

RESOLUTION NO. _____, SERIES 2019

A RESOLUTION OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE APPOINTMENT OF PNC CAPITAL MARKETS LLC AS A CO-REMARKETING AGENT FOR THE \$128,000,000 OUTSTANDING PRINCIPAL AMOUNT OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, POLLUTION CONTROL REVENUE BONDS, 2003 SERIES A (LOUISVILLE GAS AND ELECTRIC COMPANY PROJECT); AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER AGREEMENT IN CONNECTION WITH THE REMARKETING OF THE \$40,000,000 OUTSTANDING PRINCIPAL AMOUNT OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, POLLUTION CONTROL REVENUE BONDS, 2005 SERIES A (LOUISVILLE GAS AND ELECTRIC COMPANY PROJECT); AND TAKING OTHER ACTIONS RELATED TO THE REMARKETING OF THE ABOVE-IDENTIFIED BONDS

SPONSORED BY: COUNCIL MEMBER YATES

WHEREAS, on November 20, 2003, Louisville/Jefferson County Metro Government (“**Metro Government**”) issued its Pollution Control Revenue Bonds, 2003 Series A (Louisville Gas and Electric Company Project) in an aggregate principal amount of \$128,000,000 (the “**2003 Series A Bonds**”) pursuant to Ordinance No. 190, Series 2003 adopted by the Legislative Council of the Louisville/Jefferson County Metro Government (the “**Council**”) on October 23, 2003 and pursuant to an Indenture of Trust dated as of October 1, 2003 (the “**Original Series 2003A Indenture**”), by and between Metro Government and U.S. Bank National Association, as successor trustee thereunder (the “**Trustee**”), as amended and supplemented pursuant to a Supplemental Indenture No. 1 to Indenture of Trust dated as of September 1, 2010 by and between Metro Government and the Trustee (the “**Series 2003A Supplemental Indenture**” and, together with the Original Series 2003A Indenture, the “**Series 2003A Indenture**”); and

WHEREAS, Metro Government loaned the proceeds of the 2003 Series A Bonds to Louisville Gas and Electric Company (the “**Company**”) pursuant to a Loan Agreement dated as of October 1, 2003 by and between Metro Government and the Company (the “**Original 2003A Loan Agreement**”), as amended and supplemented pursuant to an Amendment No. 1 to Loan Agreement dated as of September 1, 2010, by and between Metro Government and the Company

(the “**Series 2003A Supplemental Loan Agreement**” and, together with the Original Series 2003A Loan Agreement, the “**Series 2003A Loan Agreement**”); and

WHEREAS, Morgan Stanley & Co. LLC (“**Morgan Stanley**”) currently serves as the sole Remarketing Agent of the 2003 Series A Bonds pursuant to the Series 2003A Indenture; and

WHEREAS, the 2003 Series A Bonds currently bear interest at a Long Term Rate in a Long Term Rate Period that expires on March 31, 2019; and

WHEREAS, owners must tender their 2003 Series A Bonds on April 1, 2019 so that Morgan Stanley may remarket the 2003 Series A Bonds to investors in a new Long Term Rate Period beginning on and including April 1, 2019; and

WHEREAS, pursuant to Section 11.01(a) of the Series 2003A Indenture, the Company desires to direct Metro Government to appoint PNC Capital Markets LLC (“**PNC**” and, together with Morgan Stanley, the “**Series 2003A Remarketing Agents**”) as a co-Remarketing Agent for the limited purpose of offering the 2003 Series A Bonds for sale to investors in connection with the April 1, 2019 remarketing, and for Morgan Stanley to serve as the sole Remarketing Agent of the 2003 Series A Bonds thereafter; and

WHEREAS, on April 13, 2005, Metro Government issued its Pollution Control Revenue Bonds, 2005 Series A (Louisville Gas and Electric Company Project) in an aggregate principal amount of \$40,000,000 (the “**2005 Series A Bonds**”) pursuant to Ordinance No. 36, Series 2005 adopted by the Council on March 10, 2005 and pursuant to an Indenture of Trust dated as of February 1, 2005 (the “**Original Series 2005A Indenture**”), by and between Metro Government and U.S. Bank National Association, as successor trustee thereunder, as amended and restated pursuant to an Amended and Restated Indenture of Trust dated as of September 1, 2008 by and between Metro Government and the Trustee (the “**Series 2005A Amended and Restated Indenture**”), as amended and supplemented pursuant to a Supplemental Indenture No. 1 to Amended and Restated Indenture of Trust dated as of September 1, 2010 by and between Metro Government and the Trustee (the “**Series 2005A Supplemental Indenture**” and, together with

the Original Series 2005A Indenture and the Series 2005A Amended and Restated Indenture, the “**Series 2005A Indenture**”); and

WHEREAS, Metro Government loaned the proceeds of the 2005 Series A Bonds to the Company pursuant to a Loan Agreement dated as of February 1, 2005 by and between Metro Government and the Company (the “**Original 2005A Loan Agreement**”), as amended and restated pursuant to an Amended and Restated Loan Agreement dated as of September 1, 2008 by and between Metro Government and the Company (the “**Series 2005A Amended and Restated Loan Agreement**”), as amended and supplemented pursuant to an Amendment No. 1 to Amended and Restated Loan Agreement dated as of September 1, 2010 by and between Metro Government and the Company (the “**Series 2005A Supplemental Loan Agreement**” and, together with the Original Series 2005A Loan Agreement and the Series 2005A Amended and Restated Loan Agreement, the “**Series 2005A Loan Agreement**”); and

WHEREAS, Goldman, Sachs & Co. (the “**Series 2005A Remarketing Agent**”) currently serves as the Remarketing Agent of the 2005 Series A Bonds pursuant to the Series 2005A Indenture; and

WHEREAS, the 2005 Series A Bonds currently bear interest at a Fixed Rate in a Fixed Rate Period that expires on July 31, 2019 and will be remarketed by the Series 2005A Remarketing Agent in a new Fixed Period beginning on and including August 1, 2019; and

WHEREAS, the Series 2005A Indenture and the Series 2005A Loan Agreement authorize the Company to cause the 2005 Series A Bonds to be optionally redeemed before final maturity under certain circumstances; and

WHEREAS, the Series 2005A Remarketing Agent has advised the Company that waiving certain of its rights to cause the 2005 Series A Bonds to be optionally redeemed during their new Fixed Rate Period would assist in an effective remarketing of the 2005 Series A Bonds by the Series 2005A Remarketing Agent; and

WHEREAS, the Company further desires to enter into a letter agreement with Metro Government for the 2005 Series A Bonds (the “**Letter Agreement**”) whereby the Company will agree not to exercise the Company’s rights under the Series 2005A Loan Agreement to cause the 2005 Series A Bonds to be optionally redeemed under the circumstances specified therein during the Fixed Rate Period for the 2005 Series A Bonds beginning on and including August 1, 2019; and

WHEREAS, the Company further reserves the right to request Metro Government to execute a Department of the Treasury, Internal Revenue Service Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues (“**Form 8038**”) in connection with the remarketing of the 2003 Series A Bonds or the 2005 Series A Bonds if the Company in its sole discretion determines that it is appropriate to file a Form 8038 with the Internal Revenue Service to protect the tax-exempt status of the interest of the 2003 Series A Bonds or the 2005 Series A Bonds;

NOW THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section 1. It is hereby found, determined, and declared that the recitals set forth in the preambles to this Resolution, which are incorporated in this Section 1 by reference, are true and correct.

Section 2. Metro Government, acting by and through the Council as its duly authorized legislative body, determines, resolves, and orders that PNC is hereby appointed as a co-Remarketing Agent of the 2003 Series A Bonds for the limited purpose of offering the 2003 Series A Bonds for sale to investors in connection with the April 1, 2019 remarketing, and for Morgan Stanley to serve as the sole Remarketing Agent of the 2003 Series A Bonds thereafter.

Section 3. Metro Government, acting by and through the Council as its duly authorized legislative body, hereby determines, resolves, and orders that the Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of Metro Government:

(a) Letter Agreement by and between Metro Government and the Company whereby the Company will agree not to exercise its rights under the Series 2005A Loan Agreement to cause the 2005 Series A Bonds to be optionally redeemed under the circumstances specified in the Letter Agreement during the Fixed Rate Period beginning on and including August 1, 2019;

(b) A Form 8038 in connection with the remarketing of the 2003 Series A Bonds or the 2005 Series A Bonds if the Company in its sole discretion determines that it is appropriate to file a Form 8038 with the Internal Revenue Service to protect the tax-exempt status of the interest on the 2003 Series A Bonds or the 2005 Series A Bonds; and

(c) All such further letters, agreements, documents, instruments, forms, and certificates as shall be necessary and appropriate to consummate the remarketing of the 2003 Series A Bonds and the 2005 Series A Bonds as described herein.

Section 4. The singular form of any word used herein shall include the plural, and vice versa. The use herein of a word of any gender shall include correlative words of all genders. Unless otherwise specified, the word “including” shall mean “including without limitation”, the word “or” shall mean “and/or”, and the word “any” shall mean “any and all.”

Section 5. This Resolution shall take effect upon its passage and approval.

[Signature page to follow]

INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened regular meeting of the Legislative Council of the Louisville/Jefferson County Metro Government held on February 7, 2019.

GIVEN SECOND READING AND ENACTED at a duly convened regular meeting of the Legislative Council of the Louisville/Jefferson County Metro Government held on _____, 2019, signed by the Mayor as evidence of his approval, filed, and indexed as provided by law.

Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell
Jefferson County Attorney

By: _____
Assistant Jefferson County Attorney