

RESOLUTION NO. 436 - 2024

A RESOLUTION AMENDING SECTION C.201 OF APPENDIX A, RULES AND PROCEDURES OF THE LEXINGTON-FAYETTE URBAN COUNTY COUNCIL, RELATING TO THE COUNCIL CAPITAL PROJECT EXPENDITURE POLICY, TO AMEND THE POLICY TO PERMIT DIRECT APPROPRIATIONS OF COUNCIL CAPITAL PROJECTS FUNDING TO ELIGIBLE NOT-FOR-PROFIT ENTITIES FOR ELIGIBLE CAPITAL EXPENDITURES, AND AMENDING DEFINITIONS AND ESTABLISHING PROCEDURES RELATING THERETO, ALL EFFECTIVE UPON PASSAGE OF COUNCIL.

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WHEREAS, the Urban County Council, by Resolution No. 55-79, as amended, adopted "Rules and Procedures of the Lexington-Fayette Urban County Council", which were repealed, reorganized, revised, and re-adopted by Resolution No. 599-2023 (hereinafter, "Rules"); and

WHEREAS, Section 5.104 of the Rules provides that "[n]o permanent change shall be made to these rules without notice specifying the purpose and wording of the change given prior to the consideration of the change and the adoption of the permanent change by a majority of all councilmembers through an amending resolution"; and

WHEREAS, notice of proposed changes to the Rules was given to all Council members at the Council work session on August 27, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE COUNTY GOVERNMENT:

Section 1 – That Section C.201 of Appendix A – Rules and Procedures of the Lexington-Fayette Urban County Council, be and hereby is amended in pertinent part to read as follows:

In fiscal years in which funds are available and funds have been appropriated to the council office budget for council members to support capital projects, the following policy shall be used to govern the expenditure of said funds.

1) Appropriation of funds:

In fiscal years in which funds are available, the council may appropriate funds to the council office budget for projects. Each council member shall be allotted one-fifteenth (1/15) of the total funds appropriated.

No council member running for election may make a project expenditure within thirty (30) days prior to any election; however, this provision shall not apply to council members who are unopposed.

In an election year, any council member leaving office, or facing opposition may only utilize up to fifty (50) percent of their overall budget, including funds for capital expenditure projects. The remaining fifty (50) percent will be replenished after the election for use by the successful candidate.

Once approved, all projects managed by Urban County Government departments or divisions must be encumbered within twelve (12) months of receiving council

capital project funds. All council capital project funds provided to not-for-profit entities must be spent within twelve (12) months of receipt. If a not-for-profit entity is overcompensated for a project, the not-for-profit entity must return any and all excess funds to the Urban County Government when the project is complete.

2) Definition of appropriate expenditures:

In order to qualify for project expenditure, funds used to support Urban County Government projects or not-for-profit projects must be one-time expenditures (not recurring or ongoing expenses). Funds must also be used for projects based in Lexington-Fayette County.

The following entities are not eligible to receive Council Capital Project funds:

- a. Fayette County school system;
- b. Established religious organizations (general "public purpose" uses may be considered in consultation with the department of law); or
- c. Any for-profit organization

3) Definition of capital project:

A capital project is a long-term, capital-intensive investment to build upon, add to, or improve a capital asset. A capital asset is an item, object, thing, or real estate property owned by the City or not-for-profit entity and includes, but is not limited to, City-owned or not-for-profit-owned buildings, parks and open spaces, vehicles, equipment, structures, or part thereof.

4) Matching funds:

It is within the discretion of the council member making the project expenditure allocation to determine whether to require the entity receiving the allocation to provide matching dollars to support its capital project.

A council member soliciting project expenditures from other council members shall indicate whether a match will be required.

Project fund allocations specifying matching dollars may be made at a ratio stipulated by the council member initiating the request.

5) Allowable project expenditures:

Allowable project expenditures include internal governmental projects and expenditures provided to incorporated not-for-profit entities, in good standing with the Secretary of State, that serve the general public. Funds from the council project expenditure account shall be allocated to a department or division of the Lexington-Fayette Urban County Government, or a not-for-profit entity. In all such instances the capital asset must be a depreciable item, object, thing, or real estate property owned by the government or not-for-profit entity used for public purposes and includes, but is not limited to, buildings, vehicles, equipment, structures, or part thereof.

6) Project Submission Process for Internal Governmental Projects:

The process for appropriating funds to another department or division of the Lexington-Fayette Urban County Government is as follows:

- a. A council member may receive a request from a department or division of the government for a project expenditure appropriation or a council member may, on their own, initiate a project expenditure allocation to a particular department or division.
- b. At least eight (8) days prior to the work session in which the proposed project expenditure allocations are presented, the following information shall be provided to the council administrator or designee:
  - i. Department or division receiving the allocation;

- ii. Description of the project;
  - iii. Amount of funds to be allocated;
  - iv. Accounting string for transfer of funds;
  - v. Project commencement date;
  - vi. Project completion date.
- c. The council administrator or their designee will be responsible for preparing a budget amendment to transfer the funds from the council office to the department or division.
- d. The commissioner and/or division director of the department and/or division receiving the funds shall be responsible for ensuring that the project is completed on time and provide updates to council related to any timeline changes.

#### 7) Project Submission Process for Not-for-Profit Entities:

The process for appropriating funds to a not-for-profit entity is as follows:

- a. A council member may receive a request from a not-for-profit entity for a project expenditure appropriation or a council member may, on their own, initiate a project expenditure allocation to a particular not-for-profit entity.
- b. At least eight (8) days prior to the work session in which the proposed project expenditure allocations are presented, the following information shall be provided to the council administrator:
  - i. Not-for-profit receiving the allocation;
  - ii. Proof of good standing with the Kentucky Secretary of State;
  - iii. Description of the project;
  - iv. Supporting documentation including quotes, invoices and bids;
  - v. The total cost of the project;
  - vi. Amount of funds to be allocated by the Urban County Government;
  - vii. Accounting string;
  - viii. Project commencement date;
  - ix. Project completion date.
- c. The council will vote during a work session to approve the council capital project list and refer it to the docket. The council administrator or their designee will process the project list after second reading.
- d. The council administrator or their designee prepares a legal agreement in consultation with the Department of Law that outlines the intended use of the funds and required documentation. This agreement must be signed and returned within thirty (30) days to the council administrator or their designee prior to the issuance of the check.  
A copy of the fully executed agreement is kept in the council clerk's office and a copy is returned to the organization for their records. The council clerk obtains a signature from the mayor and places the LFUCG seal on all copies. The council clerk then retains a copy for their file and routes the additional copy to the council administrator to be sent to the organization along with the check.
- e. Once the check for capital project funds is sent to the not-for-profit entity, it will have sixty (60) days to deposit the funds, and twelve (12) months to spend the funds. The entity must submit all relevant receipts and financial documentation to the sponsoring council member's

office. Failure to deposit the funds within the allotted timeframe or failure to provide documentation will make the entity ineligible to receive funds for one (1) year.

- f. Should the not-for-profit entity be overcompensated for the project described, the entity must return any and all excess funds to the Urban County Government upon completion of the project.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 29, 2024

  
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MAYOR

ATTEST:  
  
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CLERK OF URBAN COUNTY COUNCIL  
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