



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Legislation Text

File #: 0726-18, Version: 2

A Resolution of the Lexington-Fayette Urban County Government authorizing the Kentucky Bond Development Corporation to issue bonds payable from Transient Room Tax and separately bonds payable from facilities revenues to pay costs of development of the Lexington Center Corporation Project. [Dept. of Finance, O'Mara]

Authorization for the Kentucky Bond Development Corporation to issue bonds payable from the Transient Room Tax to pay costs of development of the Lexington Center Corporation Project. 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 and the costs of refunding certain outstanding bonds originally issued to finance improvements to the Corporation's arena and convention facilities. This resolution has no budgetary impact. (0726-18)(O'Mara)

Budgetary Implications [select]: /NO

Advance Document Review:

Law: { Yes, Completed by [Attorney Barberie, Date]}

Fully Budgeted [select]: N/A

Account Number:

This Fiscal Year Impact: \$

Annual Impact: \$

Project:

Activity:

Budget Reference:

Current Balance:

WHEREAS, public agencies in the Commonwealth of Kentucky have experienced and are continuing to experience difficulty in economically funding or financing various governmental purposes at reasonable costs; and

WHEREAS, public agencies, including Lexington-Fayette Urban County Government, have entered into an Interlocal Cooperation Agreement dated September 19, 2014, as authorized under Sections 65.210 through Section 65.300 (the "Interlocal Agreement"), inclusive, of the Kentucky Revised Statutes, as amended,

which authorizes public agencies to cooperate and act jointly in exercising any and all powers, privileges and authority capable of exercise by such public agencies in their respective individual capacities; and

WHEREAS, in order to provide a vehicle for economically funding or financing various governmental and economic development purposes of public agencies in the Commonwealth of Kentucky, the Kentucky League of Cities Economic Development Finance Program (the “Program”) has been established under the Interlocal Agreement and, under the Program, the Kentucky Bond Development Corporation (the “Issuer”) has been established; and

WHEREAS, the Program will benefit the public health, safety and general welfare of the citizens of Lexington-Fayette Urban County Government; 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, KRS 103.200 et seq. (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 and the costs of refunding certain outstanding bonds originally issued to finance improvements to the Corporation’s arena and convention facilities (such new facilities and existing facilities being hereinafter referred to as the “Project”) financed and refinanced with the proceeds of the issuance and sale by the Issuer of its (i) Transient Room Tax Bonds, Series 2018A (Lexington Center Corporation Project), (ii) Transient Room Tax Bonds, Subordinate Series 2018B (Lexington Center Corporation Project) and (iii) Transient Room Tax Bond Anticipation Notes, Series 2018 (Lexington Center Corporation Project) (collectively, the “Transient Room Tax Bonds”), which Transient Room Tax Bonds are to be issued pursuant to a Trust Indenture to be dated as of the first day of the month in which the Transient Room Tax Bonds are issued, between the Issuer and The Huntington National Bank (the “Trustee”); and

WHEREAS, the Corporation has also evidenced a desire to have the Project financed and refinanced 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 “Revenue Bonds”), which Revenue Bonds are to be issued pursuant to a Trust Indenture to be dated as of the first day of the month in which the Revenue Bonds are issued, between the Issuer and the Trustee; and

WHEREAS, the (i) Transient Room Tax Bonds will be payable solely from certain transient room tax revenues (the “Transient Room Tax Revenues”) and will not be payable from any other funds or assets of the Lexington-Fayette Urban County Government, the Corporation or the Issuer and (ii) Revenue Bonds will be payable from payments made by the Corporation under a Loan Agreement between the Issuer and the Corporation and, in certain circumstances, a Lease Agreement between the Corporation and the Lexington-Fayette Urban County Government (such loan payments and lease payments being hereinafter referred to as the “Facilities Revenues”); and

WHEREAS, the Lexington-Fayette Urban County Government hereby finds and determines that the

financing of the Project will further the purposes and policies of the Act in accordance with the Interlocal Agreement; and

WHEREAS, the Lexington-Fayette Urban County Government and/or the Lexington-Fayette Urban County Government's Department of Finance (the "Finance Agency") anticipate that they will enter into, at the appropriate time, a financing agreement (the "Financing Agreement") with the Issuer with respect to the Transient Room Tax Bonds under which (i) the Issuer will agree to issue the Transient Room Tax Bonds for the purposes described in this Resolution and (ii) the Finance Agency will apply the Transient Room Tax Revenues to the payment of principal of and premium, if any, and interest on the Transient Room Tax Bonds together with all the Trustee's fees in connection with the Transient Room Tax Bonds and any other related charges as the same come due and payable;

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

SECTION 1. Purpose.

The Urban County Council of the Lexington-Fayette Urban County Government hereby finds, determines and declares that all statements of fact set forth in the preambles to this Resolution are true and correct in all respects, and such preambles are incorporated into the body of this Resolution by reference as if set forth at length herein. The Lexington-Fayette Urban County Government further finds, determines and declares that the issuance by the Issuer of the Bonds, hereinafter described, for the Project in accordance with the Interlocal Agreement will be in the best interest of the Lexington-Fayette Urban County Government and is in the furtherance of the public purposes and functions of the Lexington-Fayette Urban County Government in connection with facilitating the financing and refinancing of the Project, which will be in the public interest.

SECTION 2. Authorization of Bonds.

The Issuer, acting by authority of the Lexington-Fayette Urban County Government and the Agreement, is hereby requested to adopt such resolutions and take such actions as may be necessary for the formal authorization by the Issuer of up to (i) ~~\$100,000,000~~ 110,000,000 Transient Room Tax Bonds, Series 2018A (Lexington Center Corporation Project), (ii) \$20,000,000 Transient Room Tax Bonds, Subordinate Series 2018B (Lexington Center Corporation Project), (iii) ~~\$100,000,000~~ 110,000,000 Transient Room Tax Bond Anticipation Notes, Series 2018 (Lexington Center Corporation Project) (collectively, the "Transient Room Tax Bonds") and (iv) ~~\$10,000,000~~ 120,000,000 Refunding and Improvement Revenue Bonds, Series 2018 (Lexington Center Corporation Project) (the "Revenue Bonds" and together with the Transient Room Tax Bonds, "Bonds"), in one or more series, to be dated appropriately in accordance with their date of sale and delivery, with such additional series designation as may be deemed appropriate, to pay the costs of the Project, including costs incident to the authorization, sale and issuance of the Bonds, interest on the Bonds to be capitalized and to fund any required reserves for the payment of the Bonds. The maturity, security provisions, redemption provisions, form of Bonds, conditions of sale and all other terms and provisions incident to the Bonds shall be in accordance with the Program. This Resolution shall constitute an affirmative official action of the Lexington-Fayette Urban County Government toward the issuance of the Bonds as contemplated herein in accordance with the purposes of the laws of the Commonwealth of Kentucky and the Agreement.

SECTION 4. Authorization of Financing Agreement.

A Financing Agreement providing for the payment of certain Transient Room Tax Revenues to the Issuer, to be applied to the payment of principal of and premium, if any, and interest on the Transient Room Tax

Bonds together with all trustee's and paying agent's fees in connection with the Transient Room Tax Bonds and any other related charges as the same come due and payable, is hereby expressly approved to be finalized in the appropriate form to permit the issuance of the Transient Room Tax Bonds, and the same is hereby authorized to be negotiated and executed in the name and on behalf of the Lexington-Fayette Urban County Government and/or the Finance Agency by the Mayor and Urban County Council Clerk and appropriate officers of the Finance Agency, as applicable.

SECTION 5. Obligation Limited.

Except for the Transient Room Tax Revenues to be payable to the Issuer under the Financing Agreement, no recourse against the Lexington-Fayette Urban County Government shall be had for the payment of the principal of or premium or interest on any of the Transient Room Tax Bonds or for any claim based thereon or upon any obligation, covenant or agreement therein contained, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability shall be expressly waived and released by Issuer as a condition of and consideration for the adoption of this Resolution and the authorization of the Transient Room Tax Bonds. ANY TRANSIENT ROOM TAX BONDS ISSUED PURSUANT TO THIS RESOLUTION SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT WITHIN THE MEANING OF THE CONSTITUTION OF THE COMMONWEALTH OF KENTUCKY. SUCH TRANSIENT ROOM TAX BONDS SHALL BE PAYABLE SOLELY FROM THE REVENUES AND SECURITY INTERESTS PLEDGED FOR THEIR PAYMENT AS PROVIDED IN IN THIS RESOLUTION AND THE TRANSIENT ROOM TAX BOND INDENTURE, AND, EXCEPT FOR THE "REVENUES" TO BE APPLIED IN ACCORDANCE WITH THIS RESOLUTION, NEITHER MONEYS RAISED BY TAXATION NOR ANY OTHER GENERAL OR SPECIAL REVENUES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT SHALL BE OBLIGATED OR PLEDGED FOR THE PAYMENT OF PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE TRANSIENT ROOM TAX BONDS.

Except for the Facilities Revenues, no recourse against the Lexington-Fayette Urban County Government shall be had for the payment of the principal of or premium or interest on any of the Revenue Bonds or for any claim based thereon or upon any obligation, covenant or agreement therein contained, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability shall be expressly waived and released by Issuer as a condition of and consideration for the adoption of this Resolution and the authorization of the Revenue Bonds. ANY REVENUE BONDS ISSUED PURSUANT TO THIS RESOLUTION SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT WITHIN THE MEANING OF THE CONSTITUTION OF THE COMMONWEALTH OF KENTUCKY. SUCH REVENUE BONDS SHALL BE PAYABLE SOLELY FROM THE FACILITIES REVENUES AND SECURITY INTERESTS PLEDGED FOR THEIR PAYMENT AS PROVIDED IN THIS RESOLUTION AND THE REVENUE BOND INDENTURE, AND, EXCEPT FOR THE "FACILITIES REVENUES" TO BE APPLIED IN ACCORDANCE WITH THIS RESOLUTION, NEITHER MONEYS RAISED BY TAXATION NOR ANY OTHER GENERAL OR SPECIAL REVENUES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT SHALL BE OBLIGATED OR PLEDGED FOR THE PAYMENT OF PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE REVENUE BONDS.

SECTION 6. Open Meetings.

That the Lexington-Fayette Urban County Government hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in open meetings of the Lexington-Fayette Urban

County Government, and that all deliberations of the Lexington-Fayette Urban County Government and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with all applicable legal requirements.

SECTION 7. Repeal of Conflicting Actions.

All ordinances, resolutions, orders or other legislative or administrative actions or parts thereof of this governing body in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, however, it is hereby found and determined that the resolution of the Urban County Council adopted at the time of adoption of this Resolution that approves a Lease Agreement, whereby the Lexington-Fayette Urban County Government will lease the Project from the Corporation on an annually renewable basis during the term the Revenue Bonds are outstanding, is not inconsistent with this Resolution.

SECTION 8. 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 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

CERTIFICATE

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 this 5th day of July,

2018.

Martha J. N. Allen 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

Roger L. Peterman

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