



Louisville Metro Government

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Title: A RESOLUTION OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE MAYOR TO NEGOTIATE A SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT FOR THE LOUISVILLE ARENA PROJECT AND TO PRESENT SUCH NEGOTIATED SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT TO THE COUNCIL FOR APPROVAL

Sponsors: Marianne Butler (D-15), Angela Leet (R-7), Kelly Downard (R-16), David Yates (D-25), Cheri Bryant Hamilton (D-5), Rick Blackwell (D-12), Vicki Aubrey Welch (D-13), Marilyn Parker (R-18), Kevin Kramer (R-11), Barbara Shanklin (D-2), Mary C. Woolridge (D-3)

Indexes:

Code sections:

Attachments: 1. RES 151 2016.pdf

Date	Ver.	Action By	Action	Result
12/15/2016	1	Metro Council	adopted	Pass
12/15/2016	1	Metro Council	amended	Fail
12/9/2016	1	Budget Committee	recommended for approval	Pass
12/8/2016	1	Metro Council	assigned	

RESOLUTION NO. _____, SERIES 2016

A RESOLUTION OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE MAYOR TO NEGOTIATE A SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT FOR THE LOUISVILLE ARENA PROJECT AND TO PRESENT SUCH NEGOTIATED SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT TO THE COUNCIL FOR APPROVAL

Sponsored by: Council Members Butler, Leet, Downard, Yates, Hamilton, Blackwell, Welch, Parker, Kramer, Shanklin, and Woolridge

WHEREAS, pursuant to actions taken by the Commonwealth of Kentucky (the "Commonwealth"), the Louisville/Jefferson County Metro Government ("Louisville Metro"), the University of Louisville, University of Louisville Athletic Association, Inc. and certain non-governmental entities, the Louisville Arena Project, a public project intended for multi-uses as a public, recreational and sports facility (the "Arena Project"), was undertaken, and the Arena Project has significantly benefited Louisville Metro and the Commonwealth by increasing state and local tax revenues, creating new jobs, enhancing regional tourism, increasing property tax values and stimulating private investment in and around the Louisville Metro area;

WHEREAS, the Louisville Arena Authority, Inc., a Kentucky non-stock, nonprofit corporation (the "Arena Authority") was created as an independent entity to oversee the acquisition, development, construction, and financing of the Arena Project;

WHEREAS, the Legislative Council of Louisville/Jefferson County Metro Government (the "Council") enacted Resolution No. 81, Series 2006, ratifying, approving and adopting a Memorandum of Agreement, dated July 21, 2006, by and between Louisville Metro and the Arena Authority (the "Guarantee Agreement") pursuant to which Louisville Metro guaranteed to the Arena Authority, to the fullest extent permitted by law, the payment of funds to pay a portion of the debt costs for the Arena Project during a period commencing on November 1, 2010, to and including November 1, 2039, in an aggregate principal amount not to exceed \$309,000,000 (the "Guaranteed Payments");

WHEREAS, Resolution No. 81, Series 2006, and the Guarantee Agreement were adopted by Louisville Metro with the intent that the Guaranteed Payments would fund a portion of the costs of the Arena Project by paying a portion of the debt arising from bonds issued by the Kentucky Economic Development Finance Authority ("KEDFA"). These debt payments would constitute a long-term monetary obligation of Louisville Metro payable from (i) legally available Louisville Metro revenues, moneys and funds and (ii) moneys derived from the imposition of existing general taxes in the same manner as for payment of other outstanding monetary obligations of Louisville Metro, including ad valorem property taxes, as permitted by law, occupational license fees, insurance premium taxes, excises, permits, licenses, fines, available moneys from tax increment districts, or other sources of revenues of, or distributions to, Louisville Metro (collectively, the "Pledged Receipts") as selected by Louisville Metro, provided that such long-term monetary obligation shall not constitute a general obligation indebtedness of Louisville Metro within the meaning of the Constitution or Statutes;

WHEREAS, to effectuate the intent of Louisville Metro to make the Guaranteed Payments, the Council enacted Ordinance No. 143, Series 2007, to legally comply with the requirements and utilize the authority of KRS Chapters 58 and 67C, KRS Sections 83.420 and Sections 91.200 - 91.280, inclusive;

WHEREAS, Ordinance No. 143, Series 2007, amended, readopted, and restated Resolution No. 81,

Series 2006 and the Guarantee Agreement to conform Louisville Metro's final terms of the Guarantee Agreement as those identified in the Amended and Restated Memorandum of Agreement, including the "Modified Exhibit B," dated July 30, 2007, (the "Amended Guarantee Agreement") attached hereto and incorporated herein as "Exhibit A";

WHEREAS, in addition to the Guaranteed Payments, other security--as such is identified in the Loan Agreement dated August 1, 2008, by and between KEDFA and the Arena Authority and the Bond Trust Indenture dated August 1, 2008, by and between KEDFA and U.S. Bank National Association, as Bond Trustee--was pledged to the payment of bonds issued by KEDFA;

WHEREAS, pursuant to KRS Chapter 154, KEDFA issued its bonds (the "Arena Bonds") to loan to the Arena Authority to provide financing for the Arena Project;

WHEREAS, as contemplated by the "Modified Exhibit B" in the Amended Guarantee Agreement, Louisville Metro agreed to annually pay an amount, not below the Minimum Annual Guaranteed Payment and not above the Maximum Annual Guaranteed Payment;

WHEREAS, Louisville Metro's Guaranteed Payment has been the maximum for fiscal year 2013 through 2017 (5 years);

WHEREAS, the debt service for the Arena Bonds will increase in the coming years and, in order to refinance the debt, Louisville Metro desires to amend the Amended Guarantee, specifically the "Modified Exhibit B," but only if certain conditions are met;

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

Section 1. Incorporation of Preamble. 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. Mayor Authorized to Negotiate a Second Amended and Restated Memorandum of Agreement. The Council authorizes the Mayor to negotiate a Second Amended and Restated Memorandum of Agreement between Louisville Metro and the Arena Authority. In negotiating the Second Amended and

Restated Memorandum of Agreement, the Mayor is authorized to obligate Louisville Metro to a new minimum annual payment, provided such amount does not exceed the Maximum Annual Guaranteed Payment, as that term is defined in "Modified Exhibit B" of the Amended Guarantee Agreement. Upon agreement and execution of a Second Amended and Restated Memorandum of Agreement between Louisville Metro and the Arena Authority, the Second Amended and Restated Memorandum of Agreement shall be presented to the Council for review and approval.

Section 3. Conditions Precedent to Negotiating a Second Amended and Restated Guarantee Agreement. The Mayor of Louisville Metro may negotiate a Second Amended and Restated Guarantee Agreement provided the following conditions are met:

- (a) The Arena Authority and the University of Louisville or the University of Louisville Athletic Association, Inc. negotiate a new lease agreement with terms and conditions that require the University of Louisville or University of Louisville Athletic Association, Inc. to contribute more money, funds, or receipts toward the retirement of debt; and
- (b) The Commonwealth agrees to amend the termination date of the Arena Zone TIF and correspondingly increase the released amount and cap of the TIF.

Section 4. Current Arena Bonds not to be Affected. Nothing in this Resolution shall be read to affect the rights of the current Arena bondholders. Louisville Metro will continue to abide by the covenants and conditions agreed upon in the Amended Guarantee Agreement until such contractual duties and obligations shall cease to exist.

Section 5. Headings. The headings of the sections in this Resolution are incorporated only for reference and are not to be made a part of this Resolution.

Section 6. 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 7. Supplements. The provisions of this Resolution may be supplemented from time to time by ordinance or resolution of the Council.

Section 8. Effective Date. This Resolution shall take effect upon 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 O'Connell Jeffersc

BY: Assistant Jefferson County Attorney

Resolution Authorizing the Mayor to Negotiate the Arena Guaranteed Payment ROC nl 120516.docx

EXHIBIT A

Amended and Restated Memorandum of Agreement

(See attachment)