer") has previously issued certain bonds the interest on which is excluded from the gross income of the holders thereof for federal income tax purposes (the "Tax-Exempt Bonds");

WHEREAS, the Issuer has previously covenanted with the holders of such Tax-Exempt Bonds that it will comply with all provisions of the Code (as hereinafter defined) necessary to maintain the exclusion from gross income of interest on such Tax-Exempt Bonds for purposes of federal income taxation, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code;

WHEREAS, the Issuer has provided certificates or entered into written tax agreements upon the issuance of each series of Tax-Exempt Bonds and has now determined it to be in its best interest to adopt general written policies attached hereto to monitor the requirements of Section 148 of the Code and to ensure that all nonqualified bonds are remediated according to the requirements under the Code (the "Policies and Procedures");

BE IT RESOLVED BY THE ISSUER that:

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the Constitution of the State of Florida, the Charter of the City of Gainesville and other applicable provisions of law.

Section 2. Definitions. Words and phrases used herein in capitalized form and not otherwise defined herein (including, without limitation, in the preamble hereto) shall have the following meanings:

"Bond Counsel" shall mean an attorney, or firm of attorneys, nationally recognized and experienced in matters pertaining to the validity of, and exclusion from gross income for federal income tax purposes of interest on, the obligations of states and their political subdivisions.

"Chief Financial Officer" shall mean the Chief Financial Officer, Finance Director or such other chief financial officer of the Issuer as defined in Section 218.403, Florida Statutes.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

Section 3. Approval of Written Policies and Procedures. The Policies and Procedures attached hereto as Exhibit "A" and are hereby incorporated in this section as if expressly set forth herein. The Issuer hereby covenants that unless it receives an opinion of Bond Counsel to the effect that failure to comply with such Policies and Procedures shall not adversely affect the exclusion from gross income of interest on the applicable Tax-Exempt Bonds, it shall comply with the Policies and Procedures to the extent necessary to maintain the exclusion from gross income of interest on the Tax-Exempt Bonds for purposes of federal income taxation, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

Section 4. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

Section 5. Authorizations. All officials and employees of the Issuer, including, without limitation, the Chief Financial Officer, are authorized and empowered, collectively or individually, to take all other actions and steps as they shall deem necessary or desirable in connection with the adoption and compliance with the Policies and Procedures.

Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

Passed and duly adopted in public session of the City Commission of the City of Gainesville, Florida on the day of 2015.

CITY COMMISSION OF THE CITY OF
GAINESVILLE, FLORIDA

By: _____
Edward B. Braddy, Mayor

ATTESTED:

By: _____
Kurt Lannon, Clerk of the Commission

APPROVED AS TO FORM AND LEGALITY:

By: _____
Nicolle Shalley, City Attorney

EXHIBIT "A"
To Resolution No.

Policies and Procedures to monitor the requirements of Section 148 of the Code and to ensure that all nonqualified Bonds are remediated according to the requirements under the Code. This policy shall not create any third-party beneficiaries. The Issuer reserves the right to amend these policies and procedures from time to time.

Definitions

Bond Counsel shall mean an attorney, or firm of attorneys, nationally recognized and experienced in matters pertaining to the validity of, and exclusion from gross income for federal income tax purposes of interest on, the obligations of states and their political subdivisions.

Bond-Financed Facilities shall mean facilities or other capital improvements or other property financed with proceeds of Tax-Exempt Bonds.

Chief Financial Officer shall mean the Chief Financial Officer, Finance Director or such other chief financial officer of the Issuer as defined in Section 218.403, Florida Statutes.

Code shall mean the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

Financial Advisor shall mean the financial advisor to the Issuer, if any.

IRS shall mean the Internal Revenue Service.

Issuer shall mean the City of Gainesville, Florida.

Issuer's Counsel shall mean the City Attorney.

Tax Certificate shall mean a tax certificate or agreement entered into by the Issuer in connection with the issuance of Tax-Exempt Bonds.

Tax-Exempt Bonds shall mean bonds, notes or other obligations of the Issuer the interest on which is excludable from gross income of the holders thereof for federal income tax purposes.

Purpose

The implementation of these procedures is intended to assist the Issuer in complying with the Code in connection with Tax-Exempt Bonds and to provide for timely remediation through the “remedial action” regulations or the IRS Voluntary Closing Agreement Program to the extent applicable. The Chief Financial Officer shall be responsible for implementing the procedures described herein and may rely on such other professionals in carrying out these provisions, including, without limitation, Bond Counsel. The Chief Financial Officer shall obtain adequate training to perform the duties required herein. The Chief Financial Officer shall regularly conduct such due diligence as is reasonably necessary to maintain compliance with the procedures described herein.

1. Issue Price. As part of the closing process for any issue of Tax-Exempt Bonds, the Chief Financial Officer shall consult with the Financial Advisor and Bond Counsel and obtain a written certification from the underwriter, placement agent or other purchaser of the bonds as to the offering price of the Tax-Exempt Bonds that is in form and substance acceptable to the Issuer and Bond Counsel.

2. Use of Proceeds. The Issuer, in consultation with bond counsel, will:

a. maintain clear and consistent accounting procedures for tracking the investment and expenditures of bond proceeds, including investment earnings on bond proceeds;

b. at or shortly after closing of a bond issue, ensure that any allocations for reimbursement expenditures comply with the Tax Certificate; and

c. monitor that sale proceeds and investment earnings on sale proceeds of Tax-Exempt Bonds are spent in a timely fashion consistent with the requirements of the Tax Certificate.

3. Monitoring Private Business Use. The Chief Financial Officer, in consultation with the Issuer's Counsel, shall review proposed contracts or arrangements with non-governmental persons or organizations or the federal government (collectively referred to as "private persons") with respect to the Bond-Financed Facilities which could result in private business use of the facilities such as sales of Bond-Financed Facilities, leases of Bond-Financed Facilities, management service contracts relating to Bond-Financed Facilities, and contracts to transmit, distribute or exchange electric energy, electric capacity or any other output from Bond-Financed Facilities. The Issuer shall consult with Bond Counsel, to the extent deemed necessary, to discuss new contracts or amendments to existing contracts and determine whether any limits on private business use are exceeded or any other requirements set forth in the Tax Certificate and, if so, whether any actions are required to be taken to comply with the Code.

4. Arbitrage, Yield Restriction and Rebate Compliance. The Chief Financial Officer

will confirm that bond counsel has filed the applicable information reports (such as Form 8038-G) for each Tax-Exempt Bond issue with the IRS on a timely basis, and maintain copies of such form including evidence of timely filing as part of the transcript of the bond issue. The Issuer, in consultation with appropriate consultants, if necessary, shall confirm, recalculate and monitor the calculation of fair market value and arbitrage on outstanding debt of the Issuer as the basis for ongoing rebate compliance as set forth in the 8038-G and the tax certificate.

5. Remediation. If the Chief Financial Officer or other officer or official of the Issuer determines that an action or inaction has occurred that does, or could, cause the interest on Tax-Exempt Bonds to become includable in the gross income of the holders thereof for federal income tax purposes, the Chief Financial Officer shall promptly seek the advice of Bond Counsel regarding remedial actions, if any, that could be taken by the Issuer or whether such action or inaction may be corrected through the Voluntary Closing Agreement Program described in IRS Notice 2008-31 and in Section 7.2.3 of the Internal Revenue Manual.

6. Retention of Records. Working together, the Chief Financial Officer and the Issuer's Counsel will ensure that for each issue of Tax-Exempt Bonds, the transcript and all records and documents described in these procedures will be maintained while any of the bonds are outstanding and during the three-year period following the final maturity or redemption of that bond issue, or if the bonds are refunded (or re-refunded), while any of the refunding bonds are outstanding and during the three-year period following the final maturity or redemption of the refunding bonds.