

ORDINANCE NO. _____-2012

ORDINANCE OF THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A THIRD 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 REISSUANCE OF AN AMOUNT NOT TO EXCEED \$8,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF LEXINGTON-FAYETTE URBAN COUNTY AIRPORT BOARD GENERAL AIRPORT REVENUE REFUNDING BONDS, 2009 SERIES B (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION) (NON-AMT) AS LEXINGTON-FAYETTE URBAN COUNTY AIRPORT BOARD VARIABLE RATE GENERAL AIRPORT REVENUE REFUNDING BONDS, 2012 SERIES C (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION), ALL FOR THE PURPOSE OF CURRENTLY REFUNDING ALL OF THE BOARD'S OUTSTANDING \$16,420,000 VARIABLE RATE GENERAL AIRPORT REVENUE REFUNDING BONDS, 2009 SERIES B (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION) (NON-AMT), AT THE BLUE GRASS AIRPORT IN FAYETTE COUNTY, KENTUCKY.

WHEREAS, the Lexington-Fayette Urban County Airport Board (the "Board") has previously issued its (i) \$46,395,000 Variable Rate General Airport Revenue and Revenue Refunding Bonds, 2008 Series A (Lexington-Fayette Urban County Government General Obligation) (AMT) (the "2008 Series A Bonds," which are no longer outstanding), (ii) \$26,235,000 Variable Rate General Airport Revenue and Revenue Refunding Bonds, 2008 Series B (Lexington-Fayette Urban County Government General Obligation) (non-AMT) (the "2008 Series B Bonds"), and (iii) \$4,445,000 Variable Rate General Airport Taxable Revenue Refunding Bonds, 2008 Series C (Lexington-Fayette Urban County Government General Obligation) (Taxable) (the "2008 Series C Bonds" which 2008 Series C Bonds are no longer outstanding) and collectively with the 2008 Series A Bonds and the 2008 Series B Bonds, the "2008 Bonds"; and

WHEREAS, the Lexington-Fayette Urban County Airport Board has previously issued its (i) \$31,880,000 General Airport Revenue Refunding Bonds, 2009 Series A (Lexington-Fayette Urban County Government General Obligation) (non-AMT) (the "2009 Series A Bonds"); and (ii) \$16,420,000 Variable Rate General Airport Revenue Refunding Bonds, 2009 Series B (Lexington-Fayette Urban County Government General Obligation) (non-AMT) (the "2009 Series B Bonds" and collectively with the 2009 Series A Bonds, the "2009 Bonds"); and

WHEREAS, the Lexington-Fayette Urban County Airport Board will issue its (i) \$ _____ General Airport Revenue Refunding Bonds, 2012 Series A (Lexington-Fayette Urban County Government General Obligation) (AMT) (the "2012 Series A Bonds"); and (ii) \$ _____ General Airport Revenue Refunding Bonds, 2012 Series B

(Lexington-Fayette Urban County Government General Obligation) (non-AMT) (the "2012 Series B Bonds" and collectively with the 2012 Series A Bonds, the "2012 Bonds");and

WHEREAS, the 2008 Bonds were issued by the Board for the purpose of providing funds to: (i) refund certain outstanding First Mortgage Revenue Bonds issued by the Lexington-Fayette Urban County Airport Corporation, (ii) finance improvements to the Blue Grass Airport (the "Airport") consisting of certain airfield, terminal, parking and sanitary sewer improvements (the "2008 Project"); (iii) fund a Debt Service Reserve Fund; and (iv) pay the costs of issuance of the 2008 Bonds; and

WHEREAS, the 2009 Bonds were issued by the Board for the purpose of providing funds to: (i) currently refund the 2008 Series A Bonds and a portion of the outstanding 2008 Series B Bonds, (ii) fund a Debt Service Reserve Fund; and (iii) pay the costs of issuance of the 2008 Bonds; and

WHEREAS, the 2012 Bonds were issued by the Board for the purpose of providing funds to: (i) currently the refund the 2008 Series B Bonds and a portion of the outstanding 2009 Series B Bonds, (ii) fund a Debt Service Reserve Fund; and (iii) pay the costs of issuance of the 2008 Bonds; and

WHEREAS, the Board seeks to reissue all of the remaining outstanding 2009 Series B Bonds (i) to alleviate potential interest rate risks and (ii) to obtain debt service savings, if any; and

WHEREAS, in connection with the anticipated reissuance by the Board of its Lexington-Fayette Urban County Airport Board Variable Rate General Airport Revenue Refunding Bonds, 2009 Series B (Lexington-Fayette Urban County Government General Obligation) (non-AMT), under the Trust Indenture, dated as of November 1, 2008, (the "General Trust Indenture") as supplemented by the Fifth Supplemental Trust Indenture, dated as of December 1, 2012 (the "Fifth Supplement"), in an aggregate principal amount not to exceed \$8,000,000, a portion of the proceeds of which will be applied to the current refunding of the entire outstanding principal amount of the 2009 Series B Bonds (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 2012 Series C Bonds.

The Lexington-Fayette Urban County Government (the "Urban County Government") specifically acknowledges the reissuance by the Board of not to exceed \$8,000,000 aggregate principal amount of Lexington-Fayette Urban County Airport Board Variable Rate General Airport Revenue Refunding Bonds, 2012 Series C (Lexington-Fayette Urban County

Government General Obligation) (AMT) or (non-AMT), in accordance with the terms of the 2012 Series C Bond Resolution adopted by the Board on October ____, 2012 (the "2012 Series C Bond Resolution"), authorizing the issuance of such 2012 Series C Bonds, bearing interest at a rate as provided by JP Morgan Chase Bank, National Association ("JPMorgan Chase") as the purchaser of the 2012 Series C Bonds, as further provided in the 2012 Series C Bond Resolution a copy of which is attached hereto as *Exhibit A*.

SECTION 2. Authorization of Third Supplemental Lease.

The Urban County Government hereby approves the Third Supplemental Lease Agreement, dated as of December 1, 2012 (the "Third Supplemental Lease"), by and between the Board, as lessor, and the Urban County Government, as lessee, in substantially the form attached hereto as *Exhibit B*, supplementing and amending the Lease (as defined in the General Trust Indenture, as amended and supplemented by the Second Supplement, the Third Supplement, the Fourth Supplement and the Fifth Supplement (collectively, the "Trust Indenture")), in accordance with the requirements of the Trust Indenture and the Lease. It is hereby found and determined that the current refunding of the Prior Bonds is appropriate. It is further determined that it is necessary and desirable and in the best interests of the Urban County Government to enter into the Third Supplemental Lease for the purposes therein specified, and the execution and delivery of the Third Supplemental Lease and all representations, certifications and other matters with respect to the Third Supplemental Lease, or as may be required by Peck, Shaffer & Williams LLP, as Bond Counsel, prior to delivery of the Third 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 Third Supplemental Lease, with such changes in the Third Supplemental Lease not inconsistent with this Ordinance and not substantially adverse to the Urban County Government as may be approved by the officials executing the same on behalf of the Urban County Government. The approval of such changes by said officials, and that such are not substantially adverse to the Urban County Government, shall be conclusively evidenced by the execution of the Third Supplemental Lease by such officials.

The Urban County Government affirms the Board's right to receive Lease Rental Payments (as defined in the Lease, the First Supplemental Lease, the Second Supplemental Lease and the Third Supplemental Lease) from the Urban County Government under the Lease, the First Supplemental Lease, the Second Supplemental Lease and the Third Supplemental Lease and further ratifies and approves the Board's assignment of such right to the Trustee (as defined in the Lease, originally The Bank of New York Mellon Trust Company, N.A., Louisville, Kentucky) under the Trust Indenture, for the benefit of bondholders.

Upon the reissuance of the Prior Bonds as the 2012 Series C Bonds, the Lease shall be modified and amended by the Third Supplemental Lease.

SECTION 3. General Obligation Pledge.

Pursuant to the Constitution of the Commonwealth and the Kentucky Revised Statutes, the obligation of the Urban County Government created by the Lease shall be a full general obligation of the Urban County Government and, for the payment of the Lease Rental Payments,

as defined therein, the full faith, credit and revenue of the Urban County Government is hereby pledged for the prompt payment thereof. During the period the Lease is outstanding, there shall be and there hereby is levied on all the taxable property in the Fayette County, in addition to all other taxes, but within applicable limitations, a direct tax annually in an amount sufficient to pay the Lease Rental Payments when and as due. 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 taxes of the Urban County Government are available for the payment of the Lease Rental Payments and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Fayette County shall be reduced by the amount of such other taxes so available and appropriated.

There is hereby established with the Urban County Government a sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other available taxes shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of all bonds issued under KRS Chapter 66 and Tax Supported Leases, as defined in KRS Chapter 66, including the Lease, 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 2012 Series C Bonds as 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 October, 2012.

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 _____, 2012.

**LEXINGTON-FAYETTE COUNTY
GOVERNMENT**

Approved: _____
Mayor

Attest:

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 _____, 2012, on the same occasion signed by the Mayor is evidence of his 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 _____, 2012.

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.

PECK, SHAFFER & WILLIAMS LLP

John C. Merchant
Attorney At Law

EXHIBIT A
2012 SERIES C RESOLUTION

EXHIBIT B
THIRD SUPPLEMENTAL LEASE