

RESOLUTION NO. __, SERIES 2017

A RESOLUTION OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS COLLEGE IMPROVEMENT REVENUE REFUNDING BONDS, SERIES 2017 (BELLARMINE UNIVERSITY PROJECT), IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$45,000,000, IN ONE OR MORE SERIES, ON A TAX-EXEMPT OR TAXABLE BASIS (OR COMBINATION THEREOF), THE PROCEEDS OF WHICH SHALL BE LOANED TO BELLARMINE UNIVERSITY INCORPORATED, A KENTUCKY NONPROFIT CORPORATION (THE "BORROWER"), IN ORDER 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: COUNCIL MEMBER BRYANT HAMILTON

WHEREAS, the Louisville/Jefferson County Metro Government (the "Issuer") is a consolidated local government and 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, (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;

WHEREAS, Bellarmine University Incorporated (the “Borrower”), a Kentucky nonprofit corporation, has 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 to (a) advance refund the outstanding Louisville/Jefferson County Metropolitan Government College Refunding and Improvement Revenue Bonds, Series 2008A (Bellarmine University Project) issued in the original principal amount of \$27,230,000 (the “Series 2008A Bonds”) and the outstanding Louisville/Jefferson County Metropolitan Government College Improvement Revenue Bonds, Series 2009 (Bellarmine University Project) issued in the original principal amount of \$18,500,000 (the “Series 2009 Bonds” and together with the Series 2008A Bonds, the “Prior Bonds”); and (b) pay related costs of issuance;

WHEREAS, the proceeds of the Series 2008A Bonds were used to (a) finance the costs of completion of the construction, installation and equipping of classrooms and faculty offices, a new residence hall, and for other miscellaneous capital expenditures, all located on the campus of Bellarmine University, 2001 Newburg Road, Louisville, Kentucky (the “Campus”); (b) advance refund the Issuer’s College Refunding and Improvement Revenue Bonds, Series 2006 (the “Series 2006 Bonds”), which financed improvements to the Campus and refunded certain earlier obligations of the Borrower; and (c) pay costs of issuance;

WHEREAS, the proceeds of the Series 2009 Bonds were used to (a) finance the costs of construction of phase three of a four phase resident hall, renovation of existing space and construction of new office and classroom space, the addition of energy efficient systems to Kesters, the renovation of Café Ogle, and the addition and construction of field parking, and for other miscellaneous capital expenditures, all located on the Campus; and (b) pay costs of issuance;

WHEREAS, the total amount of bonds necessary to be issued to advance refund the Prior Bonds will not exceed \$45,000,000 in total;

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;

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 Refunding Bonds, on a tax-exempt or taxable basis (or combination thereof), in one or more series each bearing the designation “Series 2017” (Bellarmine University Project) (the “Bonds”) and the loan of the proceeds thereof to the Borrower to refinance the Prior Bonds, [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;

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;

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;

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, a public hearing was conducted to afford members of the public the opportunity to express their views regarding the Bonds.

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

SECTION I. 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 II. 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 refinance the Prior Bonds, 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. Authorization of the Bonds. For the purposes set forth in the preamble hereto:

A. The Bonds shall be issued in the aggregate principal amount of not to exceed \$45,000,000, on a tax-exempt or taxable basis, 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 Metro Council Clerk. 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 advance refund the Prior Bonds, as provided in the Loan Agreement hereinafter identified.

C. The issuance of bonds will provide multiple benefits to the Issuer, including, but not limited to, providing debt service savings for the Borrower, which will improve the Borrower's financial condition and enhance its ability to continue to provide educational opportunities to residents of Jefferson County and 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 \$45,000,000, the proceeds of which will be loaned to the Borrower and used to refinance the Prior Bonds, as described and defined hereinabove.

SECTION IV. 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, PREMIUM, IF ANY, 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 V. Authorization of Trust Indenture. The Mayor, or such other designee, 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"), with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

SECTION VI. Authorization of Loan Agreement. The Mayor, or such other designee, 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, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

SECTION VII. Authorization of Bond Purchase Agreement. The Mayor, or such other designee, is hereby authorized and directed to execute and deliver on behalf of the Issuer a contract of purchase (the "Bond Purchase Agreement") among the Issuer, the Borrower and the Underwriter, 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 VIII. 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, continuing disclosure and escrows with respect to the Prior Bonds as 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 Bonds, provided that neither the Issuer nor any of its officials, officers, employees or agents, whether past, present, or future, incur any liability thereby.

SECTION IX. 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 X. 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 XI. 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 XII. Effective Date. This Resolution shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

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