



Louisville Metro Government

Legislation Text

File #: O-280-16, Version: 1

ORDINANCE NO. _____, SERIES 2016
AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, AUTHORIZING THE ISSUANCE OF ITS TAXABLE REFUNDING REVENUE BONDS, SERIES 2016 (LOUISVILLE MEDICAL CENTER STEAM AND CHILLED WATER PLANT PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$8,500,000 FOR THE PURPOSES OF (A) REFUNDING THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, LOUISVILLE MEDICAL CENTER TAXABLE REVENUE BONDS, SERIES 2011, AND (B) PAYING COSTS OF ISSUANCE OF THE SERIES 2016 BONDS; 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 SERIES 2016 BONDS.

Sponsored by: Councilwoman Hamilton

WHEREAS, the Louisville/Jefferson County Metro Government (“**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 or refunding bonds and to loan the proceeds thereof to third parties in order to finance and refinance costs of an “industrial building,” as that term is defined in the Act, utilized in the provision of healthcare and nonprofit educational services; and

WHEREAS, Louisville Medical Center, Inc., a Kentucky nonprofit corporation (the “**Corporation**”), owns the steam and chilled water plant located at 235 Abraham Flexner Way, Louisville, Kentucky 40202 (the “**Plant**”), which provides steam and chilled water to certain healthcare and nonprofit educational institutions in downtown Louisville; and

WHEREAS, Metro Government previously issued its Louisville/Jefferson County Metro Government, Kentucky, Louisville Medical Center Taxable Revenue Bonds, Series 2011 in the original principal amount of \$11,000,000 (the “**Series 2011 Bonds**”) to (i) finance the costs of the acquisition, construction, equipping, and installation of a chiller and air pollution control equipment at the Plant; (ii) pay and discharge a certain bank

loan incurred to finance improvements to the Plant on an interim basis; and (iii) pay costs of issuance for the Series 2011 Bonds; and

WHEREAS, Metro Government also previously issued its Louisville/Jefferson County Metro Government, Kentucky, Refunding Revenue Bonds, Series 2012A (Louisville Medical Center, Inc. Steam and Chilled Water Plant Project) in the original principal amount of \$7,510,000 (the “**Series 2012A Bonds**”) and its Louisville/Jefferson County Metro Government, Kentucky, Taxable Refunding Revenue Bonds, Series 2014 (Louisville Medical Center Steam and Chilled Water Plant Project) in the original principal amount of \$1,440,000 (the “**Series 2014 Bonds**”) to refinance the costs of certain improvements to the Plant; and

WHEREAS, the Series 2011 Bonds, the Series 2012A Bonds, and the Series 2014 Bonds are secured on a parity basis one with another based upon the terms and conditions of the documents governing the bonds and the user contract by and among Metro Government, the Corporation, the Medical Center Commission of Louisville/Jefferson County Metro Government, Kentucky, and the healthcare and education institutions serviced by the Plant, as amended (the “**User Contract**”); and

WHEREAS, the Corporation has requested Metro Government to issue the Series 2016 Bonds in a maximum aggregate principal amount of \$8,500,000 and to loan the proceeds of the Series 2016 Bonds to the Corporation pursuant to one or more loan agreements to (i) refund the Series 2011 Bonds; and (ii) pay costs of issuance of the Series 2016 Bonds; and

WHEREAS, the Series 2016 Bonds are intended to be issued and secured on a parity with the Series 2012A Bonds and the Series 2014 Bonds in accordance with the terms and conditions of the User Contract and the other legal documents governing the payment and security of the Series 2012A Bonds, the Series 2014 Bonds, and the Series 2016 Bonds; and

WHEREAS, Metro Government is authorized, pursuant to the bond indenture governing the issuance and administration of the Series 2011 Bonds (the “**Series 2011 Bond Indenture**”) to issue parity bonds to refund the Series 2011 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 Series 2011 Bond

Indenture, the User Contract, and the bond indentures governing the issuance and administration of the Series 2012A Bonds and the Series 2014 Bonds will be satisfied on the date of the issuance of the Series 2016 Bonds; and

WHEREAS, the Corporation has requested the sale of the Series 2016 Bonds be made on a negotiated basis to J.J.B. Hilliard, W.L. Lyons, LLC (the “**Underwriter**”); 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 (i) authorize the issuance of the Series 2016 Bonds for purposes set out above; (ii) authorize the execution and delivery of the Bond Trust Indenture, the Loan Agreement, and the Bond Purchase Agreement hereinafter identified; and (iii) take other action in connection therewith;

NOW, THEREFORE, BE IT ORDAINED 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 Ordinance 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. Declaration of Purpose. Metro Government hereby finds and declares that the issuance of the Series 2016 Bonds for the purposes of (a) refunding the Series 2011 Bonds; and (b) paying costs of issuance of the Series 2016 Bonds; will further the public purposes of the Act by refinancing costs incurred with respect to an “industrial building” utilized in the provision of healthcare and nonprofit educational services.

Section 3. Authorization of the Series 2016 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 2016 (Louisville Medical Center Steam and Chilled Water Plant Project)” (the “**Series 2016 Bonds**”), as provided in the Bond Trust Indenture and the

Bond Purchase Agreement hereinafter identified, subject to the following limitations (collectively, the “**Limitations**”): (i) the aggregate principal amount of the Series 2016 Bonds shall not exceed \$8,500,000; (ii) the final maturity of all Series 2016 Bonds shall not exceed fifteen years from the dated date thereof; (iii) the Series 2016 Bonds shall bear a fixed interest rate which shall not exceed 6.0% per annum; (iv) the purchase price of any Series 2016 Bond (excluding any original issue discount) set forth in the Bond Purchase Agreement shall equal at least 98% of the aggregate principal amount thereof; and (v) the Series 2016 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 Series 2016 Bonds to the Corporation to (i) refund the Series 2011 Bonds; and (ii) pay costs of issuance of the Series 2016 Bonds, as provided in the Loan Agreement hereinafter identified;

(c) the execution and delivery on behalf of Metro Government of the Series 2016 Bond Documents hereinafter identified; and

(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 Series 2016 Bond Documents or to evidence said authority, including closing certificates, financing statements, and other security documents.

Section 4. Authorization of Series 2016 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 “**Series 2016 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 Underwriter, and the Corporation substantially in the form attached hereto as **Exhibit A**;

(b) A Bond Trust Indenture (the “**Bond Trust Indenture**”), by and between Metro Government and U.S. Bank National Association, as bond trustee, substantially in the form attached hereto as **Exhibit B**; and

(c) A Loan Agreement (the “**Loan Agreement**”), by and between Metro Government and the Corporation in the form attached hereto as **Exhibit C**.

Section 5. Authorization of Official Statement. The Preliminary Official Statement previously presented to Metro Government, reference to which is hereby made, is hereby approved. The use and distribution of one or more official statements, in preliminary and final form (as applicable), by the Underwriter and the Corporation, with such changes therein as are not inconsistent herewith (including the Limitations), are hereby expressly approved, subject to final approval and release by counsel to Metro Government, at which time the Preliminary Official Statement shall be deemed “final” in accordance with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (“**SEC Rule 15c2-12**”). The Mayor or his designee are hereby authorized to execute and deliver in the name and on behalf of Metro Government one or more final official statements (the “**Official Statements**”), which final Official Statements shall be in substantially the form of the draft Preliminary Official Statement previously presented to Metro Government, reference to which is hereby made, with such changes therein as are not inconsistent herewith (including the Limitations), the delivery thereof to constitute conclusive evidence of the approval by Metro Government of such changes. Metro Government will provide final Official Statements, at the Corporations expense, relating to the offering of the Series 2016 Bonds to the Underwriter within seven days of the date of the related Bond Purchase Agreement in accordance with SEC Rule 15c2-12.

Section 6. No Recourse on Obligations. No recourse under or upon any obligation, covenant, acceptance, or agreement contained in the Series 2016 Bond Documents, in the Series 2016 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 elected official, 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 Series 2016 Bond, or otherwise, of any sum that may be due and unpaid by Metro Government on the Series 2016 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 elected official, 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 Series 2016 Bond, or otherwise, of any sum that may remain due and unpaid on the Series 2016 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 Series 2016 Bond Documents, this Ordinance and the issuance of the Series 2016 Bonds.

THE SERIES 2016 BONDS WILL NOT CONSTITUTE A GENERAL OBLIGATION, DEBT, OR BONDED INDEBTEDNESS OR LIABILITY OF METRO GOVERNMENT, 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 SERIES 2016 BONDS. METRO GOVERNMENT AND THE COMMONWEALTH SHALL NEVER BE REQUIRED TO PAY FROM THEIR OWN FUNDS ANY OBLIGATIONS DERIVING FROM THE ISSUANCE OF THE SERIES 2016 BONDS, OR ANY OTHER BONDS ISSUED FOR THE BENEFIT OF THE CORPORATION, AND THE SERIES 2016 BONDS ARE DECLARED TO BE SPECIAL AND LIMITED OBLIGATIONS PAYABLE SOLELY AND ONLY FROM THE RECEIPTS DERIVED UNDER THE LOAN AGREEMENT AND THE TRUST ESTATE CREATED UNDER THE BOND TRUST INDENTURE AS PROVIDED IN THE DOCUMENTS HEREIN APPROVED.

Section 7. Modification. It is acknowledged by Metro Government that at the time of sale of the Series 2016 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 Series 2016 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 Series 2016 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 Series 2016 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 8. 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 9. Supplements. The provisions of this Ordinance may be supplemented from time to time by ordinance or resolution of the Metro Council.

Section 10. 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 11. 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 August 11th, 2016.

GIVEN SECOND READING AND ENACTED at a duly convened regular meeting of the Metro Council of the Louisville/Jefferson County Metro Government held on _____, 2016, signed by the Mayor as

evidence of his approval, filed, and indexed as provided by law.

H. Stephen Ott Metro Council Clerk
Greg Fischer Mayor

David Yates President of the Council
Approval Date

APPROVED AS TO FORM AND LEGALITY: Michael O'Connell Jeffersc

BY: Assistant Jefferson County Attorney

Louisville Medical Center 2016 Revenue Refunding Bonds nl ROC 08082016 O-280-16

EXHIBIT A

FORM OF BOND PURCHASE AGREEMENT

(See attachment)

EXHIBIT B

FORM OF BOND TRUST INDENTURE

(See attachment)

EXHIBIT C

FORM OF LOAN AGREEMENT

(See attachment)