

**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE NO. 2008-20**

AN ORDINANCE APPROVING A LEASE WITH BRANCH BANKING AND TRUST COMPANY IN AN AMOUNT NOT TO EXCEED \$240,000 FOR THE PERMANENT FINANCING OF THE HERNDON ROAD IMPROVEMENT PROJECT ; PROVIDING FOR THE PAYMENT AND SECURITY OF THE LEASE; ESTABLISHING A SINKING FUND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO SUCH LEASE; PROVIDING FOR A SEVERABILITY CLAUSE, REPEALER CLAUSE AND AN EFFECTIVE DATE.

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.WHEREAS, the City Council of the City of Russellville, Kentucky (the "Lessee") has the power, pursuant to Section 65.940 et seq. of the Kentucky Revised Statutes to enter into lease agreements with or without the option to purchase in order to provide for the use of property for public purposes; and

WHEREAS, the City Council of the Lessee (the "City Council") has previously determined, and hereby further determines, that the Lessee is in need of permanently financing the Herndon Road Improvement Project; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the Lessee that the Lessee proceed with the permanent financing of the Herndon Road Improvement Project through a Lease Agreement (the "Lease") in an aggregate principal amount not to exceed \$240,000 with Branch Banking and Trust Company (the "Lessor").

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

Section 1. Recitals and Authorization. The Lessee hereby approves the Lease Agreement (the "Lease") and all Collateral Documents, as defined in the Lease, each in substantially the form presented to this City Council. It is hereby found and determined that the Herndon Road Improvement Project identified in the Lease is public property to be used for public purposes. It is further determined that it is necessary and desirable and in the best interests of the Lessee to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease and all representations, certifications and other matters contained in the Closing Memorandum with respect to the Lease, or as may be required by the Lessor prior to delivery of the Lease, are hereby approved, ratified and confirmed. The Mayor and Clerk of the Lessee are hereby authorized to execute the Lease, together with such other agreements or certifications which may be necessary to accomplish the transaction contemplated by the Lease.

Section 2. General Obligation Pledge. Pursuant to the Constitution of the Commonwealth and Chapter 66 of the Kentucky Revised Statutes, as amended (the "General Obligation Statutes"), the obligation of the Lessee created by the Lease shall be a full general obligation of the Lessee and, for the prompt payment of the Lease Payments, the full faith, credit and revenue

of the Lessee are hereby pledged. During the period the Lease is outstanding, there shall be and there hereby is levied on all the taxable property in the Lessee, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the Lease Payments on the Lease when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof; provided, however, that in each year to the extent that the other taxes of the Lessee are available for the payment of the Lease Payments and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Lessee shall be reduced by the amount of such other taxes so available and appropriated.

Pursuant to an ordinance adopted by the Governing Body of the Lessee on June 19, 2001 (the "2001 General Obligation Ordinance"), there has heretofore been established a sinking fund (the "Sinking Fund"), which is hereby ordered to be continued and maintained as long as the Lease shall remain outstanding. The funds derived from said tax levy hereby required or other available taxes shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of all bonds or obligations issued under the General Obligation Statutes and all Tax Supported Leases, as defined in General Obligation Statutes, including the Lease herein authorized, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Lessor at the times and in the amounts required by the Lease.

Section 3. Expectation Regarding the Lease. The City, by the adoption of this Ordinance, certifies that it does not reasonably anticipate that less than 95% of the proceeds of the Lease will be used for "local government activities" of the City.

Section 4. Designation of the Lease as Qualified Tax-Exempt Obligation. Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the "Code"), the City hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the City hereby represents that the City will not designate more than \$10,000,000 of "qualified tax-exempt obligations" issued by the City in the calendar year 2009 as such "qualified tax-exempt obligations."

Section 5. Issuance Limitation. In compliance with the requirements of Section 265(b)(3)(C) of the Code, the City hereby represents that the City (including all "subordinate entities" of the City within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates that it will not issue in the calendar year 2009, "qualified tax-exempt obligations", in an amount greater than \$10,000,000.

Section 6. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. Open Meetings Law. This City Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Council, and that all deliberations of this City Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

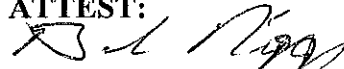
Section 8. Conflicts. All resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 9. Effective Date. This Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

INTRODUCED, SECONDED AND ADOPTED, at a duly convened meeting of the City Council of the City of Russellville, Kentucky, held on January 6, 2009, after first reading held on December 16, 2008, signed by the Mayor of the Lessee, attested by the City Clerk, and ordered published in summary form and filed and indexed as provided by law.

  
Gene Zick, Mayor

ATTEST:

  
Bob Riggs, City Clerk

**Ayes:** Nash, Doug  
Jones, Russell  
Whipple, Jack  
Bell, Pat  
McPherson, Lanny  
Davenport, Jimmy

**Nays:**

**Absent:**

**Abstaining:**

CERTIFICATE

I, the undersigned City Clerk of the City of Russellville, Kentucky, certify that the foregoing is a true copy of an Ordinance adopted by the City of Russellville, Kentucky at a meeting of the City Council held on the     day of     .

I further certify that all actions taken in connection with the Ordinance were in compliance with the requirements of KRS 61.810, 61.815, 61.820 and 61.825, and that said Ordinance is now in full force and effect, all as appears from the official records of the City in my custody and under my control.

Witness my hand as City Clerk of the City of Russellville, Kentucky this 6<sup>TH</sup> day of JANUARY, 2009.

  
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City Clerk

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