

**RESOLUTION No. 073 SERIES 2015**

**A RESOLUTION OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS COLLEGE IMPROVEMENT REVENUE AND REVENUE REFUNDING BONDS, SERIES 2015 (BELLARMINE UNIVERSITY PROJECT), IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$39,000,000, THE PROCEEDS OF WHICH SHALL BE LOANED TO BELLARMINE UNIVERSITY INCORPORATED, A KENTUCKY NONPROFIT CORPORATION (THE "BORROWER"), TO FINANCE THE COSTS OF THE CONSTRUCTION OF CERTAIN PROJECTS LOCATED ON THE CAMPUS OF BELLARMINE UNIVERSITY, 2001 NEWBURG ROAD, LOUSVILLE, KENTUCKY 40205, TO REFINANCE CERTAIN OUTSTANDING BONDS WHICH ARE OBLIGATIONS OF THE CORPORATION AND TO PAY CERTAIN COSTS OF ISSUANCE; AUTHORIZING A TRUST INDENTURE, A LOAN AGREEMENT, A BOND PURCHASE AGREEMENT, AND OTHER RELATED DOCUMENTS; AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.**

**Sponsored by: Councilwoman Marianne Butler, Councilman Steve Magre, Councilman Tom Owen**

**WHEREAS, the Louisville/Jefferson County Metro Government (the "Issuer") is a political subdivision of the Commonwealth of Kentucky (the "Commonwealth") organized and existing under the Constitution and laws of the Commonwealth and as such is authorized under the Industrial Buildings for Cities and Counties Act, Sections 103.200 to 103.285 of the Kentucky Revised Statutes, as amended (the "Act"), to issue its industrial building revenue bonds and lend the proceeds thereof to any person to defray the costs of acquiring, constructing and equipping an "industrial building" (as defined in the Act), including specifically any buildings, structures and facilities, including the site thereof and machinery, equipment, and furnishings for nonprofit educational institutions in furtherance of the educational purposes of such institutions, in order to accomplish thereby the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment and encouraging the increase of industry therein, provided that such bonds are payable solely from the loan repayments and other revenues derived in respect of the loan and do not constitute an indebtedness of the Issuer within the meaning of the Constitution and laws of the Commonwealth; and**

**WHEREAS**, Bellarmine University Incorporated (the "Borrower"), a Kentucky nonprofit corporation, applied to the Issuer for the issuance of the Issuer's industrial building revenue bonds pursuant to the Act and the loan of the proceeds thereof to the Borrower (i) to finance or reimburse the Borrower for a portion of the costs of the following: (a) the first phase of construction of Centro Building, a three-story structure approximately 46,265 square feet in size, located in front of existing Horrigan Hall; (b) a major renovation of Horrigan Hall, involving the complete gutting and renovating of the ground floor, improvements to the existing lobby on all three floors, the addition of a new elevator and sprinkler system and the upgrading of the electric service & HVAC system on all three floors; (c) the renovation of the first floor of the W.L. Lyons Brown Library, including lighting, technology, flooring, and furnishing upgrades and (d) the acquisition of other major educational equipment, all located at Bellarmine University, 2001 Newburg Road, Louisville, Kentucky 40205 (the foregoing, collectively, the "Project"); (ii) to currently refund a portion or all of (a) the City of Audubon Park, Kentucky College Improvement Revenue Bonds, Series 2011 (Bellarmine University Project), issued in the amount of \$6,000,000, (b) the City of Shively, Kentucky College Improvement Revenue Bonds, Series 2011 (Bellarmine University Project), issued in the amount of \$7,100,000 (collectively, the "Series 2011 Bonds"), and (c) the City of Audubon Park, Kentucky College Revenue Refunding Bonds, Series 2012 (Bellarmine University Project), issued in the amount of \$7,910,000, and (d) the City of Shively, Kentucky College Revenue Refunding Bonds, Series 2012 (Bellarmine University Project), issued in the amount of \$5,160,000 (collectively, the "Series 2012 Bonds" and, with the Series 2011 Bonds, the "Prior Bonds"), and (iii) to pay costs of issuance;

**WHEREAS**, the proceeds of the Series 2011 Bonds were used to finance a portion of the cost of the construction, installation and renovation of student housing facilities (Siena Terzo and Arboreta), a café, landscaping and miscellaneous capital improvements at Bellarmine University, and the proceeds of the Series 2012 Bonds were used to refinance bonds, which refinanced previous bonds, the proceeds of which were used for the renovation of a library into a campus student center, the construction of a new science wing, the completion of the W.L Lyons Brown Library, the construction of an additional residence hall to house approximately 200 students and the replacement of various heating and cooling facilities in the science building, all located at Bellarmine University, 2001 Newburg Road, Louisville, Kentucky 40205 and the purchase of an office building located at 2120 Newburg Road, Louisville, Kentucky 40205;

**WHEREAS**, the total amount of bonds necessary to be issued to finance the Project and to currently refund the Prior Bonds will not exceed \$39,000,000 in total; and

**WHEREAS**, the Borrower has requested of the Issuer that the sale of such bonds be made privately upon a negotiated basis to J.J.B Hilliard, W.L. Lyons, LLC (the "Underwriter"), for underwriting to the public; 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, the Issuer considers it necessary and proper to [1] authorize the issuance of its Louisville/Jefferson County Metro Government College Improvement Revenue and Revenue Refunding Bonds, in one or more series each bearing the designation "Series 2015" (Bellarmine University Project) (the "Bonds") and the loan of the proceeds thereof to the

Borrower to defray the costs of the Project, [2] authorize the execution and delivery of the Trust Indenture and the Loan Agreement, hereinafter identified, and the sale of the Bonds as hereinafter provided, and [3] take other related action; and

**WHEREAS**, the Act authorizes the governing body of an issuer to delegate to an official thereof or to establish by ordinance or resolution the method or methods for determining the initial interest rate or rates, final principal amounts, conversion privileges and actual terms and maturities of any bonds issued pursuant to the Act, subject to certain limitations; and

**WHEREAS**, because of dynamic conditions existing in the market in which the Bonds will be sold it is not feasible to establish the initial interest rate or rates, final principal amounts, conversion privileges and actual terms and maturities of the Bonds upon passage of this Resolution; and

**WHEREAS**, the Legislative Council (the "Legislative Council") of the Issuer deems it advisable to enact this Resolution (this "Resolution") and to delegate the authority to an official of the Issuer to approve the initial interest rate or rates, final principal amounts, conversion privileges and actual terms and maturities of the Bonds in accordance with the methods, procedures and guidelines set forth in this Resolution; and

**WHEREAS**, prior to the adoption of this Resolution and following published notice, the Legislative Council conducted a public hearing affording an opportunity for members of the public to express their views regarding the Project and the Bonds.

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

Section 1. Recitation. The facts and recitations set out in the preamble of this Resolution are adopted and incorporated as a part hereof, and the terms defined in the preamble shall have the same meanings when used herein.

Section 2. Public Purposes. The Legislative Council hereby finds and declares that the issuance of the Bonds and the loan of the proceeds thereof to the Borrower to finance the costs of the Project, 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 3. Authorization of the Bonds and the Project. For the purposes set forth in the preamble hereto:

A. The Bonds shall be issued in the aggregate principal amount of not to exceed \$39,000,000, in one or more series, in such forms and denominations, shall be numbered, dated and payable as set forth in the Trust Indenture. The Bonds shall mature as provided in the Indenture, and have such terms, bear such interest, and be subject to mandatory and optional redemption as provided in the Indenture. This Issuer hereby fixes and establishes the interest rate on the Bonds in the manner and pursuant to the provisions of the Indenture. The Bonds shall be

executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and the Clerk of the Issuer. In case any officer whose signature or a facsimile thereof shall appear on the Bonds shall cease to be such officer before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until after that time. The form of the Bonds submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Indenture, shall represent the approved form of Bonds of the Issuer.

B. The Issuer hereby approves the loan of the proceeds of the Bonds to the Borrower to defray the costs of the Project and to currently refund the Prior Bonds, as provided in the Loan Agreement hereinafter identified.

C. The issuance of bonds for the Project will provide benefits to the Issuer for multiple reasons, including, but not limited to, the following: (i) will provide educational opportunities, and (ii) will provide employment opportunities to residents of Jefferson County.

D. The Legislative Council, as the "applicable elected representative" of the Issuer for purposes of Section 147(f) of the Internal Revenue Code, hereby approves the issuance of the Bonds in the maximum principal amount of not to exceed \$39,000,000, the proceeds of which will be loaned to the Borrower and used to finance the Project, as described and defined hereinabove.

**Section 4. Bonds are Not a Debt of the Issuer. THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, RECEIPTS, AND OTHER RESOURCES PLEDGED UNDER THE INDENTURE. THE BONDS DO NOT CONSTITUTE, WITHIN THE MEANING OF ANY STATUTORY OR CONSTITUTIONAL PROVISION, AN INDEBTEDNESS, AN OBLIGATION, OR A LOAN OF THE CREDIT OF THE ISSUER, THE COMMONWEALTH, OR ANY OTHER MUNICIPALITY, COUNTY, OR OTHER MUNICIPAL OR POLITICAL CORPORATION OR SUBDIVISION OF THE COMMONWEALTH. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE COMMONWEALTH, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED OR COMMITTED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE BONDS DO NOT CREATE A MORAL OBLIGATION ON THE PART OF ANY OF THOSE GOVERNMENTAL ENTITIES WITH RESPECT TO PAYMENT OF THE BONDS.**

Section 5. Authorization of Trust Indenture. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of the Issuer a Trust Indenture (the "Trust Indenture") between the Issuer and U.S. Bank National Association (the "Trustee"), substantially in the form attached hereto as Exhibit A, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 6. Authorization of Loan Agreement. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute, acknowledge, and deliver on behalf of the

Loan Agreement (the " Loan Agreement") between the Issuer and the Borrower, substantially in the form attached hereto as Exhibit B, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 7. Authorization of Bond Purchase Agreement. The Mayor is hereby authorized and directed to execute and deliver on behalf of the Issuer a contract of purchase (the "Bond Purchase Agreement") between the Issuer and the Underwriter, in substantially the form attached hereto as Exhibit C with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval, providing for the sale of the Bonds upon a negotiated basis at a price and on other terms approved by the Borrower and the Underwriter as may be referred to in the Bond Purchase Agreement. It is hereby determined that the price for and the terms of the Bonds, and the sale thereof, all as provided in the aforesaid documents, are in the best interests of the Issuer and consistent with all legal requirements.

Section 8. Further Acts and Deeds. The Mayor, Metro Council Clerk and other appropriate officers, employees or agents of the Issuer are hereby authorized and directed to execute, acknowledge and deliver on behalf of the Issuer any and all papers, instruments, certificates, affidavits and other documents, including any agreements relating to arbitrage, arbitrage rebate and continuing disclosure deemed necessary by bond counsel, and to do and cause to be done any and all acts and things necessary or proper for entering into and effecting this Resolution, the Bond Purchase Agreement, the Trust Indenture, the Loan Agreement, the Tax Agreement and the Bond, provided that neither the Issuer nor any of its commissioners, officers, employees or agents incur any liability thereby.

Section 9. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Resolution, or in any Bond, or in the Trust Indenture, Loan Agreement, the Tax Agreement or the Bond Purchase Agreement, or under any judgment obtained against the Issuer 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 officer, elected official, employee, or agent as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, 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 the Issuer or any receiver thereof, or for or to the owner or any holder of any Bond, or otherwise, of any sum that may remain due and unpaid upon any Bond, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Trust Indenture, Loan Agreement, the Tax Agreement and the Bond Purchase Agreement and the issuance of the Bonds.

Section 10. Open Meetings Law. This Issuer hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Issuer, and that all deliberations of this Issuer and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

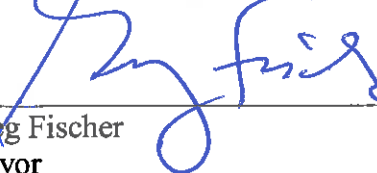
Section 11. Severability. The provisions of this Resolution are severable, and if any section, phrase or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Resolution.

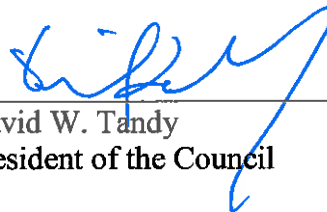
Section 12. Prior Conflicting Actions Superseded. To the extent that any ordinance, resolution, order or part thereof is in conflict with the provisions of this Resolution, the provisions of this Resolution shall prevail and be given effect.

Section 13. Effective Date. This Resolution shall be in full force and effect from and after its enactment and publication as provided by law.

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This Resolution was given first reading at a duly convened meeting of the Legislative Council of the Louisville/Jefferson County Metro Government, held on the 30<sup>th</sup> day of July, 2015, and given second reading approval and enacted at a duly convened meeting of the Legislative Council held on the 13<sup>th</sup> day of August, 2015.

  
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Greg Fischer  
Mayor

  
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David W. Tandy  
President of the Council


8/17/15  
\_\_\_\_\_  
Date

Approved:

  
\_\_\_\_\_  
H. Stephen Ott, Clerk

8/13/15  
\_\_\_\_\_  
Date

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

By:   
\_\_\_\_\_  
Nicholas Lococo, an Assistant County Attorney  
And Attorney for Louisville/Jefferson County  
Metropolitan Government

LOUISVILLE METRO COUNCIL  
ADOPTED  
August 13, 2015

**CERTIFICATE OF THE CLERK**

I, H. Stephen Ott, Metro Council Clerk, hereby certify that I am the duly qualified and acting Metro Council Clerk of the Louisville/Jefferson County Metro Government, that the foregoing Resolution is a true copy of said Resolution duly enacted by the Metro Council of said Metro Government, signed by the Mayor and President of the Council of said Metro Government, and attested under seal by me as Metro Council Clerk of the Metro Government, at a properly convened term and session of said Metro Council held on AUGUST 13, 2015, 2015, as shown by the official records in my custody and under my control; that attached hereto are true copies of the documents approved therein, and that copies of such documents have also been duly filed and recorded in the official records of the Metro Government.

**IN WITNESS WHEREOF**, I have hereunder set my hand as Metro Council Clerk of the Louisville/Jefferson County Metro Government and the seal of the Metro Government this 21 day of AUGUST, 2015.

  
H. Stephen Ott, Clerk

[SEAL]