

RESOLUTION NO. _____-2018

A RESOLUTION OF THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT BETWEEN LEXINGTON CENTER CORPORATION, AS LESSOR, AND THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, AS LESSEE, FOR THE PURPOSES OF FINANCING AND REFINANCING THE COSTS OF THE EXPANSION AND RENOVATION OF ARENA AND CONVENTION FACILITIES.

WHEREAS, certain public agencies in the Commonwealth, including Lexington-Fayette Urban County Government, have formed the Kentucky Bond Development Corporation (the “Issuer”) to act as a constituted authority of public agencies under the terms of an Interlocal Cooperation Agreement dated as of September 19, 2014 (the “Interlocal Agreement”) to create a system for funding or financing various governmental purposes, including, but not limited to, (i) a “public project” for any “governmental agency,” as those terms are defined in KRS 58.010, (ii) “buildings” or “industrial buildings,” as those terms are defined in KRS 103.200 and (iii) any similar governmental funding or financing purposes for any public agency, including any related financing costs, reserve funds, capitalized interest and other related costs and contingencies with respect thereto; and

WHEREAS, the Issuer is specifically authorized and empowered by the Interlocal Agreement and Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the “Act”) to issue its revenue bonds to assist in the financing of “buildings” or “industrial buildings,” as those terms are defined in KRS 103.200, including any related financing costs, reserve funds, capitalized interest and other related costs and contingencies with respect thereto; and

WHEREAS, the Interlocal Agreement provides, in order to provide funding for such system of financing such purposes, the Issuer may issue revenue bonds or notes which may be secured by a trust indenture by and between the Issuer and a corporate trustee; and

WHEREAS, the Act authorizes the issuance of bonds to pay the costs of “buildings” or “industrial buildings,” as those terms are defined in the Act, including any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof; and

WHEREAS, Lexington Center Corporation, a nonprofit corporation organized and existing under the laws of the Commonwealth of Kentucky pursuant to KRS 273.161 through 273.390, inclusive, and KRS 58.180 (the “Corporation”) has evidenced a desire to have the costs of the expansion and renovation of the Corporation’s arena and convention facilities (the “Project”) and the costs of refunding certain outstanding bonds originally issued to finance improvements to the Corporation’s arena and convention facilities (the “Refinanced Projects”) financed with the proceeds of the issuance and sale by the Issuer of its Lexington Convention Center Facilities Refunding and Improvement Revenue Bonds, Series 2018 (Lexington Center Corporation Project) (the “Bonds”), which Bonds are to be issued pursuant to a Trust Indenture to be dated as of the first day of the month in which the Bonds are issued (the “Indenture) between the Issuer and The Huntington National Bank (the “Trustee”); and

WHEREAS, the proceeds of the Bonds will be loaned to the Corporation pursuant to a certain Loan Agreement dated as of the date of the Indenture (the “Loan Agreement”) to accomplish the purposes for which the Bonds are to be issued, which loan is to be repaid from certain revenues of the Corporation; and

WHEREAS, in order to further secure the Bonds and any Parity Obligations (as defined in the Loan Agreement) issued under the Loan Agreement, it is necessary and desirable for the Corporation and Lexington-Fayette Urban County Government to enter into a Lease Agreement dated as of even date with the Indenture, whereby the Lexington-Fayette Urban County Government will lease the Project and the Refinanced Projects from the Corporation on an annually renewable basis during the term the Bonds are outstanding under the Indenture or any Parity Obligations are outstanding under the Loan Agreement.

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

SECTION 1. Authorization of Lease.

The Lexington-Fayette Urban County Government hereby approves the Lease, by and between the Corporation, as lessor, and the Lexington-Fayette Urban County Government, as lessee, in substantially the form attached hereto as *Exhibit A*. It is hereby found and determined that the Project and Refinanced Projects constitute public projects to be 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 Lease for the purposes therein specified, and the execution and delivery of the Lease and all representations, certifications and other matters with respect to the Lease, or as may be required by Dinsmore & Shohl, LLP, as Bond Counsel, prior to delivery of the Lease, are hereby approved, ratified and confirmed. In connection with the proposed plan of financing set forth in the Lease, the Mayor (with the Council Clerk attesting to the Mayor’s signature) is hereby authorized and directed to execute the Lease, with such changes in the Lease not inconsistent with this Resolution 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 Lease by such officials.

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

SECTION 2. 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, and take such other action as shall be reasonably necessary, to effect the transactions contemplated by said Lease and Management Agreement.

SECTION 3. Open Meetings.

It is found and determined that all formal actions of this Urban County Council of the Issuer concerning and relating to the adoption of this resolution were adopted in an open meeting of this Urban County Council; and that all deliberations of this Urban County Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SECTION 4. Severability.

If any one or more of the provisions of this resolution should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

SECTION 5. Inconsistent Actions.

All prior resolutions, orders or parts thereof inconsistent herewith are hereby repealed.

SECTION 6. Effective Date of Resolution.

This Resolution shall become effective immediately upon the date of its passage.

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of Urban County Council of Lexington-Fayette Urban County Government on the 3rd day of July, 2018.

INTRODUCED AND GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of Urban County Council of Lexington-Fayette Urban County Government held on the 5th day of July, 2018, signed by the Mayor, attested under seal by the Clerk of Urban County Council, and ordered to be published, filed and indexed as provided by law.

Jim Gray
Mayor

ATTEST:

Martha J. N. Allen
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 a Resolution duly adopted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the 5th day of July, 2018, on the same occasion signed by the Mayor as evidence of his approval, and such Resolution 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.

I do hereby further certify that said Resolution has not been amended, modified, superseded or repealed and that same remains in full force and effect as of the date of this Certificate.

WITNESS my hand and the seal of said Lexington-Fayette Urban County Government as of the ____ day of _____, 2018.

Martha J. N. Allen
Clerk of the Urban County Council of the
Lexington-Fayette Urban County
Government Urban County Council

[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

Dirk M. Bedarff
Attorney At Law

EXHIBIT A
FORM OF LEASE
[SEE ATTACHED]