

ORDINANCE NO. 052, SERIES 2014

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, AUTHORIZING THE ISSUANCE OF ITS TAXABLE REFUNDING REVENUE BONDS, SERIES 2014 (LOUISVILLE MEDICAL CENTER STEAM AND CHILLED WATER PLANT PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,200,000 FOR THE PURPOSE OF CURRENTLY REFUNDING A PORTION OF ITS LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, LOUISVILLE MEDICAL CENTER TAX EXEMPT REVENUE BONDS, SERIES 2009; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND TRUST INDENTURE, LOAN AGREEMENT AND BOND PURCHASE AGREEMENT; AUTHORIZING AND APPROVING CERTAIN OTHER MATTERS, INCLUDING THE EXECUTION OF RELATED DOCUMENTS, IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS.

Sponsored by: COUNCILMAN DAVID TANDY

RECITALS:

WHEREAS, the Louisville/Jefferson County Metro Government, Kentucky ("Metro Government") is a political subdivision of the Commonwealth of Kentucky (the "Commonwealth") and is authorized by Sections 103.200 through 103.285 of the Kentucky Revised Statutes, as amended (the "Act"), to issue revenue bonds and to loan the proceeds thereof in order to finance or refinance an "industrial building" suitable for use as a healthcare related facility and a facility related in any manner to or in furtherance of the educational purposes of a nonprofit educational institution; and

WHEREAS, Metro Government came into legal existence on January 6, 2003 by operation of law and voter approval in accordance with laws now codified as Chapter 67C of the Kentucky Revised Statutes and replaced and superseded the prior governments of both the City of Louisville, Kentucky (the "City") and the County of Jefferson, Kentucky (the "Predecessor County") and pursuant to law has mandatorily assumed all existing contracts and obligations of and has been endowed with all powers of the City and the Predecessor County; and

WHEREAS, Louisville Medical Center, Inc., a Kentucky nonprofit corporation (the "Corporation"), presently owns a steam and chilled water plant located at 235 Abraham Flexner Way, Louisville, Kentucky 40202 (the "Plant"); and

WHEREAS, the Plant is operated by the Medical Center Commission of Louisville/Jefferson County Metro Government, Kentucky (the "Commission") with the assistance and advice of the Corporation; and

WHEREAS, the Corporation entered into a User Contract dated as of April 23, 2002 (the "Original User Contract") with the following parties: (i) Jewish Hospital & St. Mary's Healthcare, Inc. f/k/a Jewish Hospital Healthcare Services, Inc.; (ii) Norton Healthcare, Inc.; (iii) University Medical Center, Inc. d/b/a University of Louisville Hospital; (iv) University of Louisville (with respect to its Health Sciences Campus); (v) Kentucky Community & Technical College System (together, the "User Institutions"); and (vi) the Predecessor County; and

WHEREAS, the Original User Contract required the User Institutions to pay the Corporation and the Commission for (i) the cost of operating and maintaining the Plant and providing steam and chilled water to the User Institutions and (ii) the debt service on and any expenses associated with the issuance of tax-exempt revenue bonds by the Predecessor County to finance the expansion or improvement of the Plant; and

WHEREAS, the Predecessor County previously issued its \$18,000,000 County of Jefferson, Kentucky, Louisville Medical Center Refunding and Revenue Bonds, Series 2002 (the "2002 Bonds") for the benefit of the Corporation under a Trust Indenture dated as of May 15, 2002, between the Predecessor County and U.S. Bank National Association (the "Trustee"), as successor trustee to Bank of Louisville, Louisville, Kentucky (the "2002 Bond Indenture"); and

WHEREAS, the Original User Contract and the 2002 Bond Indenture authorized the issuance of additional revenue bonds on a parity as to security and source of payment as the 2002 Bonds conditioned upon the fulfillment by the Corporation of certain requirements; and

WHEREAS, Metro Government previously issued its \$6,550,000 Louisville/Jefferson County Metro Government, Kentucky, Louisville Medical Center Tax Exempt Revenue Bonds, Series 2009 (the "Original 2009 Bonds") for the benefit of the Corporation under a Supplemental Trust Indenture dated as of August 31, 2009 between Metro Government and the Trustee (the "Original 2009 Supplemental Indenture") and the Original 2009 Bonds were issued on a parity as to security and source of payment with the 2002 Bonds pursuant to the Original User Contract and the 2002 Bond Indenture; and

WHEREAS, the Corporation, Metro Government and the User Institutions entered into a First Supplemental User Contract dated as of October 1, 2011 (the "First Supplemental User Contract"), which amended the Original User Contract to require the User Institutions to pay the Corporation for the debt service on and any expenses associated with the issuance of taxable revenue bonds by Metro Government to finance the expansion or improvement of the Plant; and

WHEREAS, Metro Government previously reissued the Original 2009 Bonds (as reissued, the "2009 Bonds"), pursuant to a First Amendment to the 2009 Supplemental Indenture dated as of December 1, 2011 for the purpose of lowering the interest rate accruing on the Original 2009 Bonds; and

WHEREAS, Metro Government previously issued its \$11,000,000 Louisville/Jefferson County Metro Government, Kentucky, Louisville Medical Center Taxable Revenue Bonds, Series 2011 (the "2011 Bonds") for the benefit of the Corporation under a Supplemental Trust Indenture dated as of December 1, 2011 between Metro Government and the Trustee and the 2011 Bonds were issued on a parity as to security and source of payment as the 2002 Bonds and the 2009 Bonds pursuant to the 2002 Bond Indenture, as amended, and the Original User Contract, as amended; and

WHEREAS, Metro Government, the Corporation and the User Institutions entered into a Second Supplemental User Contract dated as of October 1, 2012, which further amended the Original User Contract, to, among other things, require the User Institutions to pay the Commission and the Corporation the debt service on and any expenses associated with the issuance of revenue bonds by Metro Government to refinance existing revenue bond issues; and

WHEREAS, Metro Government previously issued its Louisville/Jefferson County Metro Government, Kentucky, Refunding Revenue Bonds, Series 2012A (Louisville Medical Center, Inc. Steam and Chilled Water Plant Project) (the "2012A Bonds") and its Louisville/Jefferson County Metro Government, Kentucky, Taxable Refunding Revenue Bonds, Series 2012B (Louisville Medical Center, Inc. Steam and Chilled Water Plant Project) (the "2012B Bonds" and, together with the 2012A Bonds, the "2012 Bonds"), for the benefit of the Corporation and the Commission under a Bond Indenture dated as of October 1, 2012 (the "2012 Bond Indenture") and the 2012 Bonds were issued on a parity as to security and source of payment as the 2009 Bonds and the 2011 Bonds pursuant to the 2002 Bond Indenture, as amended, the 2012 Bond Indenture and the Original User Contract, as amended; and

WHEREAS, on May 1, 2014 the 2009 Bonds will fully mature and the Corporation will owe an estimated \$3,930,000 balloon payment to Fifth Third Bank, the holder of the 2009 Bonds; and

WHEREAS, the Corporation intends to pay a portion of the matured principal of the 2009 Bonds on May 1, 2014 with other available funds of the Corporation and has requested, and Metro Government desires, to currently refund the remaining balloon payment through the issuance of a series of taxable bonds styled "Louisville/Jefferson County Metro Government, Kentucky, Taxable Refunding Revenue Bonds, Series 2014 (Louisville Medical Center Steam and Chilled Water Plant Project)" in an aggregate principal amount not to exceed \$3,200,000 (collectively, the "2014 Bonds") and to also pay a portion of the costs of issuance of the 2014 Bonds with the proceeds thereof; and

WHEREAS, Metro Government, as the successor of the County, is authorized, pursuant to the 2002 Bond Indenture, as amended, and the 2012 Bond Indenture to issue parity bonds to refund the 2009 Bonds provided that the Corporation satisfies certain requirements contained therein; and

WHEREAS, all of the conditions precedent to the issuance of parity bonds under the 2002 Bond Indenture, as amended, and the User Contract, as amended, will be satisfied as of the date of the issuance of the 2014 Bonds; and

WHEREAS, the Corporation has requested the sale of the 2014 Bonds be made on a negotiated basis to Fifth Third Bank (the “Purchaser”); 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 (a) authorize the issuance of its 2014 Bonds for the purpose of (i) currently refunding a portion of the 2009 Bonds, (ii) paying related costs of issuance, (b) authorize the execution and delivery of the Bond Trust Indenture, Loan Agreement and Bond Purchase Agreement hereinafter identified; and (c) take other action in connection therewith;

NOW, THEREFORE, BE IT ORDAINED BY THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY ACTING BY AND THROUGH ITS METRO COUNCIL, AS FOLLOWS:

Section 1. Incorporation of Preamble. 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 said preamble shall have the same meanings when used herein.

Section 2. Declaration of Purpose. Metro Government hereby finds and declares that the issuance of the 2014 Bonds for the purpose of refinancing and currently refunding the 2009 Bonds will further the public purposes of the Act by refinancing costs incurred with respect to an “industrial building” suitable for use as a healthcare related facility and a facility related in any manner to or in furtherance of the educational purposes of a nonprofit educational institution.

Section 3. Authorization of the 2014 Bonds. For the purposes set forth in the preamble hereto, there is hereby authorized and directed:

(a) the issuance, execution, sale, and delivery of the “Louisville/Jefferson County Metro Government, Kentucky, Taxable Refunding Revenue Bonds, Series 2014 (Louisville Medical Center Steam and Chilled Water Plant Project)” (the “2014 Bonds”), as provided in the Bond Trust Indenture and the Bond Purchase Agreement hereinafter identified, subject to the following limitations (the “Limitations”): (i) the aggregate principal amount of the 2014 Bonds shall not exceed \$3,200,000; (ii) the final maturity of all series of the 2014 Bonds shall not exceed ten years from the dated date thereof; (iii) the 2014 Bonds shall bear a fixed interest rate which shall not exceed 5.0% per annum; (iv) the purchase price of any 2014 Bonds (excluding any original issue discount) set forth in the Bond Purchase Agreement shall equal 100% of the aggregate principal amount thereof; and (v) the 2014 Bonds will be issuable in such denominations, shall be dated such dates and shall be subject to redemption on such dates and in such amounts, and the principal and interest thereon shall be payable on such dates and in such amounts, as shall be approved by an officer of Metro Government and specified in the Bond Trust Indenture;

(b) the loan of the proceeds of the 2014 Bonds to the Corporation to refinance and currently refund the 2009 Bonds, as provided in the Loan Agreement hereinafter defined; and

(c) the execution and delivery on behalf of Metro Government of the 2014 Bond Documents hereinafter identified;

(d) the execution and delivery on behalf of Metro Government of all customary papers, letters, documents, certificates, forms or other instruments that may be required for the carrying out and effectuation of the authority conferred by this Ordinance and the 2014 Bond Documents hereinafter identified or to evidence said authority, including but not limited to closing certificates, financing statements and other security documents.

Section 4. Authorization of 2014 Bond Documents. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of Metro Government the following documents (collectively, the “2014 Bond Documents”), substantially in the respective forms previously submitted, reference to which is hereby made, with such changes therein as the officer(s) executing such documents on behalf of Metro

Government shall approve and as shall be consistent with the Limitations, such approval to be conclusively evidenced by their execution and delivery thereof:

(a) A Bond Purchase Agreement (the "Bond Purchase Agreement"), by and among Metro Government, the Purchaser and the Corporation ("Exhibit A");

(b) A Bond Trust Indenture (the "Bond Trust Indenture"), by and between Metro Government and the Trustee ("Exhibit B"); and

(c) A Loan Agreement (the "Loan Agreement"), by and between Metro Government and the Corporation ("Exhibit C").

Section 5. No Recourse on Obligations. No recourse under or upon any obligation, covenant, acceptance or agreement contained in the 2014 Bond Documents, in the 2014 Bonds, under this Ordinance or under any judgment obtained against Metro Government, or by the enforcement of any assessment, or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any member, officer, employee or agent, as such, past, present or future, of Metro Government, the Commonwealth or any agency or political subdivision thereof, whether directly or through Metro Government, or otherwise, for the payment for or to Metro Government or any receiver thereof, or for or to any holder of any 2014 Bond, or otherwise, of any sum that may be due and unpaid by Metro Government on the 2014 Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or constitution, or otherwise, of any such member, officer, employee or agent, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to Metro Government or any receiver thereof, or for or to the owner or any holder of any 2014 Bond, or otherwise, of any sum that may remain due and unpaid on the 2014 Bonds, shall be deemed to be and is hereby expressly waived and released as a condition of and consideration for the execution and delivery of the 2014 Bond Documents, this Ordinance and the issuance of the 2014 Bonds.

THE 2014 BONDS WILL NOT CONSTITUTE A GENERAL OBLIGATION, DEBT OR BONDED INDEBTEDNESS OR LIABILITY OF METRO GOVERNMENT OR OF THE COMMONWEALTH OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF UNDER THE CONSTITUTION OF THE COMMONWEALTH OR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OF, OR A CHARGE AGAINST, THE GENERAL CREDIT OR TAXING POWERS OF METRO GOVERNMENT, THE COMMONWEALTH OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF, AND THE HOLDERS OR OWNERS THEREOF WILL NOT HAVE THE RIGHT TO HAVE TAXES OR EXCISES LEVIED BY METRO GOVERNMENT, THE COMMONWEALTH OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF PRINCIPAL OF AND ANY PREMIUM AND INTEREST ON THE 2014 BONDS. METRO GOVERNMENT AND THE COMMONWEALTH SHALL NEVER BE REQUIRED TO PAY FROM THEIR OWN FUNDS ANY OBLIGATIONS DERIVING FROM THE ISSUANCE OF THE 2014 BONDS, AND THE 2014 BONDS ARE DECLARED TO BE SPECIAL AND LIMITED OBLIGATIONS PAYABLE SOLELY AND ONLY FROM THE RECEIPTS DERIVED UNDER THE LOAN AGREEMENT AND THE TRUST ESTATES CREATED UNDER THE BOND TRUST INDENTURE AS PROVIDED IN THE DOCUMENTS HEREIN APPROVED.

Section 6. Modification. It is acknowledged by Metro Government that at the time of sale of the 2014 Bonds pursuant to the Bond Purchase Agreement as set out in Section 4 hereof, the Corporation may desire to proceed with issuance of less than all of the 2014 Bonds contemplated by this Ordinance and as described in the Bond Trust Indenture and consequently may request Metro Government, acting through its Mayor and Metro Council Clerk, to execute the Bond Purchase Agreement and other documents herein referred to for the sale and issuance of 2014 Bonds for less than the amount anticipated by this Ordinance. Accordingly, the execution by the Mayor or Metro Council Clerk on behalf of Metro Government of the Bond Purchase Agreement and other documents herein referred to with regard to the sale of 2014 Bonds for any such lesser amount is specifically authorized and approved without further action by Metro Government, and to such extent this Ordinance shall be deemed to have been modified.

Section 7. Severability. The provisions of this Ordinance are severable and, if any section, phrase or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 8. Supplements. The provisions of this Ordinance may be supplemented from time to time by ordinance or resolution of the Metro Council.

Section 9. Prior Conflicting Actions Superseded. To the extent that any ordinance, resolution, municipal order or part thereof is in conflict with the provisions of this Ordinance, the provisions of this Ordinance shall prevail and be given effect.


Section 10. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

(Signature page to follow)

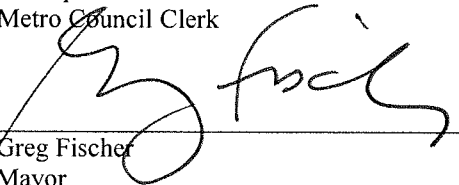
INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened regular meeting of the Metro Council of the Louisville/Jefferson County Metro Government, Kentucky, held on March 13, 2014.

GIVEN SECOND READING AND ENACTED at a duly convened regular meeting of the Metro Council of the Louisville/Jefferson County Metro Government held on March 27, 2014, signed by the Mayor as evidence of his approval, filed, and indexed as provided by law.

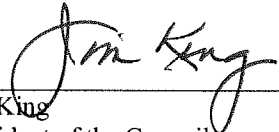
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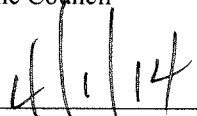
H. Stephen Ott
Metro Council Clerk



Greg Fischer
Mayor



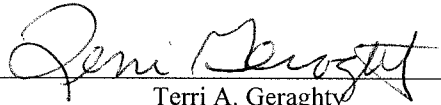
Jim King
President of the Council



Approval Date

Approved as to form and legality:

Michael J. O'Connell
Jefferson County Attorney

By 

Terri A. Geraghty
Assistant Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED
March 27, 2014**

LMC Steam & Chilled Plant nte \$3.2M Ord.ROC tg,bkn 031014 Draft ITAG

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