

FCR 12

Office of the President
April 22, 2008

Members, Board of Trustees:

A RESOLUTION PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF APPROXIMATELY \$36,685,000 GENERAL RECEIPTS OBLIGATIONS (COMMONWEALTH LIBRARY) OF THE UNIVERSITY OF KENTUCKY, PURSUANT TO THE TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2005

Recommendation: that the Board of Trustees approve a Resolution authorizing the issuance of approximately \$36,685,000 of University of Kentucky General Receipts Obligations (Commonwealth Library), to be designated General Receipts Refunding Bonds, 2008 Series A (the "2008 Series A Bonds") and to be dated as of a date determined by the Treasurer.

The Resolution approves the issuance of approximately \$36,685,000 of 2008 Series A Bonds for the purpose of refunding the outstanding Lexington-Fayette Urban County Government Governmental Project Revenue Refunding Bonds, Series 1998 (University of Kentucky Alumni Association, Inc. Commonwealth Library Project) (the "Prior Bonds") that were issued to provide funds to refinance the Commonwealth Library (the "Project")

The Resolution also approves the offering for sale of the 2008 Series A Bonds on a date to be determined by the Treasurer of the University, upon the advice of the Financial Advisor to the University. The Resolution further authorizes the acceptance of the bid for the sale of the 2008 Series A Bonds by the Treasurer. The exact principal amount of 2008 Series A Bonds to be sold will be determined on the date of sale as the amount required to (i) refund the Prior Issue and (ii) pay the costs of issuing the 2008 Series A Bonds.

Background: The Prior Bonds were issued in 1998 to refund bonds that were issued in 1994 to pay the costs of the Project. The Executive Branch Budget for the current biennium permits the issuance of bonds to refinance debt obligations that a university previously caused to be issued by a municipality if (i) rental or use payments of the university substantially meet the debt service requirements of the outstanding debt obligations and (ii) those rental or use payments are not increased as a result of the refinancing. The 2008 Series A Bonds will not be sold unless conditions in the bond market would provide debt service savings through the refunding of the Prior Bonds and elimination of a debt service reserve established for the Prior bonds.

The Board adopted a resolution approving a Trust Agreement dated as of November 1, 2005 (the "Trust Agreement") authorizing the issuance, from time to time, of Obligations (as defined in the Trust Agreement) to finance capital projects. The 2008 Series A Bonds will be issued under the Trust Agreement. The Resolution authorizes the issuance of the 2008 Series A Bonds, establishes the specific terms of the 2008 Series A Bonds, provides for a competitive sale of the 2008 Series A Bonds, including approval of a Notice of Bond Sale, Official Terms and Conditions of Bond Sale, Official Bid Form and an Official Statement, and authorizes a Supplemental Trust Agreement and Continuing Disclosure Agreement with respect to the 2008 Series A Bonds. As an alternative to the issuance of the 2008 Series A Bonds, the Resolution authorizes a Financing/Lease Agreement with the Kentucky Asset/Liability Commission (the "Commission") related to bonds to be issued by the Commission. The decision whether to issue the 2008 Series A Bonds or to enter into the Financing/Lease Agreement will be made by the University Treasurer, based upon advice of the University's financial advisor and the final structure for the refinancing transaction.

Action taken: Approved Disapproved Other _____

SERIES RESOLUTION

PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF APPROXIMATELY \$36,685,000 GENERAL RECEIPTS OBLIGATIONS (COMMONWEALTH LIBRARY) OF THE UNIVERSITY OF KENTUCKY, PURSUANT TO THE TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2005 AND ALTERNATIVELY APPROVING A FINANCING/LEASE AGREEMENT AMONG THE UNIVERSITY, THE KENTUCKY ASSET/LIABILITY COMMISSION AND THE FINANCE AND ADMINISTRATION CABINET OF THE COMMONWEALTH OF KENTUCKY FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS.

WHEREAS, the University of Kentucky (herein called the "University"), a public body corporate and an educational institution and agency of the Commonwealth of Kentucky, by resolution adopted by the Board of Trustees of the University on September 20, 2005 (herein called the "General Bond Resolution"), and by a Trust Agreement, dated as of November 1, 2005, as supplemented (herein called the "Trust Agreement"), comprised in part of the General Bond Resolution, has provided for the issuance from time to time of Obligations (as defined in the Trust Agreement) of the University secured by a pledge of the University's "General Receipts" (as defined in the Trust Agreement), each such issue to be authorized by a Series Resolution, as required by the Trust Agreement; and

WHEREAS, pursuant to Section 56.860 et seq. of the Kentucky Revised Statutes (the "Commission Act"), the Kentucky Asset/Liability Commission (the "Commission") was created and exists as an independent agency and constituted authority of the Commonwealth of Kentucky (the "Commonwealth") and is authorized to issue Project Notes, as defined in the Commission Act, at the request of the Cabinet, as defined in the Commission Act, to provide financing for any State Agency, as defined in the Commission Act, including the University; and

WHEREAS, there are currently outstanding certain Lexington-Fayette Urban County Government Governmental Project Revenue Refunding Bonds, Series 1998 (University of Kentucky Alumni Association, Inc. Commonwealth Library Project) (the "Prior Bonds") that were issued to provide funds to refinance an educational building known as the Commonwealth Library (the "Project") and debt service on the Prior Bonds is currently paid with non-public funds of the University of Kentucky Athletic Association, a Kentucky nonprofit corporation affiliated with the University; and

WHEREAS, interest rates prevailing in the current bond market are more favorable than the interest rates prevailing at the time of the issuance of the Prior Bonds, which prevailing rates will result in interest cost savings by refunding the Prior Bonds; and

WHEREAS, the Board of Trustees desires to provide for issuance and sale of University of Kentucky General Receipts Bonds (the "General Receipts Bonds") to refund the Prior Bonds and for other matters in connection therewith, by the adoption of this Resolution; and

WHEREAS, by authority of 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 issue its

obligations to pay all or part of the costs of educational buildings, and to secure said obligations by a pledge of and lien on all or such part of the revenues and receipts of the University; and

WHEREAS, as an alternative to issuing the General Receipts Bonds, the University desires to authorize a Financing/Lease Agreement (the "Financing Agreement") among the University, the Commission and the Cabinet, in accordance with the Commission Act, and that the Commission issue and sell Project Notes to provide funds to refund the Prior Bonds; and

WHEREAS, the Financing Agreement constitutes an Obligation under the terms of the Trust Agreement and the University has, or will have in all respects complied with the provisions of the Trust Agreement so as to be entitled to execute and deliver Obligations thereunder, whether such Obligations are its General Receipts Bonds or the Financing Agreement;

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

SECTION 1. Definitions and Interpretations. All words and terms defined in Section 1 of the General Bond Resolution and all interpretations therein provided shall have the same meanings, respectively, and be subject to the same interpretations as therein provided where used in this Resolution, unless the context or use clearly indicates another or different meaning or intent, except that this Resolution is sometimes herein called and may be known as the "Commonwealth Library Resolution," the Obligations authorized by this Resolution are referred to herein and in the Supplemental Trust Agreement and Financing Agreement hereby authorized as the "Commonwealth Library Obligations" and if issued as General Receipts Bonds as the "Commonwealth Library Bonds" and the terms "hereof," "hereby," "hereto," "herein," and "hereunder," and similar terms, mean this Resolution.

SECTION 2. Authority. This Resolution is adopted pursuant to the General Bond Resolution, the Trust Agreement, and the Act.

SECTION 3. Authorization, Designation and Purpose of Commonwealth Library Obligations. It is hereby declared to be necessary to, and the Board shall, issue, sell and deliver, as provided and authorized herein, approximately \$36,685,000 principal amount of General Receipts Obligations which may be issued as General Receipts Bonds ("Bonds"). Such Obligations shall be designated "University of Kentucky General Receipts Refunding Bonds" and shall bear such further series designation as the Fiscal Officer (as defined in the Trust Agreement) deems appropriate. Such Obligations may be issued for the purpose of (i) refunding the Prior Issue and (ii) paying costs of issuance in connection with such Obligations. The proceeds from the sale of such Obligations shall be deposited and allocated as provided in Section 6 hereof.

As an alternative to the issuance of the General Receipts Bonds, the University requests that the Commission issue its Project Notes, Agency Fund Series (the "Notes"), for the purpose of refunding the Prior Bonds and authorizes the execution and delivery the Commonwealth Library Obligations in the form of the Financing Agreement in order to provide for a source of payment for the Notes. As evidence of its obligations in this Resolution with respect to the Notes, the Chairman is hereby authorized to execute, acknowledge and deliver, on behalf of the University, the Financing Agreement, in the form required by the Commission, which is hereby approved, with such provisions therein not inconsistent with this Resolution and not substantially

adverse to the University, as may be permitted by the Commission Act and approved by such officer. The approval of the Financing Agreement by such officer, and that the obligations thereunder are not substantially adverse to the University, shall be conclusively evidenced by the execution of the Financing Agreement by such officer. The Chairman and Treasurer are hereby separately authorized to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of special bond counsel to the University and the Commission, in order to affect the issuance of the Notes and the intent of this Resolution.

The Fiscal Officer, with advice of the Financial Advisor, is hereby authorized and directed to determine whether the Commonwealth Library Obligations should be issued in the form of Commonwealth Library Bonds or the Financing Agreement, based upon conditions in the bond market and other considerations that will provide for the efficient and timely refunding of the Prior Bonds and the debt service savings to be provided thereby.

SECTION 4. Terms and Provisions Applicable to the Commonwealth Library Bonds.

(a) Form, Numbering and Designation. The Commonwealth Library Bonds shall be issued in the form of fully registered Obligations as approved by the Fiscal Officer, shall be numbered from 1 upwards, and shall bear such series designation as the Fiscal Officer deems appropriate.

(b) Denomination and Dates. The Commonwealth Library Bonds shall be in such denominations as requested by the Original Purchaser (hereafter defined), and shall be dated on the date determined by the Fiscal Officer and may be issued in installments (each installment being a part of the Commonwealth Library Bonds herein authorized) with maturity dates approved by the Fiscal Officer, having a final maturity that is no later than twenty years from the date the Commonwealth Library Bonds are issued.

(c) Interest. The Commonwealth Library Bonds shall bear interest from their respective dates payable on dates approved by the Fiscal Officer, beginning on a date approved by the Fiscal Officer, at the rate or rates per annum determined pursuant to Section 5 hereof.

(d) Maturities. The Commonwealth Library Bonds shall mature on such dates, in the years and in the principal amounts set forth in the maturity schedule approved by the Fiscal Officer pursuant to Section 5 hereof.

(e) Redemption Terms and Prices. The Commonwealth Library Bonds shall be subject to optional and mandatory redemption on such dates and terms as approved by the Fiscal Officer, with the advice of the Financial Advisor (hereinafter identified) and set forth in the Supplemental Trust Agreement. If less than all of the outstanding Commonwealth Library Bonds are called for redemption at one time, they shall be called in the order of the maturities as directed by the Fiscal Officer. If less than all of the outstanding Commonwealth Library Bonds of one maturity are to be called, the selection of such Commonwealth Library Bonds or portions of Commonwealth Library Bonds of such maturity to be called shall be made by lot in the manner provided in the Trust Agreement. Notice of call for redemption of Commonwealth Library Bonds shall be given in the manner provided in the Trust Agreement.

(f) Other Provisions. The Commonwealth Library Bonds may, at the option of the Fiscal Officer, be secured by municipal bond insurance or similar instrument issued by a financial or insurance institution acceptable to the Fiscal Officer.

(g) Place of Payment and Paying Agents. The principal, interest and any redemption premium on registered Commonwealth Library Bonds shall be payable by check or draft, as provided in the Trust Agreement.

(h) Execution. The Commonwealth Library Bonds shall be executed in the manner provided in the General Bond Resolution.

SECTION 5. Award and Sale of Commonwealth Library Bonds. The Commonwealth Library Bonds shall be offered publicly for sale upon the basis of competitive bids at such time as the Fiscal Officer, upon advice of the Financial Advisor to the University, shall designate.

The Fiscal Officer is hereby authorized and directed to cause an appropriate form or forms of a Notice of Sale of Bonds to be published in *The Lexington Herald Leader*, a legal newspaper published in the City of Lexington, Kentucky, which will afford local notice of the sale, *The Courier Journal*, a legal newspaper published in the City of Louisville, Kentucky, which will afford statewide notice of the sale, and, to the extent required by law, in *The Bond Buyer*, a financial journal published in the City of New York, New York, which is a publication having general circulation among bond buyers; and said newspapers and financial journal are hereby declared to be qualified to publish such notice for the Board within the meaning and provisions of Chapter 424 of the Kentucky Revised Statutes. Such notice shall be published in said newspapers and financial journal at least once not less than seven nor more than twenty-one days prior to the scheduled date of sale of the Commonwealth Library Bonds.

The forms of Notice of Bond Sale, Official Terms and Conditions of Sale of Bonds, Bid Form and Official Statement, shall be in such form as approved by Bond Counsel for the University, by the Financial Advisor, by the General Counsel of the University and by the Fiscal Officer.

Bidders shall be advised that the fee of the Financial Advisor for services rendered with respect to the sale of the Commonwealth Library Bonds is contingent upon the issuance and delivery of the Commonwealth Library Bonds, and that the Financial Advisor may submit a bid for the purchase of the Commonwealth Library Bonds at the time of the advertised public sale of the Commonwealth Library Bonds, either individually or as the member of a syndicate organized to submit a bid for the purchase of the Commonwealth Library Bonds.

Upon the date and at the respective hour set forth for the submission and consideration of purchase bids, as provided in the instruments hereinabove approved, bids shall be reviewed as provided in such instruments. If there shall be one or more bids which conform in all respects to the prescribed terms and conditions, such bids shall be compared, and the Fiscal Officer, upon the advice of the Financial Advisor, is authorized to accept the best of such bids, as measured in terms of the lowest interest cost to the Board, as calculated in the manner prescribed in the Official Terms and Conditions of Sale of Bonds. Calculations shall be performed as are necessary to determine the exact amount of Commonwealth Library Bonds that are required to be issued in order to (i) refund the Prior Bonds and (ii) pay the costs of issuing the Commonwealth Library Bonds and the final principal amount, interest rates and maturities of the

Commonwealth Library Bonds shall thereupon be established, as prescribed in the Official Terms and Conditions of Sale of Bonds.

SECTION 6. Allocation of Proceeds of Commonwealth Library Bonds. All of the proceeds from the sale of the Commonwealth Library Bonds and other lawfully available funds of the University shall be received and receipted for by the Fiscal Officer and shall be deposited and allocated as set forth in the Supplemental Trust Agreement approved hereby.

SECTION 7. Additional Covenants with Respect to Internal Revenue Code of 1986, as Amended. This Board hereby finds and determines that all of the proceeds from the sale of the Commonwealth Library Bonds will be needed for the purposes set forth in Section 6 hereof. This Board hereby covenants for and on behalf of the University, that it will restrict the use of the proceeds of the Commonwealth Library Bonds in such manner and to such extent, if any, and take such other actions as may be necessary, in view of reasonable expectations at the time of issuance of the Commonwealth Library Bonds, so that the Commonwealth Library Bonds will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations prescribed under such Sections. The Fiscal Officer or any other officer of the University having responsibility with respect to issuance of the Commonwealth Library Bonds is hereby authorized and directed to give an appropriate certificate for inclusion in the transcript of proceedings with respect to the Commonwealth Library Bonds, setting forth the facts, estimates and reasonable expectations pertinent under said Sections 103(b)(2) and 148 of the Code and an election, if appropriate, with respect to Section 148(f)(4)(B)(IV)(V) of the Code. The Fiscal Officer is hereby authorized and directed to create a Rebate Account (which shall be held by either the University or the Trustee, at the discretion of the Fiscal Officer) if the Fiscal Officer determines such account is necessary so that the University complies with the rules concerning "rebate" as set forth in the Code, as they apply to the Commonwealth Library Bonds.

SECTION 8. Supplemental Trust Agreement. The Chairman of the Board is authorized and directed to execute, acknowledge and deliver to the Trustee, in the name of and on behalf of the University, a Supplemental Trust Agreement pursuant to the Trust Agreement and in connection with the issuance of the Commonwealth Library Bonds, in substantially the form submitted to this Board with such changes therein not substantially adverse to the University as may be permitted by the Act and the Trust Agreement and approved by the officer executing the same on behalf of the University. The approval of such changes, and that such changes are not substantially adverse to the University, shall be conclusively evidenced by the execution of such Supplemental Trust Agreement by such officer.

SECTION 9. Official Statement. The Chairman is hereby authorized and directed to execute and deliver an Official Statement with respect to the Commonwealth Library Bonds for the purpose of making available to potential investors the information therein contained, which describes the interest rates and other terms to be borne by and the price to be paid for the Commonwealth Library Bonds, and such other information with respect to the University and the Commonwealth Library Bonds, necessary in the judgment of the Chairman with the advice of the Fiscal Officer and the Financial Advisors. The Chairman and the Fiscal Officer are each hereby authorized to deem the Preliminary Official Statement and final Official Statement "near final" and "final" for purposes of Securities Exchange Commission Rule 15c2-12, as amended and interpreted from time to time, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule").

SECTION 10. Compliance With Rule 15c2-12. The Board of Trustees hereby agrees, to comply with the provisions of the Rule. In order to comply with the Rule, a Continuing Disclosure Agreement in the usual and customary form is hereby authorized and approved, with such modifications and additions as may be approved by the officer of the University executing the same. The Chairman and the Fiscal Officer are each hereby authorized to execute and deliver such Continuing Disclosure Agreement.

SECTION 11. Financing Agreement an Obligation. This Resolution constitutes a Series Resolution as contemplated by the General Bond Resolution; and the Financing Agreement is hereby deemed an Obligation within the meaning of the Trust Agreement, shall be issued in accordance with the terms of the Trust Agreement, with Financing Payments, as defined in the Financing Agreement, deemed Debt Service Charges within the meaning of the Trust Agreement, and with the payment of such Debt Service Charges secured, according to their true intent and meaning, by all pledges, covenants and agreements set forth in the Trust Agreement, subject to all the terms and conditions of the Trust Agreement.

SECTION 12. Open Meetings. This Board hereby finds and determines that all formal actions relative to the adoption of this 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 13. Further Authorization. That the proper and appropriate officers of the Board and of the University, to the extent authorized by law, are hereby authorized to execute and deliver the closing certificates, if any, with such modifications thereto as may be required by the Commission with respect to the Financing Agreement or by the purchasers of the Commonwealth Library Bonds and approved by special bond counsel to the University as well as such other documents, certificates and statements as may be so required and so approved in connection with sale and delivery of the Commonwealth Library Bonds.

SECTION 14. Provisions in conflict are Repealed. All resolutions or parts thereof in conflict with the provisions of this Resolution are hereby rescinded to the extent of such conflict.

SECTION 15. Effective Date. This resolution shall take effect from and after its passage.

SECTION 16. Copy to be Filed with Trustee. A certified copy of this Resolution shall be filed with the Trustee if the General Obligations Bonds are issued.

Adopted: April 22, 2008

Chairman, Board of Trustees
University of Kentucky

(SEAL)

Attest:

Assistant Secretary, Board of Trustees

CERTIFICATION

The undersigned, Secretary of the Board of Trustees of the University of Kentucky, Lexington, Kentucky, hereby certifies that the foregoing is a true copy of a Resolution adopted by the Board of Trustees of said University at a meeting held on April 22, 2008, as recorded in the official Minute Book of said Board of Trustees, which is in my custody and under my control, that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820, and 61.825, that a quorum was present at said meeting, and that the aforesaid Resolution is of record in the office of the Board, has not been modified, amended, or rescinded, and is in full force and effect at this date.

WITNESS my signature and the Seal of said Board this ____ day of _____, 2008.

Assistant Secretary, Board of Trustees
University of Kentucky

(SEAL)

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