

FCR 33

Office of the President
June 9, 2009

Members, Board of Trustees:

PATIENT CARE FACILITY BOND REIMBURSEMENT RESOLUTION

Recommendation: that the Board of Trustees approve the attached resolution declaring official intent to reimburse capital expenditures for the Patient Care Facility from a future bond issue.

Background: U.S. Department of Treasury regulations related to the use of proceeds of tax-exempt bonds or notes require that the borrower make a Declaration of Official Intent to reimburse itself for capital expenditures made prior to the issuance of the debt (also known as a “Reimbursement Resolution”) if the issuer intends to reimburse itself from bond proceeds.

The management of UK HealthCare anticipated financing the \$532.3 million Patient Care Facility Phase I, currently under contract, with \$250 million of general receipts obligation bonds, \$7.3 million of private gifts, and \$275 million of cash. This method of financing assumed UK HealthCare would maintain a minimum of \$200 million in cash balances and general reserves for asset/liability management and liquidity requirements.

Due to the economic downturn and financial market declines, the administration recommends amending the financing plan to avoid liquidating the University Hospital Quasi-Endowment Fund at this time. The university anticipates requesting legislative authorization to issue up to an additional \$100 million of general receipts obligation bonds to complete financing of Phase I construction. The remaining cash will come from operations as planned. Passage of this Resolution states intent to reimburse from the future bond issue and preserve this as an option in the future. Prior to the issuance of bonds, the Board of Trustees will be asked for approval of the proposed bonds.

The Debt Committee has reviewed this potential bond issue to assess the impact on the university’s debt capacity. The Debt Committee has determined that this potential bond issue is consistent with the Debt Policy.

Action taken: Approved Disapproved Other _____

Attachment

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY DECLARING OFFICIAL INTENT WITH RESPECT TO REIMBURSEMENT OF TEMPORARY ADVANCES MADE FOR CAPITAL EXPENDITURES TO BE MADE FROM SUBSEQUENT BORROWINGS; AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, Treasury Regulation § 1.150-2 (the "Reimbursement Regulations"), issued pursuant to § 150 of the Internal Revenue Code of 1986, as amended, (the "Code") prescribes certain requirements by which proceeds of tax-exempt bonds, notes, certificates or other obligations included in the meaning of "bonds" under § 150 of the Code ("Obligations") used to reimburse advances made for Capital Expenditures (as hereinafter defined) paid before the issuance of such Obligations may be deemed "spent" for purposes of §§ 103 and 141 to 150 of the Code and therefore, not further subject to any other requirements or restrictions under those sections of the Code; and

WHEREAS, such Reimbursement Regulations require that the Borrower (as hereinafter defined) make a Declaration of Official Intent (as hereinafter defined) to reimburse any Capital Expenditure paid prior to the issuance of the Obligations intended to fund such Capital Expenditure and require that such Declaration of Official Intent be made no later than sixty (60) days after payment of the Capital Expenditure and further require that the Allocation (as hereinafter defined) of the proceeds of such Obligations to reimburse such Capital Expenditures occur no later than eighteen (18) months after the later of the date the Capital Expenditure was paid or the date the property acquired with the Capital Expenditure was placed in service, except that any such Allocation must be made no later than three years after such Capital Expenditure was paid; and

WHEREAS, the University of Kentucky (the "Borrower") wishes to ensure compliance with the Reimbursement Regulations;

NOW, THEREFORE, be it resolved as follows by the Board of Trustees of the University of Kentucky as follows:

SECTION 1. Definitions. The following definitions apply to the terms used herein:

"*Allocation*" means written evidence that proceeds of Obligations issued subsequent to the payment of a Capital Expenditure are to effect the reimbursement of the Borrower for such payments.

"*Borrower*" means the University of Kentucky.

"*Capital Expenditures*" means any expense for an item that is properly depreciable or amortizable or is otherwise treated as a capital expenditure for purposes of the Code, as well as any costs of issuing Reimbursement Bonds.

"*Declaration of Official Intent*" means a written declaration that the Borrower intends to fund a Capital Expenditure with an issue of Reimbursement Bonds and reasonably expects to be reimbursed from the proceeds of such an issue.

"*Reimbursement*" means the restoration to the Borrower of money temporarily advanced from other funds of the Borrower to pay for Capital Expenditures before the issuance of Obligations intended to fund such Capital Expenditures. "To reimburse" means to make such a restoration.

"*Reimbursement Bonds*" means Obligations that are issued to reimburse the Borrower for Capital Expenditures previously paid by or for the Borrower.

"*Reimbursement Regulations*" means Treasury Regulations § 1.150-2 and any amendments thereto or superseding regulations, whether in proposed, temporary or final form, as applicable, prescribing conditions under which the proceeds of Obligations when allocated or applied to a reimbursement will be treated as "spent" for purposes of §§ 103 and 141 to 150 of the Code.

SECTION 2. Declaration of Official Intent.

(a) The Borrower declares that it reasonably expects that the Capital Expenditures described in Section (b), which will be paid prior to the issuance of any Obligations intended to fund such Capital Expenditures, will be reimbursed with the proceeds of Obligations, representing a borrowing by the Borrower in the maximum principal amount for such reimbursements, funding of any required reserves and payment of costs of issuance in an aggregate principal amount of approximately \$100,000,000; and

(b) The Capital Expenditures to be reimbursed will be for improvements to, and equipping of, the Borrower's hospital facilities.

SECTION 3. Reasonable Expectations. The Borrower does not expect any other funds (including the money advanced to make the Capital Expenditures that are to be reimbursed), to be reserved, allocated on a long-term basis, or otherwise set aside by the Borrower or any other entity affiliated with the Borrower, with respect to the Capital Expenditures described in 2(b).

SECTION 4. Effective Date. This Resolution shall be effective from and after its date of adoption.

Adopted at a duly convened meeting of the Board of Trustees of the University of Kentucky on the 9th day of June, 2009.

UNIVERSITY OF KENTUCKY

Attest:

By:

Chair, Board of Trustees

Attest:

By:

Secretary

CERTIFICATE

I, the undersigned Secretary of the Board of Trustees of the University of Kentucky, certify that the foregoing is a true and correct copy of a Resolution passed at a duly convened meeting of the Board of Trustees of the University of Kentucky held on the 9th day of June, 2009, at which a quorum was present, and that said Resolution has not been amended, modified, revoked or repealed and is now in full force and effect, all as appears from the official records of the Board of Trustees of the University of Kentucky in my custody and under my control.

Witness my hand as Secretary of the Board of Trustees of the University of Kentucky this 9th day of June, 2009.

Secretary