

PR 5

Office of the President
October 20, 2017

Members, Board of Trustees:

A RESOLUTION PROVIDING FOR THE AUTHORIZATION, ISSUANCE,
AND SALE OF APPROXIMATELY \$60,000,000 GENERAL RECEIPTS
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, in one or more installments, of approximately \$60,000,000 of University of Kentucky General Receipts Obligations, to be designated as “University of Kentucky General Receipts Bonds” with such series designation or designations that are appropriate to the order of issuance thereof (the “2018 Bonds”) and to be dated as of a date determined by the Treasurer, or, in lieu of issuing the 2018 Bonds, to enter into a Financing Agreement (the “Financing Agreement”) with the Kentucky Asset/Liability Commission (“ALCo”) or a lease (the “Lease”) with the State Property and Buildings Commission of the Commonwealth of Kentucky (“SPBC”) (the obligations authorized by the Resolution and evidenced by the 2018 Bonds, Financing Agreement or Lease being referred to herein collectively as “Modernization Project Obligations”).

The Resolution approves the issuance of the 2018 Bonds for the purpose of financing the project identified in House Bill 303 of the General Assembly of the Commonwealth of Kentucky, 2016 Regular Session, as enacted, as “Facilities Renewal, Modernization, and Deferred Maintenance,” (the “Project”). The amount authorized for project costs is \$60,000,000 (the authorization allows for issuance costs, capitalized interest, and an allowance for original issue discount in the sale price for the Project). As an alternative to issuing the 2018 Bonds to finance the Modernization Project, the Resolution authorizes (i) entering into the Financing Agreement with ALCo, or (ii) entering into the Lease with SPBC, with such Financing Agreement or Lease to be in the form prescribed by ALCo or the SPBC, as applicable.

The Resolution also approves the offering for sale of the Modernization Project Obligations in one or more installments, on a date or dates 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 or bids for the sale of the Modernization Project Obligations by the Treasurer. The exact principal amount of Modernization Project Obligations to be sold will be determined on the date or dates of sale as the amount required to (i) pay the budgeted costs of the Modernization Project, (ii) fund any capitalized interest determined to be appropriate by the Treasurer of the University and (iii) pay the costs of issuing the Modernization Project Obligations.

Approval of the Resolution declares the Board of Trustees’ official intent that the proceeds of the Modernization Project Obligations will be used, in whole or in part, to reimburse authorized

expenditures for the proposed project, to be located on the campus of the University, made prior to the issuance of such Obligations.

Background: The General Assembly, at its 2016 Regular Session, authorized the issuance of agency bonds to finance the “Facilities Renewal, Modernization, and Deferred Maintenance” project. This resolution is contingent upon the Board of Trustees’ approval of the initiation of the Facilities Renewal, Modernization, and Deferred Maintenance capital project at its September 2017 meeting.

At its September 2005 meeting, the Board of Trustees 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 capital projects. The Modernization Project Obligations will be issued under the Trust Agreement. Obligations include agency bonds, financing agreements with ALCo and lease agreements with SPBC. The Resolution authorizes the issuance of the Modernization Project Obligations, in one or more installments, establishes certain specific terms of the Modernization Project Obligations; provides for a competitive sale of the Modernization Project Obligations-including approval of the forms of a Notice of Bond Sale, Official Terms and Conditions of Bond Sale, Official Bid Form and Official Statement; and authorizes Supplemental Trust Agreements and Continuing Disclosure Agreements related to the Modernization Project Obligations.

Pursuant to the income tax regulations of the Internal Revenue Service, in order for expenditures made for a public project prior to the issuance of revenue bonds to be reimbursed upon the issuance of such bonds, it is necessary that the issuer express its official intent to issue such bonds or to have such bonds issued on its behalf and to reimburse such expenditures made prior to the issuance of such bonds.

Action taken: Approved Disapproved Other _____

SERIES RESOLUTION

A RESOLUTION PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF APPROXIMATELY \$60,000,000 GENERAL RECEIPTS 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 the acquisition, construction, installation and equipping of the project identified in H.B. 303 of the General Assembly of the Commonwealth of Kentucky, 2016 Regular Session, as enacted, as “Facilities Renewal, Modernization, and Deferred Maintenance,” (the “Project”); 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”), the University is authorized to issue its obligations to pay all or part of the costs of educational buildings, 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 of Trustees desires to, alternatively, provide for (i) the issuance and sale of University of Kentucky General Receipts Bonds, (ii) entering into a Financing Agreement, as defined in the Trust Agreement, with the Kentucky Asset/Liability Commission (“ALCo”), or (iii) entering into an SPBC Lease, as defined in the Trust Agreement, with the State Property and Buildings Commission of the Commonwealth of Kentucky (the “Commission”) (such Financing Agreement and SPBC Lease collectively hereinafter referred to as a “Lease,” and together with such bonds, all hereinafter referred to as the “2018 Obligations”) and approving any other agreements that are necessary and related thereto, which may be in one or more installments, 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 “Modernization Project Resolution,” the Obligations authorized by this Resolution are referred to herein (and in the Supplemental Trust Agreement hereby authorized) as the “Modernization Project

Obligations,” 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 Modernization Project Obligations. It is hereby declared to be necessary to, and the Board shall, issue, sell and deliver, as provided and authorized herein, approximately \$60,000,000 principal amount of General Receipts Obligations. The determination to issue any of the 2018 Obligations as (i) University of Kentucky General Receipts Bonds, (ii) a Lease with ALCo, or (iii) a Lease with the Commission shall be determined by the Fiscal Officer (as defined in the Trust Agreement) to be in the best financial interest of the University. If the Obligations are bonds, such bonds shall be designated “University of Kentucky General Receipts Bonds” and shall bear such further series designation or designations as the Fiscal Officer (as defined in the Trust Agreement) deems appropriate. If the Obligation is a Lease, such Lease shall be in the form prescribed by ALCo or the Commission, as applicable. Such Obligations shall be issued or entered into 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.

SECTION 4. Terms and Provisions Applicable to the Modernization Project Obligations.

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

(b) Denomination and Dates. If issued as bonds, the Modernization Project Obligations shall be in such denominations as requested by the Original Purchaser (hereafter defined), and shall be dated on the date or dates determined by the Fiscal Officer. The Modernization Project Obligations may be issued in installments (each installment being a part of the Modernization Project Obligations herein authorized) with maturity dates approved by the Fiscal Officer, having a final maturity that is no later than twenty years from the date the respective installment of the Modernization Project Obligations is issued.

(c) Interest. If issued as bonds, the Modernization Project 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. Any Lease constituting Modernization Project Obligations shall bear interest from its date 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 Modernization Project 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. If issued as bonds, the Modernization Project 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 related Supplemental Trust Agreement. If less than all of the outstanding Modernization Project Obligations are called for redemption at one time, they shall be called in the order of the maturities and series of Bonds as directed by the Fiscal Officer. If less than all of the outstanding Modernization Project Obligations of one maturity are to be called, the selection of such Modernization Project Obligations or portions of Modernization Project Obligations of such maturity to be called shall be made by lot in the manner provided in the Trust Agreement. Notice of call for redemption of Modernization Project Obligations shall be given in the manner provided in the Trust Agreement.

(f) Other Provisions. The Modernization Project Obligations may, at the option of the Fiscal Officer, including any bonds of ALCo or the Commission, may 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 Modernization Project Obligations shall be payable by check or draft, as provided in the Trust Agreement or the Lease, as applicable.

(h) Execution. The Modernization Project Obligations shall be executed in the manner provided in the General Bond Resolution.

SECTION 5. Award and Sale of Modernization Project Obligations. If issued as bonds, the Modernization Project 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 and 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 installments of the Modernization Project 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 Modernization Project Obligations is contingent upon the issuance and delivery of the respective installment of the Modernization Project 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 the applicable installment of Modernization Project Obligations that are required to be issued in order to (i) pay the budgeted costs of the Project and (ii) pay the costs of issuing the Modernization Project Obligations and the final principal amount, interest rates and maturities of the Modernization Obligations shall thereupon be established, as prescribed in the Official Terms and Conditions of Sale of Bonds.

Any Lease constituting Modernization Project Obligations shall be entered into in accordance with the requirements of ALCo or the Commission, as applicable.

SECTION 6. Allocation of Proceeds of Modernization Project Obligations. All of the proceeds from the sale of the Modernization Project Obligations and other lawfully available funds of the University shall be received and receipted for by the Fiscal Officer and shall, if issued as bonds, be deposited and allocated as set forth in the applicable Supplemental Trust Agreement approved hereby or, if entered into as a Lease, be deposited and allocated as set forth in in the manner required by ALCo or the Commission, as applicable.

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 Modernization Project 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, unless it is determined by the Fiscal Officer with the advice of special bond counsel to the University that compliance with the requirements of the Code cannot be accomplished with respect to a particular installment of the Obligations, it will restrict the use of the proceeds of the Modernization 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 the Modernization Project Obligations, so that the Modernization Project 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. The Fiscal Officer or any other officer of the University having responsibility with respect to issuance of the Modernization Project Obligations is hereby authorized and directed to give an appropriate certificate for inclusion in the transcript of proceedings with respect to the Modernization Obligations, setting forth the facts, estimates and reasonable expectations pertinent under said Sections 103(b)(2) and 148 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 Modernization Project 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, a Supplemental Trust Agreement pursuant to the Trust Agreement and in connection with the issuance of each installment of the Modernization Project 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 Statements. The Chairman is hereby authorized and directed to execute and deliver an Official Statement with respect to each installment of the Modernization Project 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 Modernization Project Obligations, as applicable, and such other information with respect to the University and the Modernization Project 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 each 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, related Continuing Disclosure Agreements in the usual and customary form are 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 Agreements.

SECTION 11. 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 12. 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 Modernization Project 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 Modernization Project Obligations.

SECTION 13. 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 14. Effective Date. This resolution shall take effect from and after its passage.

SECTION 15. Copy to be Filed with Trustee. A certified copy of this Resolution shall be filed with the Trustee

Adopted October 20, 2017.

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 October 20, 2017, 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 61.800 to 61.850, 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 ____ day of _____, 2017.

Secretary, Board of Trustees
University of Kentucky

(SEAL)

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