

ORDINANCE NO. 89-16

AN ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY, AUTHORIZING THE ISSUANCE OF UP TO \$3,000,000 PRINCIPAL AMOUNT OF "CITY OF RUSSELLVILLE, KENTUCKY FLOATING/FIXED RATE INDUSTRIAL BUILDING REVENUE BONDS (JS TECHNOS CORPORATION PROJECT), SERIES 1989"; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE CITY AND JS TECHNOS CORPORATION, A REMARKETING AGREEMENT BETWEEN THE CITY, JS TECHNOS CORPORATION AND SHEARSON LEHMAN HUTTON INC., A TRUST INDENTURE SECURING THE BONDS, AN INDEXING AGENT AGREEMENT BETWEEN THE CITY, SHEARSON LEHMAN HUTTON INC. AND JS TECHNOS CORPORATION, AND ANY AND ALL OTHER RELATED DOCUMENTS; AUTHORIZING THE NEGOTIATED SALE OF THE BONDS TO SHEARSON LEHMAN HUTTON INC.; AND TAKING OTHER RELATED ACTION.

\* \* \*

WHEREAS, the City of Russellville, Kentucky (the "City"), pursuant to the provisions of Sections 103.200 to 103.287, inclusive, of the Kentucky Revised Statutes, as amended (the "Act"), is specifically authorized and empowered to issue its industrial building revenue bonds and utilize the proceeds from the sale thereof for the acquisition of an "industrial building" as defined in the Act; and

WHEREAS, JS Technos Corporation (the "Company"), a Delaware corporation in good standing and authorized to do business in the Commonwealth of Kentucky, proposes that the City, pursuant to the Act, assist the Company in financing the construction, acquisition and installation by the Company of certain "industrial building" properties and facilities consisting of a new manufacturing plant (including building, major machinery and equipment and appurtenances) in the Russellville-Logan County Industrial Park in the City, to be used by the Company primarily in the manufacture and production of automotive parts, such properties and facilities being collectively hereinafter referred to as the "Project" (which is more particularly described in the Loan Agreement hereinafter identified and approved); and the Project qualifies for financing within the meaning of the Act; and

WHEREAS, the City has agreed and is willing, pursuant to the Act, to issue its industrial building revenue bonds and to utilize the proceeds of such bonds in making a loan to the Company for purposes of constructing, acquiring and installing

the Project upon terms which are set forth in the Loan Agreement hereinafter identified and approved; and

WHEREAS, pursuant to the provisions of Section 103.230 of the Act, the Company has made a request in writing, addressed to the City, that the sale of the bonds hereinafter identified and authorized (the "Bonds"), bearing interest as set out in the Trust Indenture hereinafter identified and approved, shall be made upon a negotiated basis to Shearson Lehman Hutton Inc.; and

WHEREAS, it is necessary and proper in the interests of the health, safety, convenience and general welfare of the citizens, residents and inhabitants of the City and its environs that the City (1) authorize the issuance of the Bonds and lend the proceeds thereof to the Company for the construction, acquisition and installation of the Project, (b) authorize the execution of a Loan Agreement between the City and the Company, (c) authorize the execution of a Trust Indenture to IBJ Schroder Bank & Trust Company as Trustee (or to any other institution which may serve as Trustee as described in such Trust Indenture) for the holders of the Bonds, and the execution of related documents, and (d) confirm and approve the sale of the Bonds and approve other necessary or related documents and actions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, ACTING BY AND THROUGH ITS CITY COUNCIL, AS FOLLOWS:

Section 1. For the purposes set forth in the preamble, which is incorporated as a part hereof, the City, acting by and through its City Council, hereby:

(A) Confirms and ratifies the Municipal Order/Resolution of the City Council, adopted on October 12, 1989, and the Memorandum of Agreement dated the same date by and between the City and the Company, whereby the City agreed to authorize and issue its bonds for industrial building purposes for the Company.

(B) Authorizes the sale, issuance, execution and delivery of up to \$3,000,000.00 principal amount of "City of Russellville, Kentucky, Floating/Fixed Rate Industrial Building Revenue Bonds (JS Technos Corporation Project), Series 1989" (the "Bonds"), the Bonds to be issued in the form and subject to the terms and specifications set forth in the Trust Indenture and in the Bond Purchase Agreement identified and approved herein.

(C) Authorizes the use of the proceeds of the Bonds, as provided in said Trust Indenture and in the Loan Agreement hereinafter identified and approved, for the construction, acquisition and installation of the Project.

Section 2. The Mayor is hereby authorized, empowered and directed to execute, acknowledge and deliver on behalf of the City, with the attestation of the City Clerk, a certain Loan

Agreement between the City and the Company (the "Loan Agreement"), which Loan Agreement is hereby approved, authorized and adopted in substantially the form submitted herewith and designated Exhibit A with such changes therein as the officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. In order to provide for the authorization and security of the Bonds to be issued pursuant to the Act (to finance the construction, acquisition and installation of the Project and expenses incident to such financing) and to prescribe the terms and conditions upon which the Bonds are to be secured, executed authenticated, accepted and held, the Mayor is hereby authorized, empowered and directed to execute and acknowledge on behalf of the City, with the attestation of the City Clerk, a certain Trust Indenture (the "Indenture"), and said officials are hereby authorized, empowered and directed to cause the Indenture to be accepted, executed and acknowledged by the Trustee, IBJ Schroder Bank & Trust Company, hereby so appointed (or other institution as described in the Indenture). The Indenture is hereby approved, authorized and adopted in substantially the form submitted herewith and designated Exhibit B, with such changes as the officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Bonds will mature as to principal no later than January 1, 2010, will be subject to redemption and prepayment in certain events and will bear interest payable periodically at the rate or rates determined from time to time, all as provided in the Indenture, reference to which is hereby made. The interest rate on the Bonds shall in no event exceed 15% per annum.

It is acknowledged that in and by the Indenture, as it is hereby approved, IBJ Schroder Bank & Trust Company, New York, New York, is also appointed Bond Registrar, Paying Agent and Tender Agent in respect of the Bonds.

Section 4. The City hereby approves, and the Mayor is authorized and directed to execute and deliver on behalf of the City, a certain Bond Purchase Agreement among the City, the Company and Shearson Lehman Hutton Inc., New York, New York, as purchaser (the "Bond Purchase Agreement") in connection with the original sale of the Bonds, in substantially the form submitted herewith and designated Exhibit C with such changes as the officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The City also acknowledges and approves the provisions of underwriting and remarketing documents in connection with any subsequent tender and remarketing of the Bonds as described in the Indenture.

Section 5. The sale of the Bonds pursuant to the terms of the Bond Purchase Agreement is hereby authorized, approved and

directed. The drafting of an Official Statement with respect to the marketing of the Bonds and the distribution thereof is hereby authorized, provided that the City shall not be deemed to be responsible for any information contained therein other than descriptions of the City. The Mayor is hereby authorized to approve such sale document, subject to the aforesaid limitations.

Section 6. The Mayor, the City Clerk, any City Councilman, the City Attorney and other appropriate City officials, and each of them, for and on behalf of the City, are hereby authorized, empowered and directed to do and perform any and all things necessary to effect the execution of the Indenture, its execution and acceptance by the Trustee, the performance of all obligations of the City under and pursuant to the Indenture and related documents, the execution and delivery of the Bonds and the performance of all other actions of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and by the Indenture. The Mayor, the City Clerk, the City Manager, the City Attorney and other appropriate City officials are hereby further authorized, empowered and directed for and on behalf of the City to execute all papers, documents, certificates or other instruments that may be required for the carrying out and effectuation of the authority conferred by and the purposes of this Ordinance and the Indenture, or to evidence said authority and purposes, and to exercise and otherwise take all action necessary to the full realization of the rights and purposes of the City under the Loan Agreement and related documents and to perform all of the obligations of the City under the Loan Agreement and related documents.

Section 7. The City shall never be required to pay from its own funds any obligations deriving from the issuance of the Bonds, and the Bonds are declared to be special and limited obligations payable solely and only from the receipts derived under the Loan Agreement with respect to the Project and the property encumbered and the trust estate created under the Indenture, as proved in the documents herein approved.

Section 8. It is hereby declared and certified that by the adoption of this Ordinance, the City Council, as its elected legislative body, and by his approval and execution of this Ordinance the Mayor of the City, as its elected chief executive officer, approve the Project and the issuance of the Bonds after a duly held public hearing following reasonable public notice, all within the meaning of Section 147(f) of the U.S. Internal Revenue Code of 1986, as amended.

Section 9. As set out in the Loan Agreement, the City elects that Section 144(a)(4) of the Internal Revenue Code of 1986, as amended, shall apply to the Bonds.

Section 10. The provisions of this Ordinance except Section 7 are hereby declared to be severable and if any section, phrase

or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

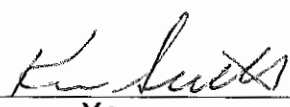
Section 11. In the event of any conflict or conflicts between the provisions of this Ordinance and of any prior ordinances, resolutions or parts thereof, the provisions of this Ordinance shall prevail.

Section 12. This Ordinance shall be in full force and effect from and after its adoption as provided by law. The summary of this Ordinance read at the meetings of the City Council described below is approved for purposes of publication as provided by law.

INTRODUCED, SECONDED AND GIVEN FIRST-READING at a duly convened meeting of the City Council of the City of Russellville, Kentucky, held on the 6th day of November, 1989, and GIVEN A SECOND READING, ADOPTED AND APPROVED at a duly convened meeting of the City Council of the City of Russellville, Kentucky, held on the 11th day of December, 1989, signed by the Mayor as evidence of his approval (including his approval as the City's elected chief executive officer for purposes of compliance with Section 147(f) of the U.S. Internal Revenue Code of 1986, as amended), attested by the City Clerk, ordered published in summary form pursuant to KRS Chapter 424, duly enrolled and declared to be in full force and effect.

APPROVED:

(SEAL)

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk


CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Russellville, Kentucky, and as such Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly adopted by the City Council of said City upon second reading at a duly convened meeting held on December 11, 1989, signed by the Mayor

and now in full force and effect, all as appears from the official records of said City in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this December 11, 1989.

(SEAL)

  
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City Clerk

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