

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT DIRECTING THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PUBLIC FACILITIES CORPORATION TO TAKE CERTAIN FORMAL ACTIONS AS THE AGENCY AND INSTRUMENTALITY AND AS THE CONSTITUTED AUTHORITY OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT; SPECIFICALLY DIRECTING, AUTHORIZING, AND APPROVING THE ISSUANCE BY SAID LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PUBLIC FACILITIES CORPORATION OF ITS TAXABLE PROJECT REFUNDING BONDS, SERIES 2020 (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION), IN THE APPROXIMATE PRINCIPAL AMOUNT OF \$34,000,000 (WHICH AMOUNT MAY BE INCREASED OR DECREASED BY AN AMOUNT OF UP TO \$3,400,000); AUTHORIZING A GROUND LEASE AGREEMENT, A LEASE AGREEMENT AND A SUPPLEMENTAL LEASE AGREEMENT TO PROVIDE ADDITIONAL SECURITY FOR THE SERIES 2020 BONDS; AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the Lexington-Fayette Urban County Government Public Facilities Corporation (the “Corporation”), a nonprofit, no-stock corporation, has been duly organized and created pursuant to the provisions of Kentucky law to act as the agency and instrumentality of the Lexington-Fayette Urban County Government, an urban county government and political subdivision of the Commonwealth of Kentucky (the “Lexington-Fayette Urban County Government”), in the acquisition, construction, maintenance, expansion, improvement, and refinancing of public projects, as provided in Chapter 58 of the Kentucky Revised Statutes; and

**WHEREAS**, the Kentucky Bond Development Corporation (the “Prior Issuer”) heretofore issued its \$110,855,000 Convention Facilities Revenue Bonds, Series 2018 (Lexington Center Corporation Project) dated October 16, 2018 (the “Series 2018 Lease Revenue Bonds”) for the benefit of the Lexington Center Corporation an agency, instrumentality and constituted authority of the Lexington-Fayette Urban County Government (“LCC”), the proceeds of which were used to (i) finance a portion of the costs of the acquisition, construction and equipping of certain facilities (the “Convention Center”) owned and operated by LCC (the “Project”), (ii) fund the debt service reserve fund in connection therewith, and (iii) pay expenses and costs incurred in connection with the issuance thereof; and

**WHEREAS**, in order to further secure the Series 2018 Lease Revenue Bonds, the Lexington-Fayette Urban County Government entered into a Lease Agreement, dated as of October 1, 2018 (the “Original 2018 Lease Agreement”), with LCC, whereby the Lexington-Fayette Urban County Government leased the Project from LCC;

**WHEREAS**, the Prior Issuer for the benefit of LCC heretofore issued its (a) \$83,605,000 Transient Room Tax Revenue Bonds, Series 2018A (Lexington Center Corporation Project) (the “Series 2018A Senior Transient Room Tax Bonds”), and (b) \$13,460,000 Transient Room Tax

Revenue Bonds, Subordinate Series 2018B (Lexington Center Corporation Project) (the “Series 2018B Subordinate Transient Room Tax Bonds” and together with the Series 2018A Transient Room Tax Bonds, the “Series 2018 Transient Room Tax Bonds”), the proceeds of the Series 2018 Transient Room Tax Bonds were used to (i) finance a portion of the costs of the acquisition, construction and equipping the Project, (ii) refund certain outstanding notes, (iii) fund the debt service reserve fund and (iv) pay expenses and costs incurred in connection with the issuance thereof; and

**WHEREAS**, as a result of the COVID-19 pandemic and the related actions under the state of emergency declared in the Commonwealth of Kentucky (the “Commonwealth”), many major events scheduled at the Convention Center and other locations within the boundaries of Lexington-Fayette Urban County Government have been cancelled, postponed or rescheduled; and

**WHEREAS**, these cancellations have resulted in a corresponding decline in certain LCC revenues (the “LCC Revenues”) and in demand for hotel rooms, which in turn has resulted in a decline in receipts from the transient room tax assessed by the Lexington-Fayette Urban County Government, (the “Transient Room Tax”); and

**WHEREAS**, the LCC Revenues are the source of payment of debt service on the Series 2018 Lease Revenue Bonds and receipts from Transient Room Tax are the source of payment of debt service on the Series 2018 Transient Room Tax Bonds; and

**WHEREAS**, the Lexington-Fayette Urban County Government has determined that it will be advantageous and in the best interests of the Lexington-Fayette Urban County Government, LCC, and the Corporation to address the current and expected direct negative financial impact on LCC from the loss of LCC Revenues and Transient Room Tax receipts by providing for the deferral of debt service payments on the Series 2018 Lease Revenue Bonds and the Series 2018 Transient Room Tax Bonds; and

**WHEREAS**, Lexington-Fayette Urban County Government has directed the Corporation to act as its agency, instrumentality and constituted authority in connection with the issuance by the Corporation of lease revenue bonds to be designated, “Taxable Project Refunding Bonds, Series 2020 (Lexington-Fayette Urban County Government General Obligation),” in the approximate principal of \$34,000,000 (subject to a permitted adjustment increasing or decreasing the principal amount by up to \$3,400,000) (the “Series 2020 Bonds”); and

**WHEREAS**, the proceeds of the Series 2020 Bonds shall be made available to LCC to be used for the following purposes:

1. refunding a portion of the debt service payable with respect to the Series 2018 Lease Revenue Bonds, as provided in the Trust Indenture hereinafter defined (the “Refunded Lease Revenue Bond Debt Service”),
2. refunding a portion of the debt service payable with respect to the Series 2018 Transient Room Tax Bonds, as provided in the Trust Indenture (the “Refunded Senior Transient Room Tax Bond Debt Service” and with the Refunded Lease Revenue Bond Debt Service the “Refunded Debt Service”),
3. funding certain capitalized interest, and

4. paying the cost of issuance of the Series 2020 Bonds.

**WHEREAS**, in order to provide for an additional source of payment of debt service on the Series 2020 Bonds, it is necessary and desirable for the Lexington-Fayette Urban County Government to supplement and amend the Original 2018 Lease Agreement by a First Supplemental Lease Agreement between LCC and the Lexington-Fayette Urban County Government (the “2020 Supplement” and together with the Original 2018 Lease Agreement, the “2018 Lease Agreement”).

**NOW THEREFORE, BE IT ORDAINED BY THE URBAN COUNTY COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (THE “URBAN COUNTY COUNCIL”), AS FOLLOWS:**

**SECTION 1.** The Corporation, acting as the agency and instrumentality and the constituted authority of the Lexington-Fayette Urban County Government is hereby directed to adopt such resolutions and such orders and take such actions as may be necessary for the formal authorization by the Corporation of the issuance of the Series 2020 Bonds in the approximate principal amount of \$34,000,000 (which amount may be increased or decreased by an amount of up to \$3,400,000). The maturity, security provisions, redemption provisions, form of the Series 2020 Bonds, conditions of sale and all other terms and provisions incident to the Series 2020 Bonds shall be in accordance with the provisions which are set forth in (i) the resolution of the Board of Directors of the Corporation authorizing the issuance of the Series 2020 Bonds (the “Bond Resolution”), (ii) the Certificate of Award to be executed by the President of the Corporation, awarding the Series 2020 Bonds to the successful purchaser based on the bids received (the “Certificate of Award”), (iii) the Trust Indenture, dated on or about July 1, 2020 (the “Trust Indenture”), by and between the Corporation and The Huntington National Bank, as trustee (the “Trustee”), and (iv) the Lease Agreement, dated on or about July 1, 2020 (the “Lease Agreement”), by and between the Corporation and the Lexington-Fayette Urban County Government.

**SECTION 2.** The Lexington-Fayette Urban County Government hereby directs, authorizes, and approves the issuance, sale and delivery by the Corporation of the Series 2020 Bonds, and the application of the proceeds of the Series 2020 Bonds to the purposes set forth and described herein and in the Bond Resolution, the Certificate of Award, the Trust Indenture, and the Lease Agreement, including providing funds to refund the Refunded Debt Service.

**SECTION 3.** The Lexington-Fayette Urban County Government hereby expressly approves, directs, ratifies, and affirms the execution and delivery by the Corporation of the Trust Indenture and the execution and delivery by the Corporation and the Lexington-Fayette Urban County Government of the Lease Agreement, substantially in the forms attached hereto as Exhibits A and B, respectively. The Lexington-Fayette Urban County Government acknowledges that the Trust Indenture shall secure the payment of debt service with respect to the Series 2020 Bonds.

**SECTION 4.** The obligations created by the Lease Agreement shall be full general obligations of the Lexington-Fayette Urban County Government and, for the payment of lease payments designated as principal and the interest thereon, the full faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby pledged for the prompt payment thereof. During the term of the Lease Agreement, there shall be and there hereby is levied on all the taxable

property in the Lexington-Fayette Urban County Government, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the lease payments designated as principal and interest under the Lease Agreement when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the Lexington-Fayette Urban County Government are available for the payment of lease payments designated as principal and interest under the Lease Agreement and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Lexington-Fayette Urban County Government shall be reduced by the amount of such other funds so available and appropriated.

There has heretofore been established with the Lexington-Fayette Urban County Government a sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and Tax-Supported Leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund for the payment of lease payments designated as principal and interest under the Lease Agreement at the times and in the amounts required by the Lease Agreement.

**SECTION 5.** The Lexington-Fayette Urban County Government hereby approves the 2020 Supplement in substantially the form attached hereto as Exhibit C. It is hereby found, determined, ratified and affirmed that the Project constitutes a public project to be used for public purposes and that the refinancing of the Project as provided by the 2020 Supplement is necessary to accomplish such public purposes. It is further determined that it is necessary and desirable and in the best interests of the Lexington-Fayette Urban County Government to enter into the 2020 Supplement for the purposes therein specified, and the execution and delivery of the 2020 Supplement and all representations, certifications and other matters with respect to the 2020 Supplement, or as may be required by Dinsmore & Shohl, LLP, as Bond Counsel, prior to delivery of the 2020 Supplement, are hereby approved, ratified and confirmed.

The Lexington-Fayette Urban County Government (i) affirms the Corporation's right to receive Rental Payments (as defined in the 2018 Lease Agreement) from the Lexington-Fayette Urban County Government under the 2018 Lease Agreement and further ratifies and approves the Corporation's assignment of such right under the Trust Indenture, dated as of October 1, 2018 (the "2018 Indenture") to The Huntington National Bank, as trustee (in such capacity, the "2018 Trustee") and (ii) directs that any payments due from LCC to the Lexington-Fayette Urban County Government under the 2018 Lease be paid directly to the 2018 Trustee in accordance with the 2018 Lease Agreement.

**SECTION 6.** In accordance with Rule 15c2-12, as amended of the Securities and Exchange Commission (the "Rule"), the Lexington-Fayette Urban County Government hereby covenants and agrees that the Lexington-Fayette Urban County Government will execute, comply with and carry out all provisions of a continuing disclosure agreement to be dated as of the dated

date of the Series 2020 Bonds (the “Continuing Disclosure Agreement”), with the Corporation and LCC. The Mayor is hereby authorized and directed to execute said Continuing Disclosure Agreement on behalf of the Lexington-Fayette Urban County Government. The Lexington-Fayette Urban County Government further hereby authorizes and directs the Corporation to execute the Continuing Disclosure Agreement in connection with the issuance of the Series 2020 Bonds.

**SECTION 7.** The Lexington-Fayette Urban County Government further hereby authorizes the Corporation to execute and deliver any Escrow Trust Agreement among the Corporation and the parties to be named therein (the “Escrow Trust Agreement”), that is required to provide for the refunding of the Refunded Debt Service.

**SECTION 8.** In connection with the undertaking and implementation by the Corporation of the financing herein described, which is hereby expressly directed, the Corporation, its Board of Directors and its officers are hereby authorized and directed to continue to take and carry out any and all necessary, desirable or appropriate actions to effect such refinancing.

**SECTION 9.** In addition, to the extent that the Corporation has previously adopted the Bond Resolution, authorizing the issuance of the Series 2020 Bonds and the execution and delivery of the Certificate of Award, Trust Indenture, the Lease Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and all other documents and certificates related thereto, such actions are hereby ratified.

**SECTION 10.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions.

**SECTION 11.** All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**SECTION 12.** This Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

**INTRODUCED AND GIVEN FIRST READING** at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the \_\_\_\_ day of \_\_\_\_\_, 2020.

**GIVEN SECOND READING, ENACTED AND ADOPTED** at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the \_\_\_\_ day of \_\_\_\_\_, 2020.

**LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT**

By: \_\_\_\_\_  
Linda Gorton  
Mayor

**ATTEST:**

By: \_\_\_\_\_  
Abigail Allan  
Urban County Council Clerk

**CERTIFICATION**

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly enacted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020, on the same occasion signed by the Mayor is evidence of her approval, and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

**WITNESS** my hand and the seal of said Urban County Government as of the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Urban County Council Clerk

[SEAL]

**CERTIFICATE**

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

**DINSMORE & SHOHL LLP**

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John C. Merchant  
Attorney At Law

**EXHIBIT A**  
**FORM OF LEASE**



**EXHIBIT B**  
**FORM OF TRUST INDENTURE**

**EXHIBIT C**  
**FORM OF FIRST SUPPLEMENTAL LEASE**