

ORDINANCE NO. \_\_\_\_\_-2023

**ORDINANCE OF THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AN EIGHTH SUPPLEMENTAL LEASE AGREEMENT BETWEEN THE LEXINGTON-FAYETTE URBAN COUNTY AIRPORT BOARD AS THE LESSOR AND THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AS THE LESSEE RELATING TO THE ISSUANCE AND SALE OF AN AMOUNT NOT TO EXCEED \$110,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF LEXINGTON-FAYETTE URBAN COUNTY AIRPORT BOARD GENERAL AIRPORT REVENUE AND REVENUE REFUNDING BONDS, 2023 SERIES (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION) FOR THE PURPOSES OF (I) FINANCING THE COSTS OF THE 2023 PROJECT TO BE LOCATED AT THE BLUE GRASS AIRPORT IN FAYETTE COUNTY, KENTUCKY (II) REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING PRIOR BONDS ISSUED BY THE BOARD, (III) FUNDING A DEPOSIT TO THE DEBT SERVICE RESERVE FUND AND (IV) PAYING THE COSTS OF ISSUANCE IN CONNECTION THEREWITH.**

**WHEREAS**, the Lexington-Fayette Urban County Airport Board (the “Board”) has determined the need to:

(a) finance the costs of the acquisition of additions, extensions, and improvements to the present airport facilities at Blue Grass Airport, Lexington, Kentucky (the “Airport”), consisting of airport improvements, including a new approximately 50,000 square foot hangar and associated office space, a 120,000 to 150,000-gallon fuel storage facility for bulk storage of aviation fuels that serve all users of the Airport, and general aviation improvements comprised of other terminal renovations including upgrades to restrooms, utilities, HVAC systems, baggage belt system repairs, deicing containment facility, expansion to the airport rescue and firefighting training center building, installation of solar arrays, Gumbert Road improvements and replacement of passenger boarding bridges, all constituting additions, extensions and improvements to the existing airport facilities at the Blue Grass Airport (the “2023 Project”);

(b) refund all or a portion of the remaining outstanding principal amount of its:(a) \$5,400,000 Variable Rate General Airport Revenue Refunding Bonds, Reissued 2009 Series B (Lexington-Fayette Urban County Government General Obligation) (AMT), reissued on March 26, 2013, and currently outstanding in the principal amount of \$5,400,000 (the “Reissued 2009 Series B Bonds”), (b) \$39,095,000 General Airport Revenue and Revenue Refunding Bonds, 2016 Series C (Lexington-Fayette Urban County Government General Obligation) (Federally Taxable), currently outstanding in the principal amount of \$26,235,000 (the “2016 Series C Bonds”), and (c) \$32,000,000 General Airport Revenue and Revenue Refunding Bonds, 2019 Series A (Lexington-Fayette Urban County Government General Obligation) (Federally Taxable), currently outstanding in the principal amount of \$30,665,000 (the “2019 Series A Bonds” and collectively with the Reissued 2009 Series B Bonds and the 2016 Series C Bonds, the “Prior Bonds”);

(c) fund a deposit to the Debt Service Reserve Fund; and

(d) pay the costs of issuance in connection therewith;

in each case, to serve the needs of the traveling public, the costs of which can be financed (to the extent not otherwise provided) by the issuance of the Series 2023 Bonds of the Board, as hereinafter defined; and

**WHEREAS**, in connection with such financing of the 2023 Project and the refunding of the Prior Bonds, it is necessary that all actions of the Board and all documents necessary to be executed and delivered by the Board be specifically approved by the Urban County Council of the Lexington-Fayette Urban County Government; and

**WHEREAS**, the documents identified herein have been prepared and tendered to the Board and this Urban County Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AS FOLLOWS:**

**SECTION 1. Approval of Issuance of Series 2023 Bonds.**

The Lexington-Fayette Urban County Government (the “Urban County Government”) specifically acknowledges the anticipated issuance by the Board of the following bonds in an aggregate principal amount not to exceed \$110,000,000:

(a) Lexington-Fayette Urban County Airport Board General Airport Revenue and Revenue Refunding Bonds, 2023 Series A (Lexington-Fayette Urban County Government General Obligation) (Non-AMT), (the “2023 Series A Bonds”);

(b) Lexington-Fayette Urban County Airport Board General Airport Revenue and Revenue Refunding Bonds, 2023 Series B (Lexington-Fayette Urban County Government General Obligation) (AMT), (the “2023 Series B Bonds”); and

(c) Lexington-Fayette Urban County Airport Board General Airport Revenue and Revenue Refunding Bonds, 2023 Series C (Lexington-Fayette Urban County Government General Obligation) (Federally Taxable), (the “Taxable 2023 Series C Bonds” and collectively with the 2023 Series A Bonds and the 2023 Series B Bonds, the “Series 2023 Bonds”);

in accordance with the terms of the 2023 Series Bond Resolution adopted by the Board on May 24, 2023 (the “2023 Series Bond Resolution”), authorizing the issuance of such Series 2023 Bonds, bearing interest at a fixed rate, a copy of which 2023 Series Bond Resolution is attached hereto as *Exhibit A*.

**SECTION 2. Authorization of an Eighth Supplemental Lease.**

The Lexington-Fayette Urban County Government hereby approves the Eighth Supplemental Lease Agreement, dated as of August 1, 2023 (the “Eighth Supplemental Lease”), amending and supplementing the Lease Agreement, dated as of November 1, 2008, as supplemented and amended to date (such Lease Agreement, as so supplemented and amended, the “Lease”), between the Board, as lessor, and the Lexington-Fayette Urban County Government, as the lessee, in substantially the form attached hereto as *Exhibit B*, in accordance with the requirements thereof and the Trust Indenture<sup>1</sup>.

It is hereby found and determined that the refunding of the Prior Bonds is appropriate and the 2023 Project constitutes airport and air navigation facilities which are used for 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 Eighth Supplemental Lease for the purposes therein specified, and the execution and delivery of the Eighth Supplemental Lease and all representations, certifications and other matters with respect to the Eighth Supplemental Lease, or as may be required by Dinsmore & Shohl, LLP, as Bond Counsel, prior to delivery of the Eighth Supplemental Lease, are hereby approved, ratified and confirmed. In connection with said proposed plan of financing, the Mayor (with the Council Clerk attesting to the Mayor's signature) is hereby authorized and directed to execute the Eighth Supplemental Lease, with such changes in the Eighth Supplemental Lease not inconsistent with this Ordinance and not substantially adverse to the Lexington-Fayette Urban County Government as may be approved by the officials executing the same on behalf of the Lexington-Fayette Urban County Government. The approval of such changes by said officials, and that such are not substantially adverse to the Lexington-Fayette Urban County Government, shall be conclusively evidenced by the execution of the Eighth Supplemental Lease by such officials.

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<sup>1</sup> “Trust Indenture” refers to the Trust Indenture , dated as of November 1, 2008, as amended and supplemented, including as amended and supplemented by the Tenth Supplemental Trust Indenture, dated as of August 1, 2023 (entered into in connection with the issuance of the Series 2023 Bonds), all by and between the Board and U.S. Bank Trust Company, National Association (as successor in trust to The Bank of New York Mellon Trust Company, N.A. and successor trustee to U.S. Bank National Association), as trustee (the “Trustee”).

The Lexington-Fayette Urban County Government affirms the Board's right to receive Lease Rental Payments (as defined in the Eighth Supplemental Lease) from the Lexington-Fayette Urban County Government under the Lease and the Eighth Supplemental Lease and further ratifies and approves the Board's assignment of such right to the Trustee (as defined in the Lease) under the Trust Indenture, for the benefit of bondholders.

Upon the issuance of the Series 2023 Bonds, the Lease shall be modified and amended by the Eighth Supplemental Lease.

### **SECTION 3. Reaffirmation of General Obligation Pledge.**

Pursuant to the Constitution of the Commonwealth of Kentucky and the Kentucky Revised Statutes, the obligation of the Lexington-Fayette Urban County Government created by the Lease shall continue as a full general obligation of the Lexington-Fayette Urban County Government and, for the payment of the Lease Rental Payments, as defined therein, the Lexington-Fayette Urban County Government reaffirms its pledge of its full faith, credit and revenue for the prompt payment thereof. During the period the Lease is outstanding, the Lexington-Fayette Urban County Government hereby reaffirms that there shall be and there hereby is levied on all the taxable property in Fayette County, in addition to all other taxes, but within applicable limitations, a direct tax annually (the "Annual GO Tax") in an amount sufficient to pay the debt charges in connection with all bonds and tax-supported leases (including the Lease) financed by the Lexington-Fayette Urban County Government pursuant to Chapter 66 of the Kentucky Revised Statutes (each type of obligation as defined therein and collectively, the "General Obligation Indebtedness"),

The Annual GO 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. The Annual GO 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 monies of the Lexington-Fayette Urban County Government are available for the payment of the General Obligation Indebtedness (including the Lease Rental Payments) and are appropriated for such purpose, the amount of such Annual GO Tax upon all of the taxable property in Fayette County shall be reduced by the amount of such other lawfully available monies so available and appropriated.

The Lexington-Fayette Urban County Government has previously established a sinking fund (the "Sinking Fund") to provide for the payment of the debt charges in connection with the General Obligation Indebtedness, when and as the same fall due. The Lexington-Fayette Urban County Government hereby reaffirms that the funds derived from the Annual GO Tax and/or other available lawfully available monies shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the debt charges with respect to such General Obligation Indebtedness (including the Lease Rental Payments), when and as the same fall due.

### **SECTION 4. Mayor Authorized to Sign Other Documents.**

The Mayor (with the Council Clerk attesting to the Mayor's signature) is hereby authorized and directed to execute any further instruments and documents reasonably necessary in carrying out the plan of financing represented by said Lease, including, without limitation, the public approval of such Series 2023 Bonds as may be required by Section 147(f) of the Internal Revenue Code of 1986.

### **SECTION 5. Effective Immediately upon Enactment and Approval.**

This Ordinance shall be effective immediately upon enactment and approval as required by law, and a Notice of Enactment and Summary of the provisions of this Ordinance shall be published by the Urban County Council Clerk as required by law.

[Remainder of page intentionally left blank]

**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 \_\_\_\_\_, 2023.

**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 \_\_\_\_\_, 2023.

**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 \_\_\_\_\_, 2023, on the same occasion signed by the Mayor is evidence of his approval, and such Ordinance is 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 \_\_\_\_\_, 2023.

\_\_\_\_\_  
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**

**2023 SERIES BOND RESOLUTION**

[SEE ATTACHED]

**EXHIBIT B**  
**FORM OF EIGHTH SUPPLEMENTAL LEASE**  
[SEE ATTACHED]