

AN ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY, PROVIDING FOR THE ISSUANCE AND SALE OF \$450,000 OF SPECIAL OBLIGATION BONDS (SCHOOL BUILDING REVENUE BONDS) IN ACCORDANCE WITH SECTIONS 162.120 THROUGH 162.290 OF KENTUCKY REVISED STATUTES, TO PROVIDE FUNDS FOR SCHOOL BUILDING PURPOSES, PROVIDING AND DETERMINING THE DUTY OF SAID CITY IN CONNECTION WITH THE OPERATION OF THE SCHOOL PROPERTY AND THE CREATION OF FUNDS SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON SAID REVENUE BONDS AS AND WHEN THEY MATURE AND THE CREATION OF AN ADEQUATE MAINTENANCE AND INSURANCE FUND, AUTHORIZING THE EXECUTION OF A LEASE OF SUCH FOREGOING PROPERTY TO THE BOARD OF EDUCATION OF THE RUSSELLVILLE INDEPENDENT SCHOOL DISTRICT.

WHEREAS, the City of Russellville, Kentucky (sometimes hereinafter referred to as the "City") is the primary tax-levying authority for the Board of Education of the Russellville Independent School District, Logan County, Kentucky (sometimes hereinafter referred to as the "Board") and as such is charged under the provisions of Sections 162.120 through 162.290 of the Kentucky Revised Statutes, with the duty to assist said Board in connection with the financing of school building improvements, and

WHEREAS, the City, acting by and through its City Council, desires to provide funds as hereinafter set out to construct school building improvements in the Russellville Independent School District, consisting of an addition to the R. E. Stevenson Elementary School, and the plans and specifications for said improvements have heretofore been prepared and filed in the office of the City Clerk and have been approved by the State Superintendent of Public Instruction, and contracts for said improvements have been or will shortly be awarded, secured by adequate performance bonds, and

WHEREAS, the Board has agreed to use and occupy the school building improvements so to be acquired and constructed pursuant to the terms of a certain Contract, Lease and Option hereinafter provided, and

WHEREAS, in order to pay the costs, not otherwise provided, of acquiring and constructing said school building and appurtenances, it is necessary that the City authorize \$450,000 of City of Russellville (Kentucky) School Building Revenue Bonds, dated May 1, 1975 (sometimes hereinafter referred to as the "Bonds"), all pursuant to and as permitted by KRS 162.120 through 162.290, and a Resolution of the City Council adopted concurrently herewith, and which Resolution is incorporated in this Ordinance as fully as if same were copied in full herein,

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

1. APPROVAL OF CONTRACT, LEASE AND OPTION. That the property upon which school building improvements are to be constructed having been conveyed by the Board to the City, the form of Contract,

Lease and Option, having been reviewed by the City Council and accepted by the City, the Mayor and City Clerk are hereby authorized and empowered to execute said Contract, Lease and Option on behalf of the City upon same being executed and tendered to the City by the Board.

2. AUTHORIZATION OF SCHOOL BUILDING REVENUE BONDS. That for the purpose recited in the preamble hereto there shall be and there are hereby authorized to be issued and sold at a public, advertised sale after the consideration of competitive bids the negotiable School Building Revenue Bonds of said City in the aggregate principal amount of \$450,000, to be dated May 1, 1975. All such Bonds to be in the denomination of \$5,000, bearing interest from date, payable November 1, 1975, and semi-annually thereafter on May 1 and November 1 of each year, at a coupon rate or rates not exceeding the legal maximum as may be fixed by a supplemental resolution of the City Council as a result of said advertised sale. Said Bonds shall mature serially and in numerical order on the first day of May in the respective years and principal amounts as follows: \$30,000 in 1977, \$35,000 in 1978-79, \$40,000 in 1980-81, \$10,000 in 1982-83, \$20,000 in 1984, \$10,000 in 1985, \$15,000 in 1986, \$20,000 in 1987-88, \$15,000 in 1989, and \$50,000 in 1990-92. Said Bonds shall be payable as to both principal and interest at Southern Deposit Bank, Russellville, Kentucky and shall be subject to prior redemption only in inverse numerical order on any interest due date falling on or after May 1, 1985, upon published notice, upon payment of the face amount plus accrued interest, plus additional interest equal to 3% of the face value if the stated date for redemption is on or before November 1, 1988, and on the same terms if redeemed thereafter and prior to maturity except that the additional interest shall then be 2%.

3. EXECUTION OF BONDS. Said Bonds shall be executed with the reproduced facsimile signature of the Mayor, attested by the manual signature of the City Clerk, and a facsimile of the seal of the City shall be printed on each of such Bonds. The interest coupons attached to said Bonds shall be executed with the facsimile signatures of said Mayor and said Clerk. Said Bonds, together with interest thereon, shall be payable only out of the "City of Russellville School Building Revenue Bond and Interest Redemption Fund of 1975" hereinafter created, and shall be a valid claim of the holders thereof solely against said fund and the income and revenues of the school property acquired and constructed from the proceeds of said Bonds.

4. FORM OF BONDS AND INTEREST COUPONS. The aforesaid authorized issue of Bonds and the coupons attached thereto shall be in substantially the same form as set forth in the Resolution of the City Council adopted concurrently herewith, and which Resolution is hereby incorporated by reference in this Ordinance as fully as if same were copied in full herein. Said Bonds shall state on their face that they are issued to provide funds for the construction of school building improvements pursuant to and in full compliance with the Constitution and Statutes of Kentucky, including Sections 162.120 through 162.290 of the Kentucky Revised Statutes. Said Bonds shall state on their face that they are payable solely from and secured by a pledge of a fixed amount of the gross income and revenues to be derived from the leasing of certain school property, which revenues are to be set aside in the "City of Russellville School Building

Revenue Bond and Interest Redemption Fund of 1975" and that said Bonds do not constitute an indebtedness of the City of Russellville, Kentucky, within the meaning of any constitutional provision or limitation. Said Bonds shall be secured by a statutory mortgage lien upon and a pledge of the revenue derived from said school building property; provided, however, that said statutory mortgage lien and revenue pledge are and shall be restricted in their application to the school building and appurtenances thereto financed by the bond issue herein authorized; the right being hereby expressly reserved to the City and the Board to erect or construct upon the school site referred to and described in this Ordinance and the Resolution adopted concurrently herewith other independently financed school building projects free and clear of said lien and pledge.

5. FISCAL YEAR; BOND SINKING FUND ESTABLISHED; INSURANCE AND MAINTENANCE FUNDS. The school property securing the Bonds herein authorized shall be operated on a fiscal year basis, commencing May 1 of each year, and on that basis the income and revenues of said building shall be set aside into a separate and special fund to be used for the retirement of said Bonds and maintaining said property. There is hereby created an account to be known as the "City of Russellville School Building Revenue Bond and Interest Redemption Fund of 1975" (hereinafter sometimes referred to as the Bond Fund or Sinking Fund), to be deposited with Southern Deposit Bank into which there shall first be set aside from the proceeds of the sale of said Bonds an amount equal to twelve months' interest on said Bonds. Thereafter, there shall be set aside into said Bond Fund from the first gross revenues from the property and there are hereby pledged thereto, such amounts as may from year to year be necessary to meet the principal and interest requirements of the Bonds herein authorized. The rental payments set forth in the Contract, Lease and Option between the City and the Board, dated as of May 1, 1975, are hereby pledged by the City as the security and source of payment of the Bonds herein authorized, and so long as said Bonds remain outstanding the terms and amounts of such rentals shall not be reduced. There shall also be set aside sufficient revenues in a Depreciation Fund to be expended in making good any depreciation of said building. There shall also be set aside after the aforesaid payments to the Bond Fund and Depreciation Fund sufficient monies to provide for the maintenance of said school property and to pay the cost of insuring said property against casualty loss.

6. CITY'S COVENANTS TO PERFORM OBLIGATIONS. The City hereby covenants and agrees with the holders of the Bonds herein authorized that it will faithfully and punctually perform all duties with reference to the school property which are required by the Constitution and laws of Kentucky, including the making and collection of reasonable and sufficient rentals for said property and the segregation thereof from other funds of the City into the respective funds hereinbefore created. The City further covenants to maintain said property and take all steps necessary to produce annually for the Board a sum sufficient to pay the rental charges. The City further binds and obligates itself not to sell, mortgage or in any manner dispose of such property until all of the Bonds herein authorized shall have been paid in full, both as to principal and interest; provided, however, as hereinbefore set forth and as set forth in the Resolution adopted concurrently herewith, the City and the Board have reserved the right to utilize portions of the real estate conveyed by the Board to the City in connection with the issuance of said Bonds to the extent that same is unoccupied by buildings or improvements

constructed with the proceeds of said Bonds.

7. BOARD'S OPTION TO PURCHASE PROPERTY. The Bonds herein authorized are issued subject to the Board having the option under said Contract, Lease and Option to purchase from the City and secure the release from the statutory mortgage lien and pledge of revenues securing said Bonds, the property upon which the proceeds of said Bonds are expended for a price equal to the principal amount of Bonds outstanding at the time the option is exercised, plus a sum equal to the interest on said principal amount of Bonds to the date upon which said option is exercised, together with a further sum equal to the additional interest which will become due upon prior redemption of said Bonds.

8. STATUTORY MORTGAGE LIEN CREATED; PLEDGE OF REVENUES FROM LEASE OF PROPERTY. A statutory mortgage lien and first pledge of the gross revenues derived from said property and all improvements thereon is granted and created by KRS 162.200, which lien and pledge are hereby recognized and declared to be valid and binding upon the City and shall take effect immediately, subject to the terms and conditions hereinbefore set forth and as set out in the form of said Bonds. Any holder of said Bonds or coupons, either at law or in equity, by suit or other legal proceedings, may enforce and compel the performance of the duties required by the Constitution and Statutes, including the charging and collection of sufficient rent, the segregation and application thereof, insofar as the failure to perform such duties affects the interest of said holders. If there is a default in the payment of the principal of or interest on said Bonds, then upon the filing of suit by any holder of the Bonds or coupons, any court having jurisdiction of the action may appoint a receiver to administer the school property, with power to charge and collect rents sufficient to provide for the payment of the Bonds and maintenance and insurance of the property.

9. NO PRIORITY AMONG BONDS. There shall be no priority among the Bonds authorized hereunder regardless of the fact that they may be issued and delivered at different times.

10. PARITY BONDS TO COMPLETE PROJECT. The City shall not issue any additional bonds or incur any other obligations payable from the revenues of the school building property securing the Bonds herein authorized, unless the security of such bonds or obligations is made junior and subordinate to the security for the Bonds herein authorized; provided, however, the City reserves the right and privilege of issuing additional bonds from time to time, payable from the income and revenues of said school property, ranking on a parity with the Bonds herein authorized, but only if and to the extent the issuance of such additional parity bonds may be necessary to pay the costs, for which funds are not otherwise available, of completing the construction of said school building in accordance with the plans and specifications which have been completed, approved and filed. Before any additional parity bonds are issued, the issuance thereof shall be approved by the proper agents of the State Board of Education and a Supplemental Contract, Lease and Option shall have been entered into providing for additional rental payments to meet the principal and interest requirements of said additional bonds. The interest payment dates for said parity bonds shall be May 1 and November 1 of each year, and the principal maturity dates shall be on May 1.

11. COVENANT TO KEEP PROPER RECORDS. While the Bonds are outstanding, the City shall keep proper books and records (separate from other records and accounts) of all transactions regarding said Bonds. Upon written request, the City shall furnish to the original purchaser or to any holder of said Bonds or coupons, not more than thirty days after the close of each fiscal year, complete operating and income statements certified by City auditors, and will grant the right to inspect the property and the records and accounts relating thereto in accordance with the Resolution adopted concurrently herewith.

12. CONDITIONS OF BOND SALE. Said Bonds shall be sold at public sale after advertising according to law, and such advertising is hereby authorized. Bidders shall be required to bid at least 98½% of par and accrued interest and must name an interest rate or rates in multiples of 1/10 or 1/8 of 1%, not to exceed the legal maximum. The difference between the highest and lowest coupon rate shall not exceed 1 1/2%. The City Council shall, in the Resolution accepting the successful bid, determine the exact rate or rates of interest which said Bonds shall bear.

13. DEPOSIT AND APPLICATION OF BOND PROCEEDS; CONSTRUCTION ACCOUNT. Upon the delivery of said Bonds there shall first be paid the expenses incident to the authorization, sale and delivery thereof. Next there shall be paid into the Sinking Fund an amount equal to the interest on such Bonds for 12 months from May 1, 1975. The remaining proceeds shall thereafter be devoted exclusively to the payment of the costs of the school building and appurtenances upon the property described in the Resolution adopted concurrently herewith in accordance with the plans and specifications approved and filed.

14. MISAPPLICATION OF BOND PROCEEDS NOT TO AFFECT VALIDITY OF BONDS. If for any reason the proceeds obtained from the sale of said Bonds are not properly allocated or if there is any misapplication of the proceeds, such improper allocation or misapplication shall not affect the validity of the Bonds herein authorized.

15. LEGAL DESCRIPTION OF PROPERTY LEASED BY THE CITY TO THE BOARD. The statutory mortgage lien and pledge of revenues securing said Bonds shall apply to the property described in Section 15 of the Resolution adopted concurrently herewith, which property has been conveyed by the Board to the City.

16. COVENANT AGAINST ARBITRAGE. As set forth in more detail in the Resolution adopted concurrently herewith, the City Council shall not permit at any time any of the proceeds of the Bonds or other funds of the City to be used directly or indirectly in any manner which would cause the Bonds herein authorized to be an "arbitrage bond" as that term is defined in Section 103(d)(2) of the Internal Revenue Code of 1954, as amended.


17. ADOPTION OF RESOLUTION AUTHORIZED; RESOLUTION AS CONTRACT. That the Resolution presented to and adopted by the City Council at the meeting at which this Ordinance was adopted

is hereby incorporated in this Ordinance in full, and the adoption of said Resolution is hereby authorized, ratified and approved. Said Resolution shall be spread upon the records of the City and shall constitute a contract between the City, the City Council and the holders of the Bonds herein authorized. Said Resolution sets forth in specific detail all of the covenants of the City in regard to the terms and conditions upon which said Bonds are issued and outstanding; the payment and security of said Bonds; the rights of the holders of said Bonds and the enforcement thereof; the advertised public sale of said Bonds and the delivery thereof.

18. SEVERABILITY. If any section, paragraph, or clause hereof shall be held invalid, the invalidity of such section, paragraph or clause shall not affect any of the remaining provisions.

All ordinances, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in force upon its adoption, execution and publication as required by law.

PASSED AND ADOPTED ON APRIL 8, 1975.

  
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Mayor

(Seal of City)

Attest:

  
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City Clerk