

ORDINANCE NO. 017, SERIES 2023

AN ORDINANCE OF THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY ON BEHALF OF METRO GOVERNMENT OF THE FIRST AMENDMENT TO LOAN AGREEMENT BY AND AMONG METRO GOVERNMENT, ROMAN CATHOLIC BISHOP OF LOUISVILLE, D/B/A ST. MARY ACADEMY, AND FIFTH THIRD BANK, NATIONAL ASSOCIATION PROVIDING FOR THE CHANGES AS SET FORTH THEREIN AND RELATED TO THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT INDUSTRIAL BUILDING REFUNDING REVENUE BONDS, SERIES 2013 (ST. MARY ACADEMY PROJECT); AND TAKING OTHER RELATED ACTION.

SPONSORED BY: COUNCIL MEMBER BLACKWELL

WHEREAS, Louisville/Jefferson County Metro Government (“Metro Government”) is a consolidated local government and political subdivision of the Commonwealth of Kentucky (the “Commonwealth”) and as such is authorized by the Industrial Buildings and Pollution Control Facilities for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the “Act”), to issue industrial building revenue bonds and to loan the proceeds thereof to any person to finance the cost of any “industrial building” (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities, in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein; and

WHEREAS, On March 19, 2013, Metro Government, at the request of the Roman Catholic Bishop of Louisville, a Kentucky nonprofit corporation doing business as St. Mary

Academy (the "Borrower"), and pursuant to Ordinance No. 020, Series 2013, (i) issued under the Act industrial building refunding revenue bonds in the principal amount of \$10,000,000 (the "Bonds"), (ii) sold the Bonds on a private negotiated basis to Fifth Third Bank, National Association (formerly known as Fifth Third Bank) (the "Bondholder"), and (iii) pursuant to the Loan Agreement (the "Loan Agreement") dated March 19, 2013, by and among Metro Government, the Borrower and the Bondholder, loaned the proceeds of the Bonds to the Borrower to refund all of the Louisville/Jefferson County Metro Government Industrial Building Refunding Revenue Bonds, Series 2009 (St. Mary Academy Project) issued under the Act and then outstanding in the principal amount of \$10,000,000; and

WHEREAS, Due to the anticipated change in the calculation of the interest rate on the Bonds which will result in the replacement of the London Interbank Offered Rate (known as LIBOR) at the appropriate time, among other things, the Borrower has requested, and Metro Government and the Bondholder have agreed, to amend the Loan Agreement by entering into the First Amendment to Loan Agreement (the "Amendment") to (i) cover the anticipated change from LIBOR to the Secured Overnight Financing Rate (known as SOFR) to be reflected in the Amended and Restated Bond (the "Amended and Restated Bond"), attached as Exhibit A to the Amendment, and (ii) account for an increase or decrease in the corporate tax rate, as specified by the Internal Revenue Code of 1986, as amended (the "Code"), or any other change in the Code, to be reflected in the Amended and Restated Bond; and

WHEREAS, In order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and

encouraging the increase of industry therein, Metro Government considers it necessary and proper to (i) authorize the execution and delivery, on behalf of Metro Government, of the Amendment and (ii) take other related action.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE "COUNCIL") AS FOLLOWS:

SECTION I: The facts and recitations set out in the preamble of this Ordinance are adopted and incorporated as a part hereof, and the terms defined in the preamble shall have the same meanings when used herein.

SECTION II: The Council hereby finds and declares that the execution and delivery of the Amendment, as herein provided, will further the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

SECTION III: For the purposes set forth in the preamble hereto, the execution and delivery, on behalf of Metro Government, of the Amendment and the Amended and Restated Bond is hereby authorized and directed. The Mayor or Deputy Mayor, and the Metro Council Clerk are hereby authorized and directed to execute and deliver, on behalf of Metro Government, (a) the Amendment, substantially in the form attached hereto as Exhibit A, and (b) the Amended and Restated Bond (the form of which is attached as Exhibit A to the Amendment), with such changes therein as the officers executing such documents on behalf of Metro Government shall approve, as shall be conclusively evidenced by their execution and delivery thereof.

SECTION IV: The Mayor, the Deputy Mayor, the Metro Council Clerk, the County Attorney, and other appropriate officers and employees of Metro Government are hereby

authorized and directed to execute, acknowledge, and deliver, on behalf of Metro Government, any and all papers, instruments, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for entering into, delivering, and performing this Ordinance, the Amendment, and the Amended and Restated Bond, provided that neither Metro Government nor any of its elected officials, officers, employees, or agents incur any general liability thereby.

SECTION V: As provided in the Loan Agreement, none of the proceeds of the Bonds, including the Amended and Restated Bond, shall be used, directly or indirectly, to pay for, to reimburse the Borrower for the payment of, or to refund indebtedness the proceeds of which were used to pay for, the acquisition, construction, renovation, remodeling or equipping or any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or similar persons in the field of religion.

SECTION VI: No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds, including the Amended and Restated Bond, or for any claim based thereon or upon any obligation, covenant or agreement therein contained against any past, present or future elected official, officer, employee, or agent of Metro Government, as such, either directly or through Metro Government, 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 of any such elected officials, officers, employees, or agents, as such, shall be expressly waived and released as a condition of

and as consideration for the enactment of this ordinance and the issuance of the Bonds, including the Amended and Restated Bond.

SECTION VII: THE BONDS (INCLUDING THE AMENDED AND RESTATED BOND) SHALL NOT BE A GENERAL OBLIGATION OR INDEBTEDNESS OF METRO GOVERNMENT, THE COMMONWEALTH, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF THE CONSTITUTION AND THE LAWS OF THE COMMONWEALTH, BUT SHALL BE PAYABLE SOLELY FROM THE LOAN REPAYMENTS TO BE MADE BY THE BORROWER PURSUANT TO THE LOAN AGREEMENT AND ANY SECURITY PLEDGED THEREFOR.

SECTION VIII: The provisions of this Ordinance are severable, and if any section, phrase, or provision (other than Section V hereof) shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION IX: To the extent that any prior ordinance or resolution of Metro Government is in conflict with the provisions of this Ordinance, the provisions of this Ordinance shall prevail and be given effect.

SECTION X: This Ordinance shall take effect upon its passage and approval or as otherwise becoming law.

This Ordinance was given a first reading at a duly convened meeting of the Council held on the 2nd day of February, 2023, and given second reading and approval at a duly convened meeting of the Council held on the 16th day of February, 2023.



Sonya Harward
Metro Council Clerk



Markus Winkler
President of the Council

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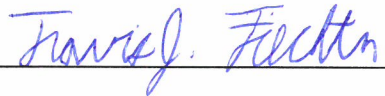
Craig Greenberg
Mayor

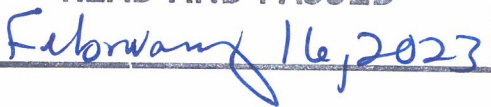
2/22/23

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: 

LOUISVILLE METRO COUNCIL
READ AND PASSED

February 16, 2023

FIRST AMENDMENT TO LOAN AGREEMENT

This FIRST AMENDMENT TO LOAN AGREEMENT (this “Amendment”) dated March 1, 2023, is made by and among FIFTH THIRD BANK, NATIONAL ASSOCIATION (formerly known as Fifth Third Bank) (the “Bondholder”), a national banking association, LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (the “Issuer”), a consolidated local government and political subdivision of the Commonwealth of Kentucky, and the ROMAN CATHOLIC BISHOP OF LOUISVILLE (the “Borrower”), a Kentucky nonprofit corporation doing business as St. Mary Academy.

Recitals

A. The Issuer is a consolidated local government and political subdivision of the Commonwealth of Kentucky (the “Commonwealth”) and, as such, is authorized by the Industrial Buildings and Pollution Control Facilities for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the “Act”), to issue industrial building revenue bonds and to loan the proceeds thereof to any person to finance the cost of any “industrial building” (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities, in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein;

B. On March 19, 2013, the Issuer, at the request of the Borrower, (i) issued under the Act industrial building refunding revenue bonds in the principal amount of \$10,000,000 (the “Bonds”), (ii) sold the Bonds on a private negotiated basis to the Bondholder, and (iii) pursuant to the Loan Agreement (the “Original Loan Agreement”), dated March 19, 2013, by and among the Issuer, the Borrower and the Bondholder, loaned the proceeds of the Bonds to the Borrower to refund all of the Louisville/Jefferson County Metro Government Industrial Building Refunding Revenue Bonds, Series 2009 (St. Mary Academy Project) issued under the Act and then outstanding in the principal amount of \$10,000,000; and

C. Due to the anticipated change in the calculation of the interest rate on the Bonds which will result in the replacement of the London Interbank Offered Rate (known as LIBOR) at the appropriate time, among other things, the Borrower has requested, and the Issuer and the Bondholder have agreed, to amend the Original Loan Agreement by entering into this Amendment, to (i) cover the anticipated change from LIBOR to the Secured Overnight Financing Rate (known as SOFR), to be reflected in the Amended and Restated Bond (the “Amended and Restated Bond”), attached as Exhibit A to this Amendment, and (ii) account for an increase or decrease in the corporate tax rate, as specified by the Internal Revenue Code of 1986, as amended (the “Code”), or any other change in the Code, to be reflected in the Amended and Restated Bond.

NOW, THEREFORE, the parties hereto, in consideration of their mutual covenants and agreements hereinafter set forth, and intending to be legally bound hereby, covenant and agree as follows:

1. Amended and Restated Form of Bonds. Commencing with the date of this Amendment, the form of the Bonds shall be amended and restated so that it shall read in its entirety as set forth on Exhibit A to this Amendment.

2. Ratification. Except as expressly amended by this Amendment, the Original Loan Agreement and all other related documents are and shall be unchanged and all of the covenants, representations, warranties, agreements, conditions, schedules and exhibits, therefor or thereto shall remain and continue in full force and effect and are hereby incorporated by reference, and are hereby ratified, reaffirmed and confirmed by the Issuer and the Borrower in all respects on and as of the date of this Amendment as if the Original Loan Agreement were re-executed as of the date hereof.

3. No Events of Default. The Borrower hereby represents and warrants to the Issuer and the Bondholder that no event of default exists under the Original Loan Agreement and this Amendment as of the date hereof.

4. Binding Effect. This Amendment and the Original Loan Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns, subject, however, to the limitations contained in this Amendment and the Original Loan Agreement.

5. Issuer Liability. No covenant, agreement or other obligation contained in this Amendment shall be deemed to be a covenant, agreement or obligation of any present or future official, officer, agent or employee of the Issuer, and neither the officials of the Issuer nor any official executing this Amendment, the Amended and Restated Bond or the Original Loan Agreement, nor any official, officer, employee or agent of the Issuer shall be liable personally on this Amendment, the Original Loan Agreement or the Amended and Restated Bond.

6. Severability. In case any section or provision of this Amendment or the Original Loan Agreement and this Amendment, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Amendment or the Original Loan Agreement or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Amendment or the Original Loan Agreement or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Amendment or the Original Loan Agreement, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

7. Amendments. No additional or further amendment, change, modification, or waiver to this Amendment or the Original Loan Agreement shall be enforceable unless in writing and signed by the parties hereto consistent with Section 11.1 of the Original Loan Agreement.

8. No Waiver. No failure by the Bondholder to insist upon the strict performance by the Borrower or the Issuer of any provision hereof or under the Original Loan Agreement and this Amendment shall constitute a waiver of the Bondholder's right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right of the Bondholder to require the Borrower to remedy any and all failures by the Borrower or the Issuer to observe or comply with any provision hereof or thereof.

9. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth.

10. Execution in Counterparts. This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if all signatures were upon the same instrument. Delivery of an executed counterpart of the signature page to this Amendment by facsimile or .pdf shall be effective as delivery of a manually executed counterpart of this Amendment, and any party delivering such an executed counterpart of the signature page to this Amendment by facsimile or .pdf to any other party shall thereafter also promptly deliver a manually executed counterpart of this Amendment to such other party, provided that the failure to deliver such manually executed counterpart shall not affect the validity, enforceability, or binding effect of this Amendment or the Original Loan Agreement and this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed in their respective names, all as of the date set forth in the heading of this Amendment.

“Issuer”

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

Attest:

Metro Council Clerk

By: _____
Mayor

Approved as to form and legality:

Michael J. O’Connell
Jefferson County Attorney

By: _____

“Borrower”

ROMAN CATHOLIC BISHOP OF LOUISVILLE
D/B/A ST. MARY ACADEMY

By: _____

Title: _____

“Bondholder”

FIFTH THIRD BANK, NATIONAL
ASSOCIATION

By: _____

Title: _____

EXHIBIT A

FORM OF AMENDED AND RESTATED BOND

[See the attached.]

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

INDUSTRIAL BUILDING REFUNDING REVENUE BONDS,
SERIES 2013
(ST. MARY ACADEMY PROJECT)

Dated March 19, 2013

No. _____

\$10,000,000

Louisville/Jefferson County Metro Government (the “Issuer”), a consolidated local government and political subdivision of the Commonwealth of Kentucky (the “State”), for value received, hereby promises to pay to Fifth Third Bank, National Association (formerly known as Fifth Third Bank) or its registered assigns (the “Bondholder”), Ten Million Dollars (\$10,000,000), together with interest thereon.

In addition to the terms defined elsewhere in this bond, the following terms shall have the following meanings when used in this bond:

“Adjusted Index Rate” shall mean the Index Rate plus the then-applicable Applicable Margin.

“Advance” shall mean any amount disbursed by Bondholder to Borrower, the repayment of which is evidenced by this bond.

“Applicable Margin” shall mean one and seventy-five hundredths of one percent (1.75%) per annum, plus 0.11448% per annum (reflecting the conversion to SOFR).

“Business Day” shall mean (a) with respect to Daily Simple SOFR, for the limited purpose of determining Daily Simple SOFR (but, for the avoidance of doubt, not for the determination of Interest Payment Dates, or for any purpose other than determining Daily Simple SOFR), any day that commercial banks in New York, New York are required by law to be open for business and that is a U.S. Government Securities Business Day, (b) with respect to Term SOFR, for purposes of all notices, determinations and payments (including Interest Payment Dates) in connection therewith, any day that commercial banks in New York, New York are required by law to be open for business and that is a U.S. Government Securities Business Day, and (c) for all other purposes (including, without limitation, the determination of Interest Payment Dates in respect of Daily Simple SOFR), any day on which commercial banks in New York, New York or Cincinnati, Ohio are required by law to be open for business; *provided* that, notwithstanding anything to the contrary in this definition of “Business Day,” at any time during which a Rate Management Agreement is then in effect with respect to all or a portion of an Advance, then the definitions of “Business Day” and “Banking Day”, as applicable, pursuant to such Rate Management Agreement shall govern with respect to all applicable notices and determinations in connection with such portion of an Advance subject to such Rate

Management Agreement. Periods of days referred to in the Loan Agreement will be counted in calendar days unless Business Days are expressly prescribed.

“Conforming Changes” shall mean, with respect to the use, administration of, or any conventions associated with the Index Rate, the Prime Index, or any proposed Successor Rate, as applicable, any changes to the terms of this bond related to the timing, frequency, and methodology of determining rates and making payments of interest, including changes to the definition of Business Day, lookback periods or observation shift, prepayments, and borrowing notices, and other technical, administrative, or operational matters, as may be appropriate, in the discretion of Bondholder, to reflect the adoption and implementation of such applicable rate and to permit the administration thereof by Bondholder in an operationally feasible manner and, to the extent feasible, consistent with market practice.

“Daily Simple SOFR” shall mean a rate based on SOFR with interest accruing on a simple daily basis in arrears with a methodology and conventions selected by Bondholder.

“Dollars” or “\$” shall mean dollars in the lawful currency of the United States of America.

“Governmental Authority” shall mean any nation or government, any state or other political subdivision thereof, and any agency, department or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“Index Floor” shall mean zero percent (0.0%).

“Index Rate” shall mean the greater of (i) the Index Floor and (ii) Term SOFR. Each determination by Bondholder of the Index Rate shall be conclusive and binding in the absence of manifest error.

“Index Rate Loan” shall mean any Advances that accrue interest by reference to the Index Rate and the other terms of this bond.

“Interest Payment Date” shall mean, all as determined by Bondholder in accordance with the Loan Agreement and Bondholder’s loan systems and procedures periodically in effect (and subject to the terms of any Billpayer Service, as applicable), the first calendar day of each calendar month; provided that, if the first calendar day of a particular calendar month is not a Business Day, then the Interest Payment Date occurring in that particular calendar month shall be the next succeeding Business Day.

“Interest Rate” shall mean, as applicable, the Adjusted Index Rate or other alternative rate implemented pursuant to the terms of this bond, plus any adjustment or applicable margin.

“Law” and “Laws” shall mean any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, guidances, guidelines, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises,

governmental agreements and governmental restrictions, whether now or hereafter in effect.

“Prime Rate” shall mean, for any day, the rate which Bondholder publicly announces, publishes or designates from time to time as its index rate or prime rate, or any successor rate thereto, in effect at its principal office. Such rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Bondholder may make commercial loans or other loans at rates of interest at, above or below its index rate or prime rate. Each determination by Bondholder of the Prime Rate shall be binding and conclusive in the absence of manifest error. Any change in the Prime Rate shall be effective for purposes of this bond on the date of such change without notice to Borrower.

“Rate Management Agreement” means any agreement, device or arrangement providing for payments which are related to fluctuations of commodities, currencies, or interest rates, exchange rates, forward rates, or equity prices, including Dollar denominated or cross currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, and any agreement pertaining to equity derivative transactions (*e.g.*, equity or equity index swaps, options, caps, floors, collars and forwards), including any ISDA Master Agreement, and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising, and in each case as amended, modified or supplemented from time to time.

“SOFR” shall mean, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on its website currently at <http://newyorkfed.org> (or any successor source identified by the SOFR administrator from time to time) at approximately 2:30 p.m. (New York City time) on the immediately succeeding Business Day.

“Spread Adjustment” shall mean a mathematical or other adjustment to an alternate benchmark rate selected pursuant to this bond and such adjustment may be positive, negative, or zero subject to the specific Spread Adjustments set forth in this bond.

“Successor Rate” shall mean any successor rate (including the Spread Adjustment, if any) determined pursuant to this bond.

“Term SOFR” shall mean the forward-looking SOFR rate administered by CME Group, Inc. (or other successor administrator) and published on the applicable Bloomberg LP screen page (or such other commercially available source providing such quotations as may be selected by Bondholder) relating to quotations for one month, fixed by the administrator two Business Days prior to such date of determination (provided, however, that if the Term SOFR rate is not published for such Business Day, then the Term SOFR rate shall be determined by reference to the immediately preceding Business Day on which such rate is published), rounded upwards, if necessary, to the nearest one one-hundredth of a percent (.0001) and adjusted for reserves if Bondholder is required to maintain reserves

with respect to the relevant Advances, all as determined by Bondholder in accordance with this bond and Bondholder's loan systems and procedures periodically in effect.

"U.S. Government Securities Business Day" shall mean any day other than a Saturday, Sunday, or day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

Until the principal of this bond is paid or prepaid as hereinafter provided, subject to the terms hereof, interest on the outstanding principal balance of this bond is payable on each Interest Payment Date at a rate per annum determined (unless and until changed as hereinafter provided) by the following formula:

$$i = 0.79 \times [\text{Adjusted Index Rate}] + 0.25$$

where i is the Interest Rate per annum, expressed as a percentage rounded to the nearest one one-hundredth of a percent (.0001). Interest on this bond shall be computed on the basis of the actual number of days elapsed. Each determination of the Interest Rate by Bondholder shall be conclusive and binding on Borrower in the absence of manifest error.

The Adjusted Index Rate: (a) shall initially be determined as of March 1, 2023, and (b) shall adjust automatically on each Interest Payment Date thereafter. Any change in the Adjusted Index Rate resulting from a change in the Index Rate shall become effective as of each such Interest Payment Date in accordance with this bond and Bondholder's loan systems and procedures periodically in effect. Bondholder shall not be required to notify Borrower of any adjustment in the Index Rate; however, Borrower may request a quote of the prevailing Index Rate on any Business Day.

All as determined by Bondholder in accordance with the Loan Agreement and Bondholder's loan systems and procedures periodically in effect, interest shall be paid in arrears on each Interest Payment Date. Bondholder may estimate the amount of interest that Borrower will owe on Borrower's periodic statements and Bondholder may adjust the amount of interest owed on each subsequent statement provided to Borrower to reflect any differential between the estimated amount of interest shown on Borrower's preceding statement and the actual amount of interest determined to have been due by Bondholder on the preceding Interest Payment Date. Borrower agrees to pay the amount shown due on the Interest Payment Date on each of Borrower's periodic statements on each Interest Payment Date.

Borrower hereby irrevocably agrees to reimburse and indemnify Bondholder from all increased costs and fees incurred by Bondholder in connection with this bond subsequent to March 1, 2023 under this bond and relating to or arising from (x) the offering of rates of interest based upon the Index Rate (or Successor Rate or other alternative benchmark rate) or (y) a change in government regulation. Without limiting the generality of the foregoing, if (any of the following being a "Change"): (i) any law, rule, regulation, guideline, or directive (in each case whether or not having the force of law) is passed, enacted, promulgated, ordered, issued or adopted after March 1, 2023, (ii) there is any change, after March 1, 2023, in any law, rule, regulation, guideline, or directive (in each case whether or not having the force of law and including, without limitation, any request, rule, guideline or directive (a) in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act (as amended, the "Dodd-Frank Act") or (b) enacted, promulgated, adopted, issued or implemented by the Bank of International Settlements, the Basel Committee on

Banking Supervision (or any successor or similar authority), or the United States or foreign financial regulatory authorities), or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation, application or administration of any of the foregoing, or (iii) Bondholder complies with any request or directive made after March 1, 2023 regarding capital adequacy (whether or not having the force of law) from any such authority, central bank or comparable agency, and such Change shall:

(i) increase the cost to Bondholder, by an amount which Bondholder deems to be material, of making, converting into, continuing or maintaining any Advance subject to the Index Rate (or Successor Rate or alternative benchmark rate), or reduce any amount receivable hereunder in respect thereof, or

(ii) have the effect of reducing the rate of return on Bondholder's capital as a consequence of its obligations hereunder to a level below that which Bondholder could have achieved but for such Change by an amount deemed by Bondholder to be material,

then, in any and each such case, after submission by Bondholder to Borrower of a written request therefor, Borrower shall pay Bondholder any additional amounts necessary to compensate Bondholder for such increased cost or reduction. Bondholder's reasonable determination of the amount of such reimbursement shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary contained herein, for all purposes of this bond, all requests, rules, guidelines and directives (I) in connection with the Dodd-Frank Act or (II) enacted, promulgated, adopted, issued or implemented by the Bank of International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign financial regulatory authorities shall, in each case, be deemed to constitute a Change whether or not such request, rule, guideline or directive has the force of law and regardless of the date on which such request, rule, guideline or directive was enacted, promulgated, adopted, issued or implemented.

In the event that Bondholder shall determine either: (a) the Index Rate is unavailable, unrepresentative, or unreliable, (b) the Index Rate will not adequately and fairly reflect the cost to Bondholder of making or maintaining advances under this bond, or (c) the making or funding of Index Rate Loans has become illegal or impracticable (each an "Adverse Circumstance"); then, in any such case, Bondholder shall promptly provide notice of such determination to Borrower (which shall be conclusive and binding on Borrower absent manifest error), and, until Bondholder determines that the circumstances giving rise to such suspension no longer exist, in which event Bondholder shall so notify Borrower, then (x) Bondholder's obligations in respect of the Index Rate shall be suspended forthwith, (y) Borrower's right to utilize Index Rate pricing as set forth in this bond shall be suspended forthwith, and (z) amounts outstanding hereunder and any additional Advances shall, on and after such date, bear interest at a rate per annum equal to the Prime Rate plus or minus a Spread Adjustment (the Prime Rate plus or minus such Spread Adjustment together referred to as the "Prime Index"), plus the Applicable Margin; provided that if the Prime Index would be less than the Index Floor, the Prime Index will be deemed to be the Index Floor for the purposes of this bond and the Loan Agreement.

Notwithstanding anything to the contrary herein or in the Loan Agreement, if Bondholder determines (which determination shall be conclusive and binding on Borrower absent manifest error) that any Adverse Circumstance has occurred and is unlikely to be temporary or the administrator of the Index Rate or a Governmental Authority having or purporting to have

jurisdiction over Bondholder has made a public statement identifying a specific date (the “Scheduled Unavailability Date”) after which the Index Rate will no longer be representative or made available or used for determining the interest rate of loans or otherwise cease or no longer be in compliance or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Benchmarks, and there is no successor administrator satisfactory to Bondholder, then on a date and time determined by Bondholder, but no later than the Scheduled Unavailability Date, the Index Rate will be replaced hereunder and under the Loan Agreement with Daily Simple SOFR.

Notwithstanding anything to the contrary herein, if Bondholder determines that the Successor Rate designated in the immediately preceding paragraph is not available or administratively feasible, or if any Adverse Circumstance with regard to the Index Rate has occurred with respect to a Successor Rate then in effect, Bondholder may replace the Index Rate or any then current Successor Rate in accordance with this paragraph with another alternative benchmark rate and a Spread Adjustment, giving due consideration to any evolving or then existing convention for similar U.S. Dollar denominated credit facilities and any recommendations of a relevant Governmental Authority, and which Spread Adjustment or method for calculating such Spread Adjustment shall be published on an information service as selected by Bondholder from time to time in its reasonable discretion.

Any such alternative benchmark rate and Spread Adjustment determined under the immediately preceding paragraph shall, together, constitute a Successor Rate hereunder. Any such Successor Rate shall become effective on the date set forth in a written notice provided by Bondholder to Borrower, and, for the avoidance of doubt, from and after such date, (I) each Advance and all outstanding amounts hereunder shall bear interest at the Successor Rate plus the Applicable Margin, and (II) all references herein and in the Loan Agreement to “Index Rate” shall mean and refer to the Successor Rate.

For the avoidance of doubt, if the Successor Rate would be less than the Index Floor, the Successor Rate will be deemed to be the Index Floor for the purposes of this bond and the Loan Agreement. Further, if the Interest Rate to be replaced is rounded upwards to the nearest one one-hundredth of a percent (.0001) under the terms of this bond or the Loan Agreement, the Successor Rate shall also be rounded up to the nearest one one-hundredth of a percent (.0001).

If the Successor Rate is based on Daily Simple SOFR, interest shall be due and payable on a monthly basis.

Bondholder does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, or any other matter related to the Index Rate or any Successor Rate, including the selection of such rate, any related Spread Adjustment, or any Conforming Changes, or whether the composition or characteristics of any Successor Rate and Spread Adjustment or Conforming Changes will be similar to, or produce the same value or economic equivalence of, the initial Index Rate.

Notwithstanding anything to the contrary contained herein, if, after March 1, 2023, Borrower enters into a Rate Management Agreement with respect to all or part of an Advance and the floating interest rate under the Rate Management Agreement is Daily Simple SOFR, Bondholder may replace the Index Rate hereunder with Daily Simple SOFR and a Spread Adjustment without consent of any other party hereto; provided that if subsequent thereto,

Bondholder and Borrower amend such Rate Management Agreement to include, or terminate such Rate Management Agreement and enter into a new Rate Management Agreement with, a floating interest rate thereunder of the original Index Rate, then Bondholder may further replace Daily Simple SOFR hereunder with the original Index Rate (and a Spread Adjustment, if applicable) hereunder without the consent of any other party hereto; and, in either such event, (A) such rate shall be a Successor Rate hereunder, and (B) Bondholder shall provide written notice thereof to Borrower.

Notwithstanding anything to the contrary contained in this bond, at any time during which a Rate Management Agreement is then in effect with respect to all or a portion of an Advance bearing interest based upon the Index Rate or any temporary or permanent replacement for the Index Rate pursuant to this bond, (i) the provision that rounds up the Index Rate to the nearest one one-hundredth of a percent (.0001) shall be disregarded and no longer of any force and effect with respect to such portion of an Advance that is subject to such Rate Management Agreement and (ii) the Index Floor shall be disregarded and no longer of any force and effect with respect to such portion of an Advance subject to such Rate Management Agreement.

Notwithstanding any other provisions hereof, if any Law shall make it unlawful for Bondholder to make, fund or maintain Index Rate Loans, Bondholder shall promptly give notice of such circumstances to Borrower. In such an event, (i) the commitment of Bondholder to make or continue Index Rate Loans shall be immediately suspended and (ii) all amounts outstanding hereunder and any additional Advances shall bear interest at a rate equal to the Prime Index plus the Applicable Margin; provided, however, that if the Prime Index would be less than the Index Floor, the Prime Index will be deemed to be the Index Floor for the purposes of this bond and the Loan Agreement.

In connection with the use, implementation, or administration of the Index Rate, including any temporary or permanent replacement for the Index Rate, Bondholder will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any the Loan Agreement, any such Conforming Changes will become effective without any further action or consent of any other party to this bond or the Loan Agreement. Bondholder will promptly notify Borrower of the effectiveness of any Conforming Changes in connection with the implementation, use or administration of the Index Rate, or any temporary or permanent replacement of the Index Rate.

Unless prepaid as hereinafter provided, the principal of this bond shall be payable on the following dates and in the following amounts:

<u>March 1</u>	<u>Amount</u>
2018	\$250,000
2019	440,000
2020	475,000
2021	500,000
2022	525,000

2023	575,000
2024	600,000
2025	625,000
2026	650,000
2027	675,000
2028	685,000
2029	700,000
2030	750,000
2031	800,000
2032	850,000
2033	<u>900,000</u>
Total	<u>\$10,000,000</u>

Upon not less than thirty days prior written notice thereof by the Borrower to the Bondholder, this bond is subject to optional prepayment at any time, in whole or in part in increments of One Hundred Thousand Dollars (\$100,000), at 100% of the principal amount thereof together with interest accrued on the amount prepaid to the date of the prepayment. All optional prepayments shall be applied to scheduled installments of principal in the inverse order of their maturity and shall be accompanied by payment of the interest then accrued on the principal amount being prepaid. If a successor interest rate is selected as set forth in this bond, any prepayment shall be subject to Bondholder's then-current requirements and procedures.

This bond is subject to mandatory prepayment in whole, at 100% of the outstanding principal amount thereof plus accrued interest, on March 1 of 2018, 2023, and 2028 (each a "Mandatory Prepayment Date"). In the event the Bondholder is willing to waive mandatory prepayment of the Bonds on any Mandatory Prepayment Date, the Bondholder shall give the Borrower at least sixty (60) days prior written notice of such waiver (the "Waiver Notice") proposing (i) the formula for the determination of the variable interest rate or the fixed interest rate (which may be the same variable interest rate formula or fixed interest rate as in effect immediately prior to such Mandatory Prepayment Date) that shall be in effect on and after such Mandatory Prepayment Date and (ii) any other change in the terms of this bond to be effective on and after such Mandatory Prepayment Date. The Borrower shall notify the Bondholder in writing within fifteen (15) days of the date of the Waiver Notice whether the Borrower accepts the terms upon which this bond will remain outstanding on and after such Mandatory Prepayment Date. If the Borrower rejects the proposed terms, the Borrower shall prepay this bond on such Mandatory Prepayment Date. If the Borrower accepts the proposed terms, the Borrower shall arrange at its cost (x) for Bond Counsel to revise the form of this bond to reflect any change in the terms thereof, (y) for the Issuer to execute and deliver the revised bond certificate for this bond, if there has been any change in the terms thereof, and (z) for Bond Counsel to deliver to the Issuer, the Borrower,

and the Bondholder an opinion as to the validity of this bond and the tax treatment of the interest thereon on and after such Mandatory Prepayment Date, if there has been any change in the terms of this bond.

This bond is issued pursuant to and in full compliance with the Constitution and laws of the State, particularly the Industrial Buildings and Pollution Control Facilities for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), ordinances of the Issuer duly enacted on February 28, 2013 and on February 16, 2023 (collectively, the "Bond Ordinances"). The Bond Ordinances authorize the execution and delivery of a Loan Agreement dated as of even date herewith (as amended from time to time, including without limitation, by that certain First Amendment to Loan Agreement dated as of March 1, 2023, the "Loan Agreement") by and among the Issuer, the Roman Catholic Bishop of Louisville (the "Borrower"), a Kentucky nonprofit corporation doing business as St. Mary Academy, and the Bondholder; the issuance under the Loan Agreement of the series of bonds designated as above and issued as a single fully registered bond in the original principal amount of \$10,000,000 (the "Bonds"); and the loan of the proceeds of the Bonds to the Borrower to refund the Prior Bonds as described in the Loan Agreement; all for the public purposes declared in the Act of promoting the economic development of the State, relieving conditions of unemployment, and encouraging the increase of industry therein.

The Loan Agreement requires the Borrower to make Loan Payments (as defined in the Loan Agreement) to the Bondholder for the account of the Issuer sufficient for the payment when due of the principal of and interest on the Bonds. The Loan Payments are to be paid directly to the Bondholder and have been duly pledged by the Issuer for that purpose. The Borrower has, under the Loan Agreement, authorized the Bondholder to debit any demand deposit account maintained by the Borrower with the Bondholder, automatically and without any further authorization from the Borrower, in the amount of any payment of principal or interest due on this bond as of the due date thereof. This bond shall be surrendered to the Borrower upon the final payment of principal and interest.

Reference is hereby made to the Loan Agreement for a description of the security for and source of payment of the Bonds, the rights, duties, and obligations of the Issuer, the Borrower, and the Bondholder, and the terms upon which the Bonds are issued and secured. Acceptance of the terms and conditions of the Loan Agreement is a material part of the consideration for the issuance of this bond, and each holder hereof by acceptance of this bond hereby assents to all of said terms and conditions.

This bond is transferable on the bond register upon its surrender at the office of the Borrower accompanied by a written instrument of transfer in form satisfactory to the Borrower, duly executed by the Bondholder or its attorney or legal representative, for notation by the Borrower indicating the name of the transferee, the date to which interest has been paid, and the balance of principal due hereon. The Issuer and the Borrower may treat the person in whose name this bond is registered as the absolute owner hereof for all purposes and shall not be affected by any notice to the contrary.

As provided in the Loan Agreement, the principal of the Bonds is subject to mandatory prepayment in the event of condemnation, destruction, or damage of or to the Project (as defined in the Loan Agreement).

In certain events as provided in the Loan Agreement, the principal of the Bonds then outstanding under the Loan Agreement may become or be declared due and payable before their stated maturity, together with interest accrued thereon. Modifications of the Loan Agreement, or of any supplements thereto, may be made as provided in the Loan Agreement.

In the event of an increase or decrease in the corporate tax rate, as specified by the Internal Revenue Code of 1986, as amended (the "Code"), after March 1, 2023, the Interest Rate shall be decreased (in the case of an increase in the corporate tax rate), or increased (in the case of a decrease in the corporate tax rate) effective as of the date of such change in the corporate tax rate. For purposes of this paragraph and the immediately succeeding two paragraphs, in the event of an increase or decrease in the corporate tax rate as hereinabove provided, the Interest Rate shall be adjusted to a rate of interest which is equal to the product of (i) the applicable Interest Rate on this bond times (ii) a fraction (expressed as a decimal), the numerator of which is the number 1 minus the corporate tax rate in effect following the change in such rate, and the denominator of which is the number one minus the corporate tax rate in effect on the date hereof; and, for purposes of this paragraph and the immediately succeeding two paragraphs, the "corporate tax rate" shall mean the highest marginal statutory rate of federal income tax imposed on the Bondholder by the Code.

If, other than as provided herein, at any time (whether before or after payment of this bond, or any sale or other transfer of this bond to any other person, firm or corporation), as a result of a change in the Code, (i) any payment of interest or principal or any amount in respect of or measured in whole or in part by reference to interest on or principal of this bond is, in the opinion of counsel for the Bondholder, subject to or affected by a preference tax, an excess profits tax or other federal tax which changes the basis of taxation of the payments of interest on or principal of this bond to the Bondholder or affects any method used or calculation involved in determining any federal tax, or (ii) the deductibility of any amount attributable, directly or indirectly, to the purchase or carrying of this bond is adversely affected, then, upon written notice to such effect from the Bondholder to the Borrower, which notice shall set forth the date as of which any payment may have become subject to such preference, excess profits or other federal tax or such deductibility shall have been affected, the Borrower shall pay to the Bondholder in immediately available funds an amount which, after giving effect to all taxes, interest, penalties, additions to tax and other charges required to be paid by the Bondholder as a result of, attributable to or in respect of such payment, shall be equal to the amount of any such preference, excess profits or other federal taxes and any interest, penalties and additions to tax which are then payable by the Bondholder as a consequence of such change, it being the intent and purpose of the parties to the Loan Agreement that the profit of the Bondholder with respect to the payment of interest to it on this bond shall not be diminished by any such change in the Code (whether through or as a result of direct or indirect federal taxation of the interest on or principal of this bond).

Any amounts paid to the Bondholder pursuant to this paragraph or the immediately two preceding paragraphs shall be refunded to the Borrower if any time subsequent to such payment the Borrower establishes, to the satisfaction of the Bondholder, that such amounts paid were not legally due; provided, however, that in the event the Bondholder shall have to take any action or incur any costs, including the costs of tax advice or legal counsel, to verify such position and seek a refund of such sums from the appropriate taxing authority, the Borrower shall be obligated to indemnify the Issuer and the Bondholder for all such costs. Notwithstanding the foregoing provisions of this paragraph and the immediately two preceding paragraphs, no payment by the Borrower shall be required in respect of a preference, excess profits or other federal tax to

which this paragraph and the immediately two preceding paragraphs relate, to the extent that such tax is imposed and computed without regard to whether interest on this bond is or may be exempt from tax under the provisions of the Code or any successor provisions thereto.

No recourse shall be had for the payment of the principal of or interest on this bond, or for any claim based hereon or on the Loan Agreement, against any elected or appointed official, officer, employee, or agent, past, present, or future, of the Issuer or of any successor body, as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability of such elected or appointed officials, officers, employees, and agents being released as a condition of and as an explicit and material part of the consideration for the execution of the Loan Agreement and the issuance of this bond.

This bond and the interest hereon do not constitute a general obligation or indebtedness of the Issuer within the meaning of the Constitution and laws of the State and are not a charge against the general credit or taxing power of the Issuer but are a limited obligation of the Issuer payable solely from and secured solely by the Pledged Receipts (as defined in the Loan Agreement).

[Signature page to follow]

IN WITNESS WHEREOF, the Issuer has caused this bond to be signed in its name by its Mayor and attested by its Metro Council Clerk under the official seal of the Issuer, all on the date first above written.

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

By: _____
Mayor

Attest:

Metro Council Clerk
(SEAL)

Approved as to form and legality:

Mike O'Connell
Jefferson County Attorney

By: _____
Laura Ferguson
Assistant County Attorney

