



MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

531 Court Place, Suite 900
Louisville, KY 40202

(502) 574-6333
Fax (502) 574-5573

March 21, 2016

Julie Lott Hardesty
First Assistant

Sent via e-mail only

Mr. David Yates
President
LOUISVILLE METRO COUNCIL
601 West Jefferson Street
Louisville, Kentucky 40202

Dear President Yates,

Thank you for your inquiry dated March 15, 2016. Please allow this letter to serve as a response to the following question:

QUESTION PRESENTED: You asked whether “it is legal and/or contractually permissible for Louisville Metro Council to move funds from the Quality Care Charity Trust to Public Works prior to the end of this fiscal year.”

QUESTION ANSWERED: It is not contractually permissible.

DISCUSSION

Louisville Metro Council (“Louisville Metro”) paid funds to the Quality and Charity Care Trust (“QCCT”) as part of its contractual agreement to fund indigent medical care in Jefferson County. Louisville Metro’s access to these funds is now governed by that agreement, the Revised Quality and Charity Care Trust Agreement (“Trust Agreement”). The Trust itself, not Metro, controls disbursement of the funds, subject to the terms of the Trust Agreement. Metro Council may request the return of \$2,000,000 from QCCT prior to the end of this fiscal year; however, a review of the Trust Agreement indicates that the QCCT would not be able to release those funds to Louisville Metro at this time unless all parties agree to amend the Trust and release the funds. Nothing in this discussion questions Louisville Metro Council’s power to appropriate funds from the general fund and to direct the expenditure of funds for public purpose. Thus, this opinion is limited to a legal analysis of appropriating funds from the QCCT in contravention of the terms of the Trust Agreement.

Quality Care Charity Trust

Attached is a copy of the Revised Quality and Charity Care Trust Agreement (“Trust Agreement”) that was executed on or about September 8, 2014.¹ The parties to the Trust Agreement include University of Louisville, Louisville Metro Government, the Commonwealth of Kentucky, and University Medical Center. According to the recitals, University Medical Center agreed to continue providing “health care needs of economically disadvantaged persons” with the “condition that the [QCCT] continue to support the provision of Hospital Care in the manner specified in the [Trust] Agreement[.]” The relevant provisions to the Trust Agreement that address the question presented are the Terms, Operation of QCCT, Trust’s Obligations, and Amendments.

Section 1 of the Trust Agreement defines the term of the Trust as “July 1, 2014 through June 30, 2016, it shall continue for subsequent Trust Year(s), subject to the continuation of Total Government Funding.” A subsequent Trust Year is defined as “any consecutive twelve-month period beginning on the first day of July and ending on the last day of June.”

The section titled, *Operation of the QCCT*, identifies the total amount each party agreed to contribute to the QCCT. For the FY 2016, Louisville Metro agreed to “provide a total of not to exceed three million dollars.” For the previous year, FY 2015, Louisville Metro agreed to “provide a total of not to exceed six million dollars.” It is our understanding that at the end of FY 2015, Louisville Metro had a monetary balance in the QCCT that rolled over and satisfied its FY 2016 obligations under the Trust Agreement and that no new money was entrusted in FY 2016

The Trust’s Obligations section details two ways for the QCCT to deal with a surplus cash balance for the parties to the Trust Agreement. Subsection 5(A)(1) addresses the circumstance where the QCCT continues to operate under the Trust Agreement for another Trust Year. This section states, “if there is a cash balance in the Trust [Agreement] at the end of any Trust Year, such balance shall remain in the Trust for use in the next succeeding Trust Year . . .” Subsection 5(A)(2) addresses the situation where the Trust Agreement terminates. This section states:

Any balance remaining in the Trust at the termination of the Trust shall be retained for a period of 1 year to provide for the adjustments permitted under [the administration of the Trust].

¹ The attached copy does not contain all the parties’ signatures, but it is our understanding that the other parties also signed the agreement.

Thereafter, any remaining balance shall be returned to the Louisville Metro and the Commonwealth in the a same proportion that the funding by Louisville Metro and the Commonwealth bore to the Total Government Funding for the final Trust Year period prior to termination.

The Jefferson County Attorney's Office has not been advised whether the QCCT will continue to operate in FY 2017 or be terminated. However, under either scenario, the Trust Agreement does not contain any provision that would allow Louisville Metro to be repaid, prior to the end of FY 2016, funds it contributed to the QCCT.

Legal Analysis

During the March 10, 2016 Council Meeting, Councilman Kelly Downard discussed and distributed an e-mail from a representative of Kentucky One Health² concerning projected balances with the QCCT at the end of FY 2016. The e-mail estimates that Louisville Metro may have a two million dollars balance in the QCCT at the end of term. A majority of Council Members relied upon this representation of two million dollars in available money and voted to approve an amendment to Louisville Metro's budget. The budget ordinance appropriates the \$2,000,000 projected balance from QCCT to Public Works for paving of roads in Jefferson County. The problem, however, is that Louisville Metro no longer has that money to appropriate and is not legally entitled to retrieve the projected balance of \$2,000,000 from the QCCT at this time.

As discussed above, Louisville Metro entered into a negotiated contract with the Commonwealth, University of Louisville, and University Medical Center to fund medical services for indigent residents in our community. Louisville Metro cannot now unilaterally modify that contract and retrieve monies that it has paid to the Trust. The terms of the Trust Agreement govern the disbursement of cash balances at the end of the fiscal year and/or the termination of the QCCT.

The comments expressed by an employee with the Kentucky One Health do not represent or create an amendment to the terms of the Trust Agreement. The projected balance is simply a prediction of what funds may be available for Louisville Metro in the future. As stated above, the Trust Agreement specifically outlines how a cash balance is to be allocated upon the continuation or termination of the QCCT. Section 9 of the Trust Agreement states, "no agreement shall amend or alter the terms of this Agreement without the written consent and

² Since the execution of this agreement, University Medical Center has become part of KentuckyOne Health.

Letter to David Yates
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agreement of Corporation.” Jefferson County Attorney’s Office is not aware of an amendment to the Trust Agreement.

Unless the Trust Agreement is amended by agreement, or the board of the QCCT determines that it has the authority to depart from the Trust and agrees to release the funds³, Louisville Metro has no legal authority at this time to unilaterally retrieve funds from the QCCT that it allocated pursuant to a negotiated contract

Sincerely,

MICHAEL O’CONNELL
Jefferson County Attorney



By:
Matthew J. Golden
Director, Civil Division

³ The Jefferson County Attorney does not opine on the propriety of such a vote, the responsibilities of the Trust’s board members to the Trust, nor whether other parties to the contract would have rights as against board members for such action.

REVISED QUALITY AND CHARITY CARE TRUST AGREEMENT

THIS REVISED QUALITY AND CHARITY CARE TRUST AGREEMENT is made and entered into this 8th day of Sept 2014, by and among LOUISVILLE METRO, KENTUCKY, acting by and through its Mayor; the UNIVERSITY OF LOUISVILLE, acting by and through its Board of Trustees; THE COMMONWEALTH OF KENTUCKY, acting by and through its Governor; and UNIVERSITY MEDICAL CENTER, INC., a non-profit Kentucky corporation, with its principal place of business at 530 South Jackson Street, Louisville, Kentucky 40202 (hereinafter "Corporation").

WITNESSETH:

WHEREAS the University, the Commonwealth, and Louisville Metro, or their predecessors in interest have operated the Quality and Charity Care Trust since 1983; and,

WHEREAS Corporation has operated the Hospital with the condition that the Trust continue to support the provision of Hospital Care in the manner specified in this Agreement; and

WHEREAS, Corporation has operated as the safety net hospital for the Louisville, Kentucky metropolitan area for many years, and is expected to remain so in the future;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and recognizing the benefits to be derived and the social purposes to be served by Corporation assuming and discharging the obligation to provide for the health care needs of economically disadvantaged persons who have historically been ministered to by University of Louisville as a public service in the course of its teaching programs, all as more fully set forth herein, the parties agree as follows:

1. **TERM**

The Initial Term of this Agreement shall be from July 1, 2014 through June 30, 2016, and it shall continue for subsequent Trust Year(s), subject to the continuation of Total Government Funding.

2. **DEFINITIONS**

For all purposes of this Agreement, unless the context otherwise requires:

- A. **"COST OF CARE"** shall mean, for Hospital Care, the amount which would have been payable to Hospital under the Medicare program for inpatient or outpatient care on the date Hospital Care was furnished, if the Medicare program had not adopted a prospective payment system. This amount will be determined, in aggregate, for each Trust Year, by multiplying the Medicare cost-to-charge ratio from the most recently available filed Medicare cost report times the Indigent and/or Medically Needy Net Charges per the Quality and Charity Care Trust, Inc. Accountants' Report and Financial Statements, for each Trust Year. The Medicare cost report cost-to-charge ratio will be determined by

taking the total Reimbursable Costs (including Teaching Costs) currently set forth on Worksheet B Pt. 1, Column 25 (excluding non-reimbursable cost centers) and dividing Total Gross Charges, currently set forth on Worksheet C, Column 8 (Column 7 for cost reporting periods 2010 and prior), and per cost report references as updated thereafter by the Center for Medicare and Medicaid Services ("CMS"), as applicable. The above worksheets and the Hospital's calculation of the COST OF CARE shall be annually attached as an exhibit to this Agreement. For purposes of this section, all words (which are not defined elsewhere in this Agreement) shall have the same meaning as they have in the instructions for the Medicare cost report promulgated by CMS.

- B. "CORPORATION'S GUARANTEE" shall mean Corporation's commitment that, for each Trust Year for which the Trust receives Total Government Funding as herein provided, it will provide medically necessary Hospital Care, to the extent facilities are available, to all Indigents and Medically Needy who are residents of Jefferson County, for which it will be reimbursed up to ninety percent (90%) of Total Government Funding (see Section 6c) and thereafter will provide such Hospital Care to residents of Jefferson County at its own expense. An Indigent shall not be required to pay any deposit as a condition of receiving medically necessary Hospital Care at Hospital. However, nothing in this Agreement shall prohibit Corporation, after providing Hospital Care, from billing and collecting any co-payment permitted to be billed and collected from an Indigent qualified as permitted under applicable Federal Poverty Guidelines then in effect. Corporation shall also have the right, after providing Hospital Care, to bill and collect from any Medically Needy the amount of the Cost of Care rendered in connection with his Hospital Care, to the extent of his income, resources, insurance benefits and other means of payment.
- C. "HOSPITAL" shall mean University of Louisville Hospital which shall include the Concentrated Care Building, the Ambulatory Care Building, the Brown Cancer Center, the Institutional Services Building and the Lampton Building which are located in Louisville, Kentucky, as those terms are defined in the Affiliation Agreement between the University of Louisville and Corporation. In addition, Hospital shall include those facilities and services offered by Corporation in the University of Louisville Health Care Outpatient Center located in the 400 block of East Chestnut Street in Louisville, Kentucky.
- D. "HOSPITAL CARE" shall mean those inpatient and outpatient services offered by Corporation at Hospital and, if requested by Corporation for a patient who has been discharged from Hospital, any other medically necessary services required to be rendered in another health care facility as defined in KRS 216B.015(10).
- E. "INDIGENT" shall mean for purposes of the Trust, an individual who:
- (1) Is not eligible for benefits under Titles V, XVIII or XIX of the Social Security Act;

- (2) Is not eligible for any Government health insurance program or any Government subsidized health insurance program, is not covered by a private insurance plan or whose coverage for Hospital Care from private insurance, Medicare or Medicaid is exhausted;
- (3) Is not an individual who is being transferred to Hospital from another health care facility where he was admitted as an in-patient, except for an individual who is in need of medical services which are not available at the health care facility to which he was initially admitted but are only available at Hospital.
- F. "**INITIAL TERM**" shall mean that period of time beginning on the Commencement Date of this Agreement and ending on June 30, 2016.
- G. "**LOUISVILLE METRO**" shall mean the local governmental entity which resulted from the consolidation of the governments of the City of Louisville and Jefferson County, Kentucky, or any governmental entity which shall succeed to the rights, duties and obligations of Louisville Metro.
- H. "**THE TRUST**" shall mean the Quality and Charity Care Trust, Inc., a Kentucky non-profit corporation qualified as a public charity under Section 501(c)(3) of the United States Internal Revenue Code and established pursuant to KRS 273.060 et seq., for the purpose of funding Hospital Care for Indigents and Medically Needy and enhancing the quality of University's health care programs.
- I. "**THE UNIVERSITY**" shall mean the University of Louisville or any entity which shall succeed to the rights, duties and obligations of such institution.
- J. "**TOTAL GOVERNMENT FUNDING**" shall mean an amount not to exceed a.) Five Million from Louisville Metro plus b.) Six Million from the state, as authorized in House Bill 235, Part I, K., 9., (2), for a total of Eleven Million and c.) Five Million from the appropriation to the University of Louisville for Fiscal Year 2014-15; and an amount not to exceed a) Three Million from Louisville Metro plus b.) Four Million from the state, as authorized in House Bill 235, Part I, K., 9., (2), for a total of Seven Million and c.) Five Million from the appropriation to the University of Louisville for Fiscal Year 2015-2016.
- K. "**TRUST YEAR**" for the first year shall mean that period beginning on the Commencement Date of this Agreement on July 1, 2014 and continuing through June 30, 2015, and thereafter shall mean any consecutive twelve-month period beginning on the first day of July and ending on the last day of June.

L. **“OMBUDSMAN”** shall mean a person from time-to-time selected by Louisville Metro, and who will not be an employee of Corporation or University, with the approval of Corporation, who shall assist in the resolution of any disputes concerning an individual’s classification as Indigent or Medically Needy at the time he presents himself for admission to Hospital. He shall, if requested by the individual asserting to be Indigent or Medically Needy, review Corporation’s determination that such an individual will not be admitted to Hospital as Indigent or Medically Needy. In conducting such a review, he shall consider and adhere to the relevant provisions of this Agreement and the Corporation’s application of the criteria set forth in Exhibit B attached hereto. The Ombudsman, following such review shall have the authority to require Corporation to admit and furnish Hospital Care to any individual determined by him to be Indigent or Medically Needy. The Ombudsman shall not act in an unreasonable, arbitrary and/or capricious manner in resolving disputes. The reasonable salary and related fringe benefits of such Ombudsman for that portion of time the Ombudsman is fulfilling obligations under this agreement, as agreed by Corporation and Louisville Metro shall be paid to Louisville Metro by Corporation.

M. **“MEDICALLY NEEDED”** means an individual who, at the time of presentation for admission or at the time of discharge or within one (1) year thereafter, (unless one of the criteria set forth in Exhibit B hereof, is determined by Corporation to apply to such individual, and such determination is not reversed by the Ombudsman) has income from all sources more than that required to be eligible for assistance in acquiring health care under the Affordable Care Act, is determined to require medical care, and does not have sufficient income, resources, or other means of paying for all of the Cost of Care rendered or to be rendered in connection with his Hospital Care.

3 **OPERATION OF QUALITY AND CHARITY CARE TRUST**

A. A not for profit corporation established pursuant to KRS 273.060 et seq., which is known as “Quality and Charity Care Trust, Inc.”, has been established to receive funding as set forth herein. The Trust shall be administered by nine (9) directors. Three (3) of the directors shall be appointed by the Board of Trustees of the University of Louisville, three (3) of the directors shall be appointed by the Governor of the Commonwealth of Kentucky, two (2) of the directors shall be appointed by the Mayor of Louisville Metro, and one director shall be appointed by the Louisville Metro Board of Health.

B. In furtherance of the continuing commitment to provide Hospital Care to Indigents and Medically Needy residing in Kentucky and Jefferson County and in consideration of Corporation’s undertakings, the Commonwealth of Kentucky, Louisville Metro, and the University of Louisville agree to provide funding to the Trust as follows:

For Trust Year, beginning July 1, 2014 and ending on June 30, 2015. Total Government Funding shall not exceed Sixteen Million Dollars (\$16,000,000), to be provided as follows:

- (a) Louisville Metro shall provide a total of not to exceed five million dollars.
- (b) The Commonwealth of Kentucky shall provide a total of not to exceed six million dollars.
- (c) The University of Louisville shall provide a total of not to exceed five million dollars from its appropriation.

For Trust Year, beginning July 1, 2015 and ending on June 30, 2016. Total Government Funding shall not exceed Twelve Million Dollars (\$12,000,000), to be provided as follows:

- (a) Louisville Metro shall provide a total of not to exceed three million dollars.
- (b) The Commonwealth of Kentucky shall provide not to exceed four million dollars.
- (c) The University of Louisville shall provide a total of not to exceed five million dollars from its appropriation.

C. **Funding of the Trust**

The Commonwealth, on behalf of itself, up to the amounts designated in Paragraph 3B(b) above, Louisville Metro, up to the amounts designated in Paragraph 3B(a) above, and the University of Louisville, up to the amounts designated in 3B(c) above, shall pay to the Trust within thirty days of receipt and approval of the reports by the Commonwealth as detailed in Section 6 B. herein, the amount of expenditures approved for the Cost of Care for those eligible under this Agreement. Louisville Metro will transfer its money to the state as agreed between those two parties. The University of Louisville will transfer its money to the state as agreed between those two parties.

D. **University's Obligations**

University as its only obligations under this Agreement shall furnish administrative and basic accounting services to maintain and operate the Trust referred to in Paragraph 3A above, shall appoint three (3) directors for the Trust, and shall disburse any monies distributed to it from the Trust in accordance with the terms of this Agreement.

E. **Renegotiation Between Governments**

Nothing in this Agreement is intended to prevent the Commonwealth and the Louisville Metro from renegotiating among themselves the amounts of their respective annual contributions to the Trust.

4 **CORPORATION'S OBLIGATION**

In consideration of Total Government Funding by the Commonwealth and the Local Governments, Corporation shall provide Hospital Care to Indigents and Medically Needy in accordance with Corporation's Guarantee but nevertheless shall have the rights of billing and collection described in Paragraph 2(B) hereof. Corporation shall also furnish all necessary emergency Hospital Care required by any individual without regard to his ability to pay, but shall nevertheless have the right of billing and collections described in Paragraph 2(B) hereof.

Corporation, the Commonwealth and Louisville Metro realize that many individuals who are not Indigent nevertheless need financial assistance in obtaining and paying for Hospital Care. The Corporation intends to treat any Medically Needy who requires medically necessary Hospital Care, unless one of the exceptions listed in Exhibit B attached hereto applies. If Corporation declines to treat any individual who claims to be Medically Needy, such individual may request the assistance of the Ombudsman. If the Ombudsman determines the individual to be Medically Needy and finds that none of the exceptions listed on Exhibit B apply, Corporation shall be required to furnish Hospital Care to such individual, in accordance with Corporation's Guarantee, but shall nevertheless have the right of billing and collections described in Paragraph 2(B) hereof.

5 **TRUST'S OBLIGATIONS**

A. **Receipt, Investment and Disbursement**

For each Trust Year, the Trust will receive and disburse Total Government Funding as set forth herein, and such funding shall be disbursed exclusively to reimburse Corporation for the Hospital Care provided to Indigents and Medically Needy.

- (1) Except as provided in subparagraph (2) below, if there is a cash balance in the Trust at the end of any Trust Year, such balance shall remain in the Trust for use in the next succeeding Trust Year to pay for Hospital Care provided to Indigents and Medically Needy in accordance with the terms of any future Agreement. Any cash balance remaining in the Trust at the end of any Trust Year shall not reduce Total Government Funding in any succeeding Trust Year.
- (2) Any balance remaining in the Trust at the termination of the Trust shall be retained for a period of 1 year to provide for the adjustments permitted under Paragraph 6A. Thereafter, any remaining balance shall be returned to the Louisville Metro and the Commonwealth in the same proportion that the funding by Louisville Metro and the Commonwealth bore to the Total Government Funding for the final Trust Year period prior to termination.

B. **Payments by the Trust**

Upon receipt of funds referenced in Paragraph 3B (a), (b), and (c), during the Trust Year, which begins on July 1, 2014 and ends on June 30, 2015, the Trust shall reimburse the Corporation in accordance with the provisions of Section 6B in the same proportion as the amounts designated in Paragraph 3B .

C. Audit

An annual audit shall be conducted of the QCCT for the previous fiscal year. The audit shall be prepared and presented to the QCCT Board including the following:

- (1) Engagement letter outlining audit firm's roles and responsibilities, as well as those responsible for managing the QCCT's operations;
- (2) Pre-audit communication letter discussing the planned audit responses and anticipated risk areas;
- (3) Statement on Auditing Standards (SAS 114) – The Auditor's communication with those charged with governance.

It shall be agreed that this audit may be conducted by the same audit firm as contracted for the University audit due to the significant increase in cost to select another auditor.

6 ADMINISTRATION OF THE TRUST AND CORPORATION'S OBLIGATIONS IN CONNECTION THEREWITH

A. Application for Benefits

Except as provided herein, no one shall be eligible for benefits under the provisions of this Agreement unless he has first applied for, and been determined to be eligible, as an Indigent or Medically Needy individual. The Board of Directors of the Trust shall specify the form of the application. The Corporation shall administer the application process, and shall, except as provided herein, not encumber Trust funding for services rendered to an applicant until his application has been approved. The application used by Corporation (the "Application") shall be the application prescribed for the Commonwealth for Disproportionate Share Hospitals (without, however, including any requirements of the Commonwealth concerning timeliness), as that application may exist from time to time. A copy of the Application currently in use by Corporation is appended to this Agreement as an Exhibit. Notwithstanding the foregoing, the Corporation shall furnish to any individual services that are required under the provisions of Section 6 (D) hereof, even if such person cannot or refuses to submit an application for benefits, and may bill the fund for the Cost of Care if investigation by the Corporation or its agents establishes that the individual is eligible for benefits as an Indigent or Medically Needy individual within one (1) year of the date of service.

B. Reports to the Trust

The Corporation shall quarterly submit the Reimbursement Request Certification with the Data Submission Requirements as contained in Exhibit ? to the Commonwealth, Louisville Metro, the University and the QCCT board.

C. Provision of Hospital Care

Corporation will provide Hospital Care to Indigents and Medically Needy who are not residents of Jefferson County. When up to ten percent (10%) of the state appropriation has been reimbursed for such care, Corporation shall have no further obligation to provide Hospital Care to such Indigents and Medically Needy. During the Trust Year for which Total Government Funding is paid to the Trust and such funding and interest thereon are available for reimbursement to Corporation, Corporation shall provide Hospital Care to all residents of Jefferson County who are determined pursuant to the terms hereof, to be either an Indigent or Medically Needy consistent with the provisions of this Agreement. Corporation warrants and represents that no portion of funding provided by the Louisville Metro shall be used to provide Hospital Care for Indigents and Medically Needy who are not residents of Jefferson County, Kentucky.

D. Emergency Care

In compliance with the provisions of KRS 216B.400, Corporation shall not deny admission to any individual determined to be in need of emergency care by any person with admitting authority, by reason only of his inability to pay for services to be rendered. Nothing herein precludes billing an individual who is Indigent or Medically Needy for services to the extent permitted under this agreement.

7 DEFAULT BY CORPORATION

- A. If Corporation shall fail to provide Hospital Care to Indigents and the Medically Needy as required under the terms of this Agreement, the Commonwealth and/or Louisville Metro shall provide written notice to Corporation of the alleged failure to provide such care.
- B. If, within sixty (60) days following Corporation's receipt of the written notice of the alleged failure of Corporation to provide Hospital Care, the matter cannot be settled to the mutual satisfaction of the parties, it shall be submitted to and settled by binding arbitration in accordance with rules then obtaining of The American Arbitration Association, and judgment upon the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof.

8 GOVERNMENT'S REMEDIES

- A. If it is determined by the Arbitrators that Corporation has failed to provide Hospital Care, the remedies available to Commonwealth and Louisville Metro shall be limited to the following:
- (1) Monetary damages against the Corporation in an amount sufficient to make the Commonwealth or Louisville Metro whole; or

(2) Specific performance by Corporation of the action(s) required by the terms of this Agreement.

B. If Corporation fails to abide by the judgment entered on the Arbitrator's award in a court having jurisdiction thereof upon thirty (30) days written notice provided by Commonwealth or Louisville Metro to Corporation, this Agreement and those certain Agreements of even date herewith, pertaining to the operation of Hospital, between the parties hereto shall terminate.

9 **INCORPORATION OF PRIOR AGREEMENT: AMENDMENTS**

This Agreement and the Affiliation Agreement, contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreement or understanding entered into by all parties to this Agreement pertaining to any such matter shall be effective for any purpose. This Agreement may not be amended or added to except by a writing executed by Corporation, the University, the Commonwealth and Louisville Metro. This Agreement is not intended to preclude Louisville Metro or the Commonwealth from entering into other agreements and arrangements pertaining to Hospital Care for Indigents and the Medically Needy; provided, however except as provided in Paragraph 3(F) no such agreements shall amend or alter the terms of this Agreement without the written consent and agreement of Corporation.

10. **INDEPENDENT RELATIONSHIP**

The Commonwealth of Kentucky, Louisville Metro, the University of Louisville and Corporation are at all times acting and performing as independent contractors. Except as provided by statute, regulation or ordinance, the University of Louisville, the Commonwealth of Kentucky, and Louisville Metro, shall neither have nor exercise any control or direction over the methods by which Corporation shall provide Hospital Care to Indigents and the Medically Needy.

11. **ASSIGNMENT**

The parties acknowledge that the University and Corporation have assigned their rights, interests and obligations in and under this Agreement to Kentucky One.

13 **NOTICES**

All notices which either party is required or permitted to give to the other under or in connection with this Agreement shall be in writing, and shall be given by addressing the same to such other parties at the address set forth on the signature page hereof, and by depositing the same so addressed, postage prepaid, in the United States mail by certified mail, return receipt requested, or by delivering the same personally to such other parties. Any notice mailed shall be deemed to have been given three (3) United States Post Office delivery days following the date of mailing. Any party may change the address for the service of notice upon it by written notice given to the other parties in the manner herein provided for the giving of notice.

14 **KENTUCKY LAW**

This Agreement shall be construed and governed by the laws of the Commonwealth of Kentucky.

15 **GENDER AND NUMBER**

As used throughout this Agreement, the masculine includes the feminine and neuter and the singular includes the plural.

16 **MEDICARE AND MEDICAID**

Nothing in this Agreement shall be construed to permit Corporation to refuse to admit any individual covered by Medicare and Medicaid programs.

17 **EQUAL EMPLOYMENT OPPORTUNITY**

- A. The Corporation will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin.
- B. The Corporation will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age or national origin; however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off.
- C. The Corporation will state in all solicitations or advertisements for employees placed by or on behalf of Corporation that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin.
- D. The Corporation will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section.
- E. The Corporation will send a notice to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the Corporation's commitments under the above nondiscrimination clauses.
- F. The Corporation shall comply with all applicable provisions of KRS 45.560-640 in the operation of University of Louisville Hospital.

18 **COUNTERPARTS**


This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

WITNESS:

LOUISVILLE METRO, KENTUCKY
Louisville Metro Hall
Louisville, Kentucky 40202

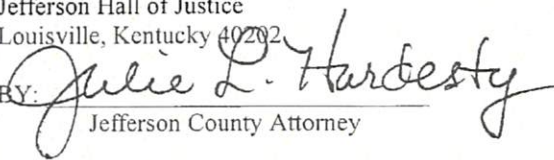
BY: 

BY: 
Mayor

WITNESS:

JEFFERSON COUNTY ATTORNEY
Jefferson Hall of Justice
Louisville, Kentucky 40202

BY: 

BY: 
Jefferson County Attorney

WITNESS:

RECOMMENDED BY:
CABINET FOR FINANCE & ADMINISTRATION
Capitol Annex
Frankfort, Kentucky 40601
Attn: Secretary of Finance & Administration

BY: _____

BY: _____
Secretary of Finance & Administration

WITNESS:

APPROVED BY:
THE COMMONWEALTH OF KENTUCKY
Capitol Building
Frankfort, Kentucky 40601
Attn: Governor

BY: _____

BY: _____
Governor

WITNESS:

UNIVERSITY OF LOUISVILLE
Grawemeyer Hall
Belknap Campus
Louisville, Kentucky 40292
Attn: President

BY: _____

BY: _____
President

Eligibility under the Affordable Care Act

EXHIBIT A

Dr. Mary Kille, Chairman

~~BY: David L. Dunn, M.D., Ph.D. Chairman~~

RECEIVED AND ACKNOWLEDGED FOR THE QUALITY AND CHARITY CARE TRUST, INC.

BY: _____

BY: _____

Attn: _____

UNIVERSITY MEDICAL CENTER, INC.
530 South Jackson Street
Louisville, Kentucky 40202

WITNESS:

EXHIBIT B

(This Exhibit does not apply to Emergency Patients)

An individual is not Medically Needy if Corporation has determined that:

1. He has concealed any assets, and does not disclose the existence of or his interest in, such assets to Corporation in response to its inquiries concerning his financial status;
2. He has falsely given or refuses to give his name, family status, or any relevant information about his financial status;
3. He has the reasonable, demonstrated ability but has refused, and continues to refuse, to pay any legally binding obligation owed Hospital as a result of prior Hospital Care;
4. He has conveyed any material asset for less than its fair market value to any person, and but for such conveyance he would not meet the definition of Medically Needy;
5. His parents, children or some other responsible party has all or part of the financial resources necessary to pay for his Hospital Care; provided, however, if the parents, children or other responsible party commits such resources to pay for Hospital Care, such individual shall then be Medically Needy;
6. He is a minor, unless his parents are Medically Needy;
7. He has established residency in Louisville or Jefferson County for the primary purpose of obtaining Hospital Care;
8. He has an alternate source of care available to him, but refuses to avail himself of it;
9. He is eligible for insurance or public assistance benefits which might pay for all or some of his Hospital Care but refuses to apply for it;
10. He has declined to obtain, or has canceled, any health insurance policy with the intention of becoming Medically Needy;
11. A reasonably prudent man would determine there is any other valid reason why such individual should not be accorded the benefits available to the Medically Needy under this Agreement;
12. He is being transferred to Hospital from another health care facility where he was admitted as an in-patient, except for an individual who is in need of medical services which are not available at the health care facility to which he was initially admitted but are only available at Hospital.

Reimbursement Request Form and Data Submission Requirements

Exhibit C