

FCR 7

Office of the President
September 14, 2010
Members, Board of Trustees:

A RESOLUTION PROVIDING FOR THE AUTHORIZATION, ISSUANCE,
AND SALE OF APPROXIMATELY \$26,000,000 GENERAL RECEIPTS
OBLIGATIONS (ENERGY SAVINGS PROJECT) AND APPROXIMATELY
\$35,000,000 GENERAL RECEIPTS REFUNDING OBLIGATIONS OF THE
UNIVERSITY OF KENTUCKY, PURSUANT TO THE TRUST AGREEMENT
DATED AS OF NOVEMBER 1, 2005

Recommendation: that the Board of Trustees approve a Resolution authorizing the issuance of approximately (i) \$26,000,000 of University of Kentucky General Receipts Obligations (Energy Savings Project), to be additionally designated as to the applicable series (the "Energy Savings Project Bonds") and (ii) \$35,000,000 of University of Kentucky General Receipts Refunding Obligations, to be additionally designated as to the applicable series (the "Refunding Bonds"), each to be dated as of a date determined by the Vice President for Financial Operations and Treasurer (Treasurer).

The Resolution approves the issuance of approximately \$26,000,000 of Energy Savings Project Bonds for the purpose of financing certain capital improvements related to a Guaranteed Energy Savings Performance Contract (the "Project") as authorized by H.B. 1 of the General Assembly of the Commonwealth of Kentucky, 2010 First Extraordinary Session, as enacted and vetoed in part (the "Budget Act"). The Resolution also approves the issuance of approximately \$35,000,000 of Refunding Bonds for the purpose of refunding all or a portion of the outstanding Consolidated Educational Buildings Revenue Bonds, Series S and Consolidated Educational Buildings Revenue Bonds, Series T (collectively, the "Prior Bonds")

The Resolution approves the offering for sale of the Energy Savings Project Bonds and Refunding Bonds on a date to be determined by the Treasurer of the University, upon the advice of the Financial Advisor to the University. The Resolution further authorizes the acceptance of the bid for the sale of the Energy Savings Project Bonds and Refunding Bonds by the Treasurer. The exact principal amount of Energy Savings Project Bonds and Refunding Bonds to be sold will be determined on the applicable date of sale as the amount required to (i) pay the budgeted costs of the Project (ii) refund the Prior Bonds (if the Fiscal Officer determines that it is economical to refund the Prior Bonds) and (iii) pay the costs of issuing such bonds.

Pursuant to the Budget Act, the Board of Trustees certifies that the energy savings from the Energy Savings Project will generate sufficient funds to retire the bonded indebtedness and will not result in an increase in student tuition and fees.

Background: The Budget Act authorized the issuance of revenue bonds to finance the Energy Savings Project. Conditions in the bond market may provide an opportunity to refund the Prior Bonds and achieve debt service savings.

The Board adopted a resolution approving a Trust Agreement dated as of November 1, 2005 (the "Trust Agreement") authorizing the issuance, from time to time, of Obligations (as defined in the

Trust Agreement) to finance and refinance capital projects. The Energy Savings Project Bonds and Refunding Bonds will be issued under the Trust Agreement. The Resolution authorizes the issuance of the Energy Savings Project Bonds and Refunding Bonds, establishes the specific terms of the Energy Savings Project Bonds and Refunding Bonds, provides for a competitive sale of the Energy Savings Project Bonds and Refunding Bonds, including approval of a Notice of Bond Sale, Official Terms and Conditions of Bond Sale, Official Bid Form and an Official Statement, and authorizes a Supplemental Trust Agreement and Continuing Disclosure Agreement with respect to the Energy Savings Project Bonds and Refunding Bonds. The Energy Savings Project Bonds and Refunding Bonds will be sold as separate series and may be sold at different times, depending on market conditions.

Action taken: Approved Disapproved Other _____

SERIES RESOLUTION

A RESOLUTION PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF APPROXIMATELY \$26,000,000 GENERAL RECEIPTS OBLIGATIONS (ENERGY SAVINGS PROJECT) AND APPROXIMATELY \$35,000,000 GENERAL RECEIPTS REFUNDING OBLIGATIONS OF THE UNIVERSITY OF KENTUCKY, PURSUANT TO THE TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2005.

WHEREAS, the University of Kentucky (herein called the "University"), a public body corporate and an educational institution and agency of the Commonwealth of Kentucky, by resolution adopted by the Board of Trustees of the University on September 20, 2005 (herein called the "General Bond Resolution"), and by a Trust Agreement, dated as of November 1, 2005, as supplemented (herein called the "Trust Agreement"), comprised in part of the General Bond Resolution, has provided for the issuance from time to time of Obligations (as defined in the Trust Agreement) of the University secured by a pledge of the University's "General Receipts" (as defined in the Trust Agreement), each such issue to be authorized by a Series Resolution, as required by the Trust Agreement; and

WHEREAS, the Board has determined that it is necessary to finance the costs of certain capital improvements related to a Guaranteed Energy Savings Performance Contract (the "Project") by the issuance of Obligations (the "Project Obligations"); and

WHEREAS, by authority of Sections 162.340 to 162.380 of the Kentucky Revised Statutes, Chapter 56 of the Kentucky Revised Statutes and Sections 58.010 to 58.140 of the Kentucky Revised Statutes (collectively, the "Act") and H.B. 1 of the General Assembly of the Commonwealth of Kentucky, 2010 First Extraordinary Session, as enacted and vetoed in part, the University is authorized to construct educational building facilities, to issue its obligations to pay all or part of the costs of such capital assets, and to secure said obligations by a pledge of and lien on all or such part of the revenues and receipts of the University; and

WHEREAS, the Board by a resolution adopted on September 20, 1960 (the "Prior Resolution"), as supplemented, created and established an issue of University of Kentucky Consolidated Educational Buildings Revenue Bonds (the "Consolidated Education Bonds") and there are Consolidated Education Bonds outstanding under the Prior Resolution identified as University of Kentucky Consolidated Educational Buildings Revenue Bonds, Series S and University of Kentucky Consolidated Educational Buildings Revenue Bonds, Series T (collectively, the "Prior Bonds"); and

WHEREAS, in order to achieve debt service savings, the Board has determined, if interest rates prevailing in the bond market at the time of sale of the Obligations hereby authorized are favorable, to refund the Prior Bonds so that the Prior Bonds will no longer be outstanding under the Prior Resolution; and

WHEREAS, the Board of Trustees, in order to pay the costs of the Project and to refund the Prior Bonds, desires to provide for issuance and sale of University of Kentucky General Receipts Bonds and for other matters in connection therewith, by the adoption of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY, AS FOLLOWS:

SECTION 1. Definitions and Interpretations. All words and terms defined in Section 1 of the Trust Agreement and all interpretations therein provided shall have the same meanings, respectively, and be subject to the same interpretations as therein provided where used in this Resolution, unless the context or use clearly indicates another or different meaning or intent, except that this Resolution is sometimes herein called and may be known as the "Energy Savings Project and Refunding Resolution," the Obligations authorized by this Resolution are referred to herein (and in the Supplemental Trust Agreement or Supplemental Trust Agreements hereby authorized) as the "Energy Savings Project Obligations" and the "Refunding Obligations," respectively, and the terms "hereof," "hereby," "hereto," "herein," and "hereunder," and similar terms, mean this Resolution.

SECTION 2. Authority. This Resolution is adopted pursuant to the General Bond Resolution, the Trust Agreement, and the Act.

SECTION 3. Authorization, Designation and Purpose of Obligations. It is hereby declared to be necessary to, and the Board shall, issue, sell and deliver, as provided and authorized herein Energy Savings Project Obligations in the approximate principal amount of \$26,000,000 as General Receipts Obligations which shall be issued as General Receipts Bonds (the "Project Bonds"). Such Obligations shall be designated "University of Kentucky General Receipts Bonds" or, if the Bonds are issued as Build America Bonds, as hereinafter defined, "University of Kentucky General Receipts Bonds Taxable Build America Bonds," and shall bear such further series designations as the Fiscal Officer (as defined in the Trust Agreement) deems appropriate. Such Obligations shall be issued for the purpose of (i) financing the costs of the Project and (ii) paying costs of issuance in connection with such Obligations. The proceeds from the sale of such Obligations shall be deposited and allocated as provided in Section 6 hereof.

It is hereby further declared to be necessary to, and the Board shall, issue, sell and deliver, as provided and authorized herein, Refunding Obligations in the approximate principal amount of \$35,000,000 as General Receipts Obligations which shall be issued as General Receipts Bonds (the "Refunding Bonds"). Such Obligations shall be designated "University of Kentucky General Receipts Refunding Bonds" and shall bear such further series designations as the Fiscal Officer deems appropriate. Such Obligations shall be issued for the purpose of (i) refunding the Prior Bonds and (ii) paying costs of issuance in connection with such Obligations. The proceeds from the sale of such Obligations shall be deposited and allocated as provided in Section 6 hereof.

SECTION 4. Terms and Provisions Applicable to the Obligations.

(a) Form, Numbering and Designation. The Obligations shall be issued in the form of fully registered Obligations as approved by the Fiscal Officer, shall be numbered from 1 upwards, by series, and shall bear such series designations as the Fiscal Officer deems appropriate.

(b) Denomination and Dates. The Energy Savings Project Obligations and Refunding Obligations shall be in such denominations as requested by the Original Purchaser (hereafter defined), and shall be dated on the date determined by the Fiscal Officer and may be issued in installments (each installment being a part of the Energy Savings Project Obligations or Refunding Obligations, as applicable, herein authorized) with maturity dates approved by the Fiscal Officer, having a final maturity that is no later than (i) with respect to the Energy Savings

Project Obligations, fifteen years from the date the Energy Savings Project Obligations are issued and (ii) with respect to the Refunding Obligations, the last day of the fiscal year in which the refunded Prior Bonds are scheduled to mature.

(c) Interest. The Energy Savings Project Obligations and the Refunding Obligations shall bear interest from their respective dates payable on dates approved by the Fiscal Officer, beginning on a date approved by the Fiscal Officer, at the rate or rates per annum determined pursuant to Section 5 hereof.

(d) Maturities. The Energy Savings Project Obligations and the Refunding Obligations shall mature on such dates, in the years and in the principal amounts set forth in the maturity schedule approved by the Fiscal Officer pursuant to Section 5 hereof.

(e) Redemption Terms and Prices. The Energy Savings Project Obligations and the Refunding Obligations shall be subject to optional and mandatory redemption on such dates and terms as approved by the Fiscal Officer, with the advice of the Financial Advisor (hereinafter identified) and set forth in the Supplemental Trust Agreement. If less than all of the outstanding Energy Savings Project Obligations or the Refunding Obligations, as applicable, are called for redemption at one time, they shall be called in the order of the maturities and series as directed by the Fiscal Officer. If less than all of the applicable outstanding Obligations of one maturity are to be called, the selection of such Obligations or portions of such maturity to be called shall be made in the manner provided in the Trust Agreement. Notice of call for redemption of such Obligations shall be given in the manner provided in the Trust Agreement.

(f) Other Provisions. The Energy Savings Project Obligations and the Refunding Obligations may, at the option of the Fiscal Officer, be secured by municipal bond insurance or similar instrument issued by a financial or insurance institution acceptable to the Fiscal Officer.

(g) Place of Payment and Paying Agents. The principal, interest and any redemption premium on registered Energy Savings Project Obligations and the Refunding Obligations shall be payable by check or draft, as provided in the Trust Agreement.

(h) Execution. The Energy Savings Project Obligations and the Refunding Obligations shall be executed in the manner provided in the General Bond Resolution.

(i) Build America Bond Designation. The Board hereby retains the option that the Energy Savings Project Obligations or a portion of the Energy Savings Project Obligations may be designated as Build America Bonds (the "Build America Bonds") as permitted by the American Recovery and Reinvestment Act of 2009 (the "Recovery Act"). The Fiscal Officer is hereby authorized and directed to designate all or a portion of the Energy Savings Project Obligations as Build America Bonds, which Energy Savings Project Obligations, if so designated, shall bear interest which shall be included in gross income of bondholders for federal income tax purposes. Build America Bonds are any obligation (other than a private activity bond) the interest on which would otherwise be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Therefore, with respect to any Energy Savings Project Obligations designated as Build America Bonds, such Energy Savings Project Obligations will comply with all requirements applicable to the issuance of tax-exempt governmental bonds.

With respect to any Energy Savings Project Obligations designated as Build America Bonds, the Board, hereby authorizes the Fiscal Officer to irrevocably elect, pursuant to Section 54AA(g) of the Code, the direct credit payment to issuer option as provided in Section 6431 of the Code under which the United States Treasury will pay to the Board 35% of the interest payable on such Energy Savings Project Obligations (the "Credit Payments") (contemporaneously with each interest payment date for such Energy Savings Project Obligations) so long as the Energy Savings Project Obligations comply with all federal tax requirements of the Build America Bonds.

The Fiscal Officer or his or her designee is hereby authorized and directed to execute and file on behalf of the Board a "Return for Credit Payments to Issuers of Qualified Bonds" (Form 8038-CP) with the United States Department of the Treasury on the dates and at the place designated in Form 8038-CP and applicable provisions of the Code and Treasury Regulations issued thereunder for the Build America Bonds. Funds received by the Board pursuant to the filing of Form 8038-CP shall be deposited to the credit of the Revenue Fund or the Debt Service Payment Account for the Energy Savings Project Obligations, established within the University of Kentucky General Receipts Obligations Debt Service Fund, established under Section 4.01 of the Indenture, as appropriate to provide for the timely payment of principal or interest on any Build America Bonds.

SECTION 5. Award and Sale of Energy Savings Project Obligations and Refunding Obligations. The Energy Savings Project Obligations and the Refunding Obligations shall be offered publicly for sale upon the basis of competitive bids at such time as the Fiscal Officer, upon advice of the Financial Advisor to the University, shall designate.

The Fiscal Officer is hereby authorized and directed to cause an appropriate form or forms of a Notice of Sale of Bonds to be published in *The Lexington Herald Leader*, a legal newspaper published in the City of Lexington, Kentucky, which will afford local notice of the sale, *The Courier Journal*, a legal newspaper published in the City of Louisville, Kentucky, which will afford statewide notice of the sale, and, to the extent required by law, in *The Bond Buyer*, a financial journal published in the City of New York, New York, which is a publication having general circulation among bond buyers; and said newspapers and financial journal are hereby declared to be qualified to publish such notice for the Board within the meaning and provisions of Chapter 424 of the Kentucky Revised Statutes. Such notice shall be published in said newspapers and financial journal at least once not less than seven nor more than twenty-one days prior to the scheduled date of sale of the respective Obligations.

The forms of Notice of Bond Sale, Official Terms and Conditions of Sale of Bonds, Bid Form and Official Statement, shall be in such form as approved by Bond Counsel for the University, by the Financial Advisor, by the General Counsel of the University and by the Fiscal Officer.

Bidders shall be advised that the fee of the Financial Advisor for services rendered with respect to the sale of the Energy Savings Project Obligations and the Refunding Obligations is contingent upon the issuance and delivery of the respective Obligations, and that the Financial Advisor may submit a bid for the purchase of such Obligations at the time of the advertised public sale of thereof, either individually or as the member of a syndicate organized to submit a bid for the purchase of such Obligations.

Upon the date and at the respective hour set forth for the submission and consideration of purchase bids, as provided in the instruments hereinabove approved, bids shall be reviewed as provided in such instruments. If there shall be one or more bids which conform in all respects to the prescribed terms and conditions, such bids shall be compared, and the Fiscal Officer, upon the advice of the Financial Advisor, is authorized to accept the best of such bids, as measured in terms of the lowest interest cost to the Board, as calculated in the manner prescribed in the Official Terms and Conditions of Sale of Bonds. Calculations shall be performed as are necessary to determine the exact amount of Energy Savings Project Obligations or Refunding Obligations that are required to be issued in order to (i) pay the budgeted costs of the Project, (ii) refund the Prior Bonds (if the Fiscal Officer determines that it is economical to refund the Prior Bonds) and (iii) pay the costs of issuing the Obligations and the final principal amount, interest rates and maturities of the Energy Savings Project Obligations and/or the Refunding Obligations shall thereupon be established, as prescribed in the Official Terms and Conditions of Sale of Bonds.

SECTION 6. Allocation of Proceeds of Energy Savings Project Obligations. All of the proceeds from the sale of the Energy Savings Project Obligations, the Refunding Obligations and other lawfully available funds of the University shall be received and receipted for by the Fiscal Officer and shall be deposited and allocated as set forth in the applicable Supplemental Trust Agreement approved hereby.

SECTION 7. Additional Covenants with Respect to Internal Revenue Code of 1986, as Amended. This Board hereby finds and determines that all of the proceeds from the sale of the Energy Savings Project Obligations and the Refunding Obligations will be needed for the purposes set forth in Section 6 hereof. This Board hereby covenants for and on behalf of the University, that it will restrict the use of the proceeds of the Energy Savings Project Obligations and the Refunding Obligations in such manner and to such extent, if any, and take such other actions as may be necessary, in view of reasonable expectations at the time of issuance of such Obligations, so that, as applicable, (i) the Energy Savings Project Obligations and the Refunding Obligations will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations prescribed under such Sections and/or (ii) will continue to qualify as Build America Bonds under Sections 54AA and 6431 of the Code. The Fiscal Officer or any other officer of the University having responsibility with respect to issuance of the Energy Savings Project Obligations and the Refunding Obligations is hereby authorized and directed to give an appropriate certificate for inclusion in the transcript of proceedings with respect to the Energy Savings Project Obligations and the Refunding Obligations, setting forth the facts, estimates and reasonable expectations pertinent under said Sections 103(b)(2) and 148 of the Code and an election, if appropriate, with respect to Section 148(f)(4)(B)(IV)(V) of the Code. The Fiscal Officer is hereby authorized and directed to create a Rebate Account (which shall be held by either the University or the Trustee, at the discretion of the Fiscal Officer) if the Fiscal Officer determines such account is necessary so that the University complies with the rules concerning "rebate" as set forth in the Code, as they apply to the Energy Savings Project Obligations and the Refunding Obligations.

SECTION 8. Supplemental Trust Agreement. The Chairman of the Board is authorized and directed to execute, acknowledge and deliver to the Trustee, in the name of and on behalf of the University, one or more Supplemental Trust Agreements pursuant to the Trust Agreement and in connection with the issuance of the Energy Savings Project Obligations and the Refunding

Obligations, in the prescribed form, with such changes therein not substantially adverse to the University as may be permitted by the Act and the Trust Agreement and approved by the officer executing the same on behalf of the University. The approval of such changes, and that such changes are not substantially adverse to the University, shall be conclusively evidenced by the execution of such Supplemental Trust Agreement by such officer.

SECTION 9. Official Statement. The Chairman is hereby authorized and directed to execute and deliver an Official Statement with respect to the Energy Savings Project Obligations and/or the Refunding Obligations for the purpose of making available to potential investors the information therein contained, which describes the interest rates and other terms to be borne by and the price to be paid for the Energy Savings Project Obligations and/or the Refunding Obligations, as applicable, and such other information with respect to the University and the Energy Savings Project Obligations and/or the Refunding Obligations, necessary in the judgment of the Chairman with the advice of the Fiscal Officer and the Financial Advisors. The Chairman and the Fiscal Officer are each hereby authorized to deem the Preliminary Official Statement and final Official Statement "near final" and "final" for purposes of Securities Exchange Commission Rule 15c2-12, as amended and interpreted from time to time, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule").

SECTION 10. Compliance With Rule 15c2-12. The Board of Trustees hereby agrees, to comply with the provisions of the Rule. In order to comply with the Rule, a Continuing Disclosure Agreement in the usual and customary form is hereby authorized and approved, with such modifications and additions as may be approved by the officer of the University executing the same. The Chairman and the Fiscal Officer are each hereby authorized to execute and deliver such Continuing Disclosure Agreement.

SECTION 11. Escrow Trust Agreement. The Chairman of the Board and the Fiscal Officer are each separately authorized and directed, if the refunding of the Prior Bonds is determined to be economically feasible, to execute, acknowledge and deliver to the Trustee, in the name of and on behalf of the University, an Escrow Trust Agreement relating to the defeasance of the Prior Bonds under the provisions of the Prior Resolution, in substantially the form described to this Board, as may be permitted by the Act or required by the Prior Resolution, and approved by the officer executing the same on behalf of the University. The approval of the final Escrow Trust Agreement shall be conclusively evidenced by the execution of such Escrow Trust Agreement by such officer.

SECTION 12. Open Meetings. This Board hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements.

SECTION 13. Further Authorization. That the proper and appropriate officers of the Board and of the University, to the extent authorized by law, are hereby authorized to execute and deliver the closing certificates, if any, with such modifications thereto as may be required by the purchasers of the Energy Savings Project Obligations and the Refunding Obligations and approved by special bond counsel to the University as well as such other documents, certificates and statements as may be so required and so approved in connection with sale and delivery of the Energy Savings Project Obligations and the Refunding Obligations.

SECTION 14. Provisions in conflict are Repealed. All resolutions or parts thereof in conflict with the provisions of this Resolution are hereby rescinded to the extent of such conflict.

SECTION 15. Effective Date. This resolution shall take effect from and after its passage.

SECTION 16. Copy to be Filed with Trustee. A certified copy of this Resolution shall be filed with the Trustee

Adopted September 14, 2010

Chairman, Board of Trustees
University of Kentucky

(SEAL)

Attest:

Secretary, Board of Trustees

CERTIFICATION

The undersigned, Secretary of the Board of Trustees of the University of Kentucky, Lexington, Kentucky, hereby certifies that the foregoing is a true copy of a Resolution adopted by the Board of Trustees of said University at a meeting held on September 14, 2010, as recorded in the official Minute Book of said Board of Trustees, which is in my custody and under my control, that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820, and 61.825, that a quorum was present at said meeting, and that the aforesaid Resolution is of record in the office of the Board, has not been modified, amended, or rescinded, and is in full force and effect at this date.

WITNESS my signature and the Seal of said Board this 19th day of November, 2010.

Assistant Secretary, Board of Trustees
University of Kentucky

(SEAL)

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