

# FCR 24

Office of the President  
September 20, 2005

Members, Board of Trustees:

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY APPROVING A TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2005 BETWEEN THE UNIVERSITY OF KENTUCKY AND THE TRUSTEE NAMED THEREIN, PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE FROM TIME TO TIME OF GENERAL RECEIPTS OBLIGATIONS OF THE UNIVERSITY OF KENTUCKY, PROVIDING FOR THE PAYMENT OF SUCH OBLIGATIONS, AND THE SECURING OF SUCH PAYMENT, AND AUTHORIZING OTHER MATTERS RELATED THERETO

Recommendation: that the Board of Trustees adopt a Resolution (i) approving a Trust Agreement dated as of November 1, 2005 (the "Trust Agreement") between the University and a corporate trustee to be named therein, authorizing the issuance, from time to time, of Obligations (described below) secured by a pledge of the General Receipts (described below) of the University, (ii) determining that bonds will no longer be issued under the Consolidated Educational Buildings Project resolution adopted on September 20, 1960 (the "Original Basic Resolution"), and (iii) determining that bonds will only be issued under the Housing and Dining System Trust Indenture dated June 1, 1965 (the "Original Housing Indenture") if the issuance of such bonds is in compliance with the requirements of the Trust Agreement.

The Resolution does not authorize the issuance of particular Obligations. Its purpose is to establish a financing structure to reflect changes in the University, financing standards, market expectations and financing techniques since the adoption of the Original Basic Resolution and the Original Housing Indenture, to provide the University greater flexibility in financing and investing, and improved cash management. Bonds will no longer be issued under the Original Basic Resolution. Bonds for housing and dining facilities will continue to be issued under the Original Housing Indenture until all bonds that are outstanding under the Original Housing Indenture as of the date of the Trust Agreement are retired or defeased, at which time all bonds issued for housing and dining facilities after the date of the Trust Agreement will be outstanding only under the Trust Agreement. Obligations that may be issued under the Trust Agreement are bonds, notes, Financing Agreements with the Kentucky Asset/Liability Commission, leases with the State Property and Buildings Commission and additional obligation instruments that may be authorized by law. Obligations to be issued under the Trust Agreement will be authorized by series resolutions and supplemental trust agreements.

Background: The University presently has outstanding (i) Consolidated Educational Buildings Project Revenue Bonds secured by a pledge of student fees and by a statutory mortgage lien against all of the buildings of the Project and (ii) Housing and Dining System Revenue Bonds secured by a pledge of the revenues derived from the operation of the University's Housing and Dining System and by a statutory mortgage lien against all of the buildings of the System. The Trust Agreement replaces that financing structure with a structure that pledges the General Receipts of the University as security for Obligations issued in the future. It is anticipated that, in the future, Obligations will be issued under the Trust Agreement for all capital projects of the University to be financed with borrowed funds. The pledge of General Receipts under the Trust Agreement will, to the extent already pledged under the Original Basic Resolution and Original Housing Indenture, be subordinate to the those pledges until no bonds are outstanding under the Original Basic Resolution and Original Housing Indenture, respectively.

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Action taken:  Approved  Disapproved  Other \_\_\_\_\_

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY APPROVING A TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2005 BETWEEN THE UNIVERSITY OF KENTUCKY AND THE TRUSTEE NAMED THEREIN, PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE FROM TIME TO TIME OF GENERAL RECEIPTS OBLIGATIONS OF THE UNIVERSITY OF KENTUCKY, PROVIDING FOR THE PAYMENT OF SUCH OBLIGATIONS, AND THE SECURING OF SUCH PAYMENT, AND AUTHORIZING OTHER MATTERS RELATED THERETO

WHEREAS, the Board of Trustees (the "Board") of the University of Kentucky (the "University"), by adoption of a resolution on September 20, 1960 (the "Prior Basic Resolution"), has provided for the issuance from time to time of Consolidated Educational Buildings Revenue Bonds of the University, with each such issue authorized by a series resolution adopted by the Board; and

WHEREAS, the Board, under a Trust Indenture and Supplemental Trust Indenture dated as of June 1, 1965 (and all supplemental indentures related thereto) between the University and Farmers Bank & Capital Trust Company (the "Prior Housing Indenture"), has provided for the issuance from time to time of Housing and Dining System Revenue Bonds of the University, with each such issue authorized by a supplemental trust indenture; and

WHEREAS, the University desires to, from this time forward, provide for the financing of capital projects by the issuance of General Receipts Obligations under a Trust Agreement dated as of November 1, 2005 (the "Trust Agreement") between the University and a trustee named therein (the "Trustee") to reflect changes in the University, financing standards, market expectations and financing techniques since the adoption of the Original Basic Resolution and the Original Housing Indenture, to provide the University greater flexibility in financing and investing, and improved cash management, from and after the date of execution and delivery of the Trust Agreement; and

WHEREAS, the University will no longer issue "bonds" under the Prior Basic Resolution and will only issue "bonds" under the Prior Housing Indenture if the issuance of such bonds complies with the terms of the Trust Agreement; and

WHEREAS, by the Constitution and laws of the Commonwealth of Kentucky, and particularly Sections 162.340 to 162.380 of the Kentucky Revised Statutes, Chapter 56 of the Kentucky Revised Statutes and Sections 58.010 to 58.140 of the Kentucky Revised Statutes (collectively, the "Act"), the University is authorized to enter into the Trust Agreement with the Trustee providing for the issuance from time to time of bonds, notes, Financing Agreements (as defined in the Act), leases with the State Property and Buildings Commission of the Commonwealth of Kentucky, and other agreements providing for the repayment of money that the University may, from time to time, be authorized to enter into under the laws of the Commonwealth of Kentucky (the "Commonwealth") (collectively, the "Obligations"), for the purpose of paying the costs of buildings and appurtenances to be used in connection with the University for educational purposes, including, but not limited to any Authorized Project, any Building, any Building project and any Public project, as those terms are defined in the Act,

including site improvements, utilities, machinery, furnishings and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by such facilities; and

WHEREAS, the University desires to make provision for the issuance from time to time of the Obligations and for the payment of the Debt Service Charges (as defined in the Trust Agreement) thereon and the security thereof by this 2005 General Bond Resolution (the "2005 Resolution") and the Trust Agreement herein authorized, with each issue of Obligations to be authorized by a separate Series Resolution (as defined in the Trust Agreement) based upon this 2005 Resolution and the Trust Agreement and, if required under the Trust Agreement, a Supplemental Trust Agreement (as defined in the Trust Agreement), pertaining to that issue of Obligations;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY, AS FOLLOWS:

Section 1. Determinations by the Board. The Board hereby finds and determines the facts set forth in the preambles to this 2005 Resolution.

Section 2. Approval of Trust Agreement. To better provide for the facilities and the financing mechanisms thereof, as set forth in the preambles hereto, and in order to better provide for the availability of comprehensive financing options and techniques which were not in existence at the time of the execution of either the Original Basic Resolution or the Original Housing Indenture, this Board hereby determines that it is necessary to enter into the Trust Agreement, and hereby authorizes the execution thereof substantially in the form presented to this Board on the date hereof. Said Trust Agreement shall be subject to changes, insertions and omissions as may be approved by the Treasurer of the University, as well as by bond counsel, which approval shall be conclusively evidenced by the execution of said Trust Agreement as herein provided.

Section 3. Execution of Trust Agreement. The Trust Agreement and any accompanying documents, certifications or agreements may be executed on behalf of the University by the Chairman of the Board.

Section 4. Open Meetings Determination. The Board hereby finds and determines that all formal actions relative to the adoption of this 2005 Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements.

Section 5. Severability. Should it be judicially determined by a court having jurisdiction to pass upon the validity of this 2005 Resolution or the Trust Agreement, that any provision of this 2005 Resolution or the Trust Agreement is beyond the powers of the Board, or is otherwise invalid, then such decision shall in no way affect the validity of the 2005 Resolution

or the Trust Agreement, or any proceedings related thereto, except as to the particular matters found by such decision to be invalid.

Section 6. Conflicts. All resolutions or parts thereof in conflict with the provisions of this 2005 Resolution are, to the extent of such conflict, hereby repealed.

Section 7. Effective Date. This 2005 Resolution shall take effect from and after its passage.

Dated: September 20, 2005

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Chairman, Board of Trustees of the  
University of Kentucky

(SEAL)

Attest:

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Secretary, Board of Trustees of the  
University of Kentucky

CERTIFICATION

I, the undersigned, do hereby certify that I am duly qualified and acting Secretary of the Board of Trustees of the University of Kentucky, and as such officer I further certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by the members of said Board at a meeting properly held on September 20, 2005, has been duly executed and is now in full force and effect, all as appears in the official records of said Board in my possession and under my control.

I further certify that said meeting held on September 20, 2005, was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.820 and 61.825, that a quorum was present at said meeting, that said Resolution has not been modified, amended, revoked or I repealed, and that same is now in full force and effect.

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Secretary, Board of Trustees of the  
University of Kentucky