File #: O-282-22, **Version:** 1

ORDINANCE NO. _____, SERIES 2022

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE "ISSUER") AUTHORIZING THE ISSUANCE OF REVENUE REFUNDING BONDS, SERIES 2022A (MASONIC HOMES OF KENTUCKY OBLIGATED GROUP) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $25,000,000 FOR THE PURPOSES OF (A) REFUNDING EXISTING CREDIT FACILITIES BY AND BETWEEN MASONIC HOMES OF KENTUCKY, INC. (THE "CORPORATION" OR THE "BORROWER") AND CERTAIN AFFILIATES OF THE BORROWER AND OLD NATIONAL BANK F/K/A FIRST MIDWEST BANK, THE PROCEEDS OF WHICH WERE COLLECTIVELY USED TO FINANCE THE COSTS OF A DAY CARE, PRESCHOOL FACILITY, CORPORATE RESOURCES CENTER, SENIOR ADULT ASSISTED LIVING FACILITIES, AND SENIOR ADULT INDEPENDENT LIVING FACILITIES KNOWN AS THE VILLAGES, ALL LOCATED ON THE CAMPUS OF CORPORATION WITHIN THE JURISDICTIONAL BOUNDARIES OF THE ISSUER, AND (B) PAYING COSTS OF ISSUANCE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND FINANCING AGREEMENT AND A TAX COMPLIANCE CERTIFICATE AND AGREEMENT; AUTHORIZING AND APPROVING CERTAIN OTHER MATTERS, INCLUDING THE EXECUTION OF RELATED DOCUMENTS, IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS.

SPONSORED BY: COUNCIL MEMBER BILL HOLLANDER

WHEREAS, the Louisville/Jefferson County Metro Government (the "Issuer"), is a political subdivision of the Commonwealth of Kentucky (the "Commonwealth") and is authorized by Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended (the "Act"), to issue revenue bonds and to loan the proceeds thereof to third parties in order to finance and refinance costs of any "industrial building," as defined in the Act, utilized in the provision of health-care or related services; and

WHEREAS, Masonic Homes of Kentucky, Inc., a Kentucky nonprofit corporation (the "Corporation" or the "Borrower"), proposes that the Issuer, pursuant to the Act, assist the Corporation in the refinancing of existing credit facilities by and between the Corporation and certain affiliates of

the Corporation and Old National Bank f/k/a First Midwest Bank (the "Prior Loans"), the proceeds of which were collectively used to finance the costs of a day care, preschool facility, corporate resources center, senior adult assisted living facilities, and senior independent living facilities known as the Villages, all located on the campus of the Corporation within the jurisdictional boundaries of the Issuer (collectively, the "Project"); and

WHEREAS, the Project collectively constitutes "industrial buildings," as that term is defined in Section 103.200(1)(a) of the Kentucky Revised Statutes, consisting of an industrial building project or projects designed to be used as health-care or related facilities, including, without limitation, extended or long-term care facilities, including housing for the aged or infirm, and all buildings, structures, and facilities related thereto; and

WHEREAS, the Issuer has found and determined, and hereby finds and determines, that the economic development of the Issuer and the Commonwealth of Kentucky will be promoted, conditions of unemployment will be relieved, and industry will be increased in the Commonwealth by the Project; and negotiations have been carried on between the Issuer and the Corporation in respect of the issuance by the Issuer of the Bonds (defined below) for the purpose of refinancing the acquisition, construction, equipping, and installation of such industrial building or buildings comprising the Project, and that such refinancing of the Project is authorized by, and will be consistent with and in furtherance of, the provisions of the Act; and

WHEREAS, the Corporation has requested the Issuer to issue its "Louisville/Jefferson County Metro Government, Kentucky, Revenue Refunding Bonds, Series 2022A (Masonic Homes of Kentucky Obligated Group)" in a maximum aggregate principal amount of $25,000,000 (the "Bonds") and to loan the proceeds of the Bonds to Corporation, pursuant to the Bond Financing Agreement hereinafter identified to (i) refund the Prior Loans, the proceeds of which were collectively used to finance the costs of the Project and (ii) pay costs of issuance of the Bonds; and

WHEREAS, the Corporation has requested the sale of the Bonds to be made on a negotiated basis to Old National Bank (the "Purchaser"), pursuant to the Bond Financing Agreement; 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 (i) authorize the issuance of the Bonds for the purposes set out above, (ii) authorize the execution and delivery of the Bond Financing Agreement and the Tax Compliance Certificate and Agreement hereinafter identified; and (iii) take any other action necessary in connection therewith.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE "COUNCIL") AS FOLLOWS:

SECTION I: 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 II: The Issuer hereby finds and declares that the issuance of the Bonds from time to time for the purposes of (a) refinancing all or a portion of the costs of the Project and (b) paying costs of issuance of the Bonds, will further the public purposes of the Act by refinancing costs incurred with respect to "industrial buildings" utilized in the provision of health-care and related services.

SECTION III: 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, Revenue Refunding Bonds, Series 2022A (Masonic Homes of Kentucky Obligated Group)" (the "Bonds"), as provided in the Bond Financing Agreement hereinafter identified, subject to the following limitations (collectively, the "Limitations"): (i) the aggregate principal

amount of the Bonds shall not exceed $25,000,000; (ii) the final maturity of any Bond shall not exceed thirty years from its dated date; (iii) the Bonds shall bear interest at a variable rate, which shall be established in accordance with the Bond Financing Agreement hereinafter identified and which shall not exceed the greater of 15% per annum or any published interest rate index plus a credit spread of 8%; (iv) the purchase price of any Bond set forth in the Bond Financing Agreement hereinafter identified shall equal 100% of the aggregate principal amount thereof; (v) the Bonds will be issuable in such denominations, shall be dated such dates, and shall be subject to redemption and/or tender 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 the Issuer and specified in the Bond Financing Agreement; and (vi) interest on the Bonds shall be exempt from income taxation under the Internal Revenue Code of 1986, as amended (the "Code"), such tax treatment to be determined by the Corporation and reflected in the Bond Financing Agreement and the Tax Compliance Certificate and Agreement hereinafter identified;

(b) the loan of the proceeds of the Bonds to the Corporation to (i) refinance all or a portion of the costs of the Project and (ii) pay costs of issuance of the Bonds, as provided in the Bond Financing Agreement;

(c) the execution and delivery on behalf of the Issuer of the Bond Documents hereinafter identified; and

(d) the execution and delivery on behalf of the Issuer 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 Bond Documents or to evidence said authority, including closing certificates, financing statements, and other security documents.

SECTION IV: The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver, on behalf of the Issuer, the following documents (collectively, the "Bond

Documents"), substantially in the respective forms previously submitted to the Issuer, reference to which is hereby made, with such changes therein as the officer(s) executing such documents on behalf of the Issuer 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 Financing Agreement (the "Bond Financing Agreement"), by and among the Issuer, Purchaser, and the Corporation, substantially in the form previously provided to the Issuer in connection with this Ordinance, attached hereto as Exhibit A;

(b) A Tax Compliance Certificate and Agreement (the "Tax Compliance Certificate and Agreement"), by and among the Issuer and the Corporation, substantially in the form previously provided to the Issuer in connection with this Ordinance, attached hereto as Exhibit B.

SECTION V: The Bonds shall be special and limited obligations of the Issuer and the principal of and the premium, if any, and the interest on the Bonds shall be equally and ratably payable solely from (a) the Series 2022A Loan Repayments under and as defined in the Bond Financing Agreement; (b) all of the Issuer's right and interest in the Series 2022A Obligation as defined in and pledged under the Bond Financing Agreement and all sums payable in respect of the indebtedness evidenced thereby, and (c) all right, title, and interest of the Issuer under an Amended and Restated Master Trust Indenture, including a Second Supplemental Master Trust Indenture and Third Supplemental Master Trust Indenture, by and between the Corporation, one or more affiliates of the Corporation, and Wells Fargo Bank, N.A., as Master Trustee (collectively, the "Master Indenture"), as the holder of the Series 2022A Obligation; (d) all of the proceeds of the foregoing, including investments thereof; and (e) all of the Issuer's rights and interest in the Bond Financing Agreement, to the extent provided therein, other than Unassigned Rights defined therein (collectively, the "Security"). The Bonds shall be further secured by the absolute and irrevocable assignment to the Purchaser of all of the Issuer's right, title, and interest in the Security. To provide for such security and for the payment directly to

Purchaser of the Series 2022A Loan Repayments and the Series 2022A Obligation to be paid under the Bond Financing Agreement, the Council authorizes, confirms, and approves the assignment to Purchaser of all of Issuer's interests in the Series 2022A Loan Repayments and the Series 2022A Obligation and of all other rights of Issuer under the Bond Financing Agreement, except for the Unassigned Rights, all as provided in the Bond Financing Agreement.

SECTION VI: No recourse under or upon any obligation, covenant, acceptance, or agreement contained in the Bond Documents, in the Bonds, under this Ordinance, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or any legal or equitable proceeding by virtue of any constitution, 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 the Issuer, the Commonwealth or any agency or political subdivision thereof, whether directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, for or to any holder of any Bond, or otherwise, of any sum that may be due and unpaid by Issuer on the Bonds. Any and all personal liability of every nature, whether at common law, in equity, 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 the Issuer or any receiver thereof, for or to the owner or any holder of any Bond, or otherwise, of any sum that may remain due and unpaid on the Bonds, shall be deemed to be and is hereby expressly waived and released as a condition of and in consideration for the execution and delivery of the Bond Documents, this Ordinance, and the issuance of the Bonds.

THE BONDS WILL NOT CONSTITUTE A GENERAL OBLIGATION, DEBT, BONDED INDEBTEDNESS, OR LIABILITY OF THE ISSUER, THE COMMONWEALTH, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF UNDER THE CONSTITUTION OF THE

COMMONWEALTH AND WILL NOT GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OF, OR A CHARGE AGAINST, THE GENERAL CREDIT OR TAXING POWERS OF THE ISSUER, 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 THE ISSUER, THE COMMONWEALTH, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON THE BONDS. THE ISSUER AND THE COMMONWEALTH SHALL NEVER BE REQUIRED TO PAY FROM THEIR OWN FUNDS ANY OBLIGATIONS DERIVING FROM THE ISSUANCE OF THE BONDS OR ANY OTHER BONDS ISSUED FOR THE BENEFIT OF THE CORPORATION, AND THE BONDS ARE DECLARED TO BE SPECIAL AND LIMITED OBLIGATIONS PAYABLE SOLELY AND ONLY FROM THE RECEIPTS DERIVED UNDER THE BOND FINANCING AGREEMENT, AS PROVIDED IN THE BOND DOCUMENTS HEREIN APPROVED.

SECTION VII: It is acknowledged by the Issuer that at the time of the sale of the Bonds pursuant to the Bond Financing Agreement as set out herein, the Corporation may desire to proceed with issuance of less than all of the Bonds contemplated by this Ordinance and as described in the Bond Financing Agreement, and consequently, may request the Issuer, acting through its Mayor and the Metro Council Clerk, to execute the Bond Financing Agreement and the other documents referred to herein for the sale and issuance of the Bonds for less than the amount anticipated by this Ordinance. Accordingly, the execution by the Mayor or Metro Council Clerk, on behalf of the Issuer, of the Bond Financing Agreement and other documents referred to herein with regard to the sale of Bonds for any such lesser amount is specifically authorized and approved, without further action by the Issuer, and to such extent, this Ordinance shall be deemed to have been modified.

SECTION VIII: The provisions of this Ordinance except Section VI are hereby declared to be

severable and if any section, phrase or provision shall, for any reason, be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION IX: The provisions of this Ordinance may be supplemented from time to time by ordinance or resolution of the Council.

SECTION X: In the event of any conflict or conflicts between the provisions of this Ordinance and of any prior ordinances, resolutions or parts thereof, the provisions of this Ordinance shall prevail and be given effect.

SECTION XI: This Ordinance shall take effect upon its passage and approval or as otherwise becoming law.

This Ordinance was given a first reading at a duly convened meeting of the Council, held on the _____ day of _____, 2022, and given second reading an approval at a duly convened meeting of the Council held on the _____, day of _____, 2022.

_____ _____

Sonya Harward
Metro Council Clerk

David James
President of the Council

_____ _____

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

O-282-22 Ordinance Relating to Revenue Refunding Bonds for the Masonic Homes of Kentucky Project (lf).docx

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