

ORDINANCE NO. 2009 - 03

AN ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY AUTHORIZING THE ISSUANCE OF \$415,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC PROJECT NOTES, SERIES 2009A AND \$85,000 PRINCIPAL AMOUNT OF TAXABLE GENERAL OBLIGATION PUBLIC PROJECT NOTES, SERIES 2009B; APPROVING THE FORMS OF NOTES; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE NOTES; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTES; CREATING NOTE PAYMENT FUNDS; MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING ACCEPTANCE OF THE PROPOSAL OF THE PURCHASER OF THE NOTES; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the City of Russellville, Kentucky (the "City") has determined that it is necessary and desirable to permanently finance the costs of (i) the construction of (i) various road improvements within the City, (ii) Carpenter Center HVAC engineering and repairs and (iii) revitalization of the Old Theatre Building (collectively, the "Project");

WHEREAS, the City has determined that the Project is a public project and that it is desirable for the City to issue its General Obligation Public Project Notes, Series 2009A in the aggregate principal amount of \$415,000 (the "Series A Notes") and its Taxable General Obligation Public Project Notes, Series 2009B in the aggregate principal amount of \$85,000 (the "Series B Notes," and together with the Series A Notes, the "Notes") to permanently finance the costs of the Project;

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly KRS 66.011 *et. seq.* (the "Act"), the City may issue the Notes, subject to the requirements of the Act, to pay all or any portion of the costs of the City's Project; and

WHEREAS, the City desires to finance the Project through the issuance of the Notes to be sold and awarded to Branch Banking and Trust Company (the "Purchaser") at private

negotiated sale in accordance with the provisions of Section 66.141 of the Kentucky Revised Statutes.

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

Section 1 -- Authorization of General Obligation Notes. The City shall issue its Series A Notes in the aggregate principal amount of \$415,000 and its Series B Notes in the aggregate principal amount of \$85,000 for the purpose of (i) permanently paying the costs of the Project; and (ii) paying the costs of issuance of the Notes.

Section 2 -- Form. The Series A Notes shall be issued as fully registered notes, shall be designated "City of Russellville, Kentucky General Obligation Public Project Notes, Series 2009A", shall express upon their faces the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in Annex A. The Series B Notes shall be issued as fully registered notes, shall be designated "City of Russellville, Kentucky General Obligation Public Project Notes, Series 2009B", shall express upon their faces the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in Annex B. The Notes shall be in denominations as requested by the Purchaser, which shall be in multiples of five thousand dollars (\$5,000) or any integral multiple thereof. The Notes shall be dated their date of delivery or such other date as is determined by the Mayor, after consultation with the Purchaser. Principal and Interest on the Notes shall be payable each June 1 (an "Interest Payment Date"), commencing June 1, 2010 Interest on the Series A Notes shall be computed at the per annum interest rate of 3.82%, calculated on the basis of a 360 day year, actual number of days elapsed. Interest on the Series B Notes shall be computed at the per annum interest rate of 5.96%, calculated on the basis of a 360 day year,

actual number of days elapsed. The Notes shall be subject to optional redemption prior to their maturity on any scheduled Interest Payment Date at the election of the City upon fifteen (15) days written notice to Branch Banking and Trust Company (the "Paying Agent and Registrar") at a redemption price equal to 101% of the principal amount of the Notes to be redeemed, plus accrued interest to the date of redemption.

At least ten (10) days before the redemption date of any Notes the Paying Agent and Registrar shall cause a notice of such redemption either in whole or in part signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Notes to be redeemed in whole or in part at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Notes for which such notice has been sent. Each such notice shall set forth the date fixed for redemption and the redemption price to be paid.

On the date designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Note Payment Funds by the Paying Agent and Registrar for the registered owners of the Notes to be redeemed, the Notes so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Notes on such date, interest on the Notes so called for redemption shall cease to accrue, and the registered owners of such Notes shall have no right in respect thereof except to receive payment of the redemption price thereof.

Section 3 -- Execution and Delivery. The Notes shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the City Clerk (which, together with any other person as may be authorized by resolution are

referred to as "Designated Officers"), shall have the seal of the City or a facsimile thereof affixed thereto, and shall bear the manual authenticating signature of an authorized representative of the Paying Agent and Registrar. The Designated Officers are further authorized and directed to deliver the Notes to the Purchaser, upon the terms and conditions provided herein, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Notes.

The City authorizes and directs the Paying Agent and Registrar to authenticate the Notes and to deliver the Notes to the Purchaser upon payment of the purchase price thereof.

Section 4 -- Payment. Payment of or on account of the interest on and principal of the Notes shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest and principal shall be payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Notes to the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Notes to the extent of the sum or sums so paid.

Section 5 -- Filing. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information which may be required by law to be filed by the City, including, but not limited to, the filing with the State Local Debt Officer as required by law.

Section 6 -- Note Payment Funds, Payment of Notes. There are hereby established with the Paying Agent and Registrar a note payment fund in the name of the City to be known as General Obligation Public Project Notes, Series 2009A Note Payment Fund (the "Series A Note

Payment Fund") and a note payment fund in the name of the City to be known as Taxable General Obligation Public Project Notes, Series 2009B Note Payment Fund (the "Series B Note Payment Fund," and together with the Series A Note Payment Fund, the "Note Payment Funds"), into which the City covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit on or before an Interest Payment Date for the Notes, the amounts required to pay principal of and interest due on the Notes on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the City, withdraw from the Note Payment Funds, on the final maturity dates of the Notes, the amounts necessary to pay principal of, and interest on, the Notes to the registered owners of the same.

The Paying Agent and Registrar is hereby appointed as the depository of the Note Payment Funds herein established with respect to the Notes.

If the City shall fail or refuse to make any required deposit in the Notes Payment Funds from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the City to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Notes or its assignee, and shall disburse all funds so collected to the owners of the Notes as payment of the Notes.

Section 7 -- General Obligation; Maintenance of Sinking Fund. The Notes shall be full general obligations of the City and, for the payment of said Notes and the interest thereon, the full faith, credit and revenue of the City are hereby pledged for the prompt payment thereof. During the period the Notes are outstanding, there shall be and there hereby is levied on all the taxable property in the City, in addition to all other taxes, without limitation as to rate, a direct

tax annually in an amount sufficient to pay the principal of and interest on the Notes 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 lawfully available funds of the City are available for the payment of the Notes and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other funds 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 Notes shall remain outstanding. The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds and notes issued under the Act and Tax-Supported Leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Note Payment Funds at the times and in the amounts required by Section 6 hereof.

Section 8 -- Award. The Notes are awarded to the Purchaser in accordance with the proposal of the Purchaser submitted for the purchase of the Notes, the interest rate or rates on the Notes to be in accordance with the requirements of Sections 2 hereof.

Section 9 -- Registered Owner; Transfer; Exchange. As long as the Notes executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the registration of such Notes and shall also keep at such office books for such registration and transfers. The registered owners of the Notes, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth day of the month preceding an Interest Payment Date, or their assignees, for purposes of this Note Ordinance, to the extent of its interest, shall be treated as the owners of the Notes and shall be entitled to all rights and security of the owners of the Notes hereunder.

Upon surrender for registration of transfer of the Notes at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Notes of the same series of any authorized denomination and of a like tenor and effect.

All Notes, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Notes of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Notes is exercised, the Paying Agent and Registrar shall execute and deliver Notes in accordance with the provisions of this Section. Every such exchange or transfer of Notes, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such

exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

Section 10 -- Disposition of Proceeds. The proceeds of the sale of the Series A Notes shall be applied as follows: (i) \$400,000 shall be disbursed on the date of delivery of the Series A Notes to retire interim financing incurred for the payment of a portion of the costs of the Project and (ii) \$15,000 shall be disbursed to the City as reimbursement for a portion of the costs of the Project paid by the City from its general fund and to pay the costs of issuance of the Series A Notes. The proceeds of the sale of the Series B Notes shall be disbursed to the City as reimbursement for a portion of the costs of the Project paid by the City from its general fund and to pay the costs of issuance of the Series B Notes.

Section 11 -- Designation of Notes. The City designates the Series A Notes as "qualified tax-exempt obligations" for the purposes set forth in § 265(b)(3) of the Internal Revenue Code of 1986, as amended. The City does not anticipate issuing more than \$30,000,000 of "qualified tax-exempt obligations" during calendar year 2009.

Section 12 -- Discharge of Note Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Notes the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Note Ordinance, then the pledges made under this Note Ordinance, and all covenants, agreements and other obligations of the City hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 13 -- Severability. If any one or more of the provisions of this Note Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such

provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

Section 14 -- Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 15 -- Open Meetings Compliance. All meetings of the City Council and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Notes were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

Section 16 -- Effective Date. This Note Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

DULY INTRODUCED AND GIVEN FIRST READING APPROVAL ON JUNE 16, 2009.

DULY INTRODUCED, SECONDED AND ADOPTED FOLLOWING SECOND READING
ON JUNE 23, 2009.

By Eugene Zick
Eugene Zick, Mayor

ATTEST:

By Bob Riggs
Bob Riggs, City Clerk

Ayes: Jimmy Davenport
Pat Bell
Jack Whipple
Russell Jones
Lanny McPherson

Nays:

Absent: Doug Nash

Abstaining:

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City Council of the City of Russellville, Kentucky, and as such City Clerk, I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly enacted by the City Council of the City at a duly convened meeting held on the 23rd day of June, 2009, on the same occasion signed by the Mayor as evidence of his approval, and now in full force and effect, all as appears from the official records of the City in my possession and under my control.

Witness my hand and the seal of said City as of the 23rd day of June, 2009.

By: _____

Bal N. [Signature]
City Clerk

SUMMARY OF ORDINANCE

The City Council of the City of Russellville, Kentucky, at a meeting held on June 23, 2009 gave second reading to, and adopted, the following ordinance:

ORDINANCE NO. 2009 - 03

AN ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY AUTHORIZING THE ISSUANCE OF \$415,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC PROJECT NOTES, SERIES 2009A AND \$85,000 PRINCIPAL AMOUNT OF TAXABLE GENERAL OBLIGATION PUBLIC PROJECT NOTES, SERIES 2009B; APPROVING THE FORMS OF NOTES; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE NOTES; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTES; CREATING NOTE PAYMENT FUNDS; MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING ACCEPTANCE OF THE PROPOSAL OF THE PURCHASER OF THE NOTES; AND REPEALING INCONSISTENT ORDINANCES.

This Ordinance authorizes the issuance of general obligation public project notes designated as Series 2009A and B in the aggregate principal amount of \$500,000 (the "Notes") by the City of Russellville, Kentucky (the "City"). The Notes are to be issued for the purpose of permanently financing the costs of (i) the construction of (i) various road improvements within the City, (ii) Carpenter Center HVAC engineering and repairs and (iii) revitalization of the Old Theatre Building (collectively, the "Project"). Provisions are made in the Ordinance for the payment of the Notes and the security therefor; for the application of the proceeds of the Notes; for the establishment of a Note Payment Funds; for the maintenance of the previously established sinking fund; and for certain covenants of the City with respect to the Notes. The Notes are to be sold to Branch Banking and Trust Company and shall mature and be payable as to principal and interest on June 1 of the years 2010 through 2014. The Notes pledge the full faith and credit of the City and provision is made for the collection of a tax to pay the principal of, and interest on the Notes, subject to certain credits, as provided in Section 7 of the Ordinance. As required by KRS 83A.060, the following Section 7 of the Ordinance is set forth in its entirety:

"Section 7 -- General Obligation; Maintenance of Sinking Fund. The Notes shall be full general obligations of the City and, for the payment of said Notes and the interest thereon, the full faith, credit and revenue of the City are hereby pledged for the prompt payment thereof. During the period the Notes are outstanding, there shall be and there hereby is levied on all the taxable property in the City, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Notes 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 lawfully available funds of the City are available for the payment of the Notes and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other funds 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 Notes shall remain outstanding. The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds and notes issued under the Act and Tax-Supported Leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Note Payment Funds at the times and in the amounts required by Section 6 hereof."

I, the undersigned City Clerk of the City of Russellville, Kentucky, hereby certify that the foregoing Ordinance was adopted by the City Commission of the City of Russellville, Kentucky after second reading on June 23, 2009, and was further approved for publication following adoption according to law. I further certify that the foregoing summary was prepared for the City by Dirk M. Bedarff, Esq. of Peck, Shaffer & Williams LLP, Attorneys at Law, 118 W. Fifth Street, Covington, Kentucky 41011.

WITNESS my hand and seal of said City, this 24th day of June, 2009.

/s/ Bob Riggs
City Clerk, City of Russellville, Kentucky

The undersigned Attorney at Law, licensed to practice in Kentucky, hereby certifies that the foregoing title summary of an Ordinance of the City of Russellville, Kentucky, was prepared by the undersigned and constitutes a general summary of essential provisions of said ordinance, reference to the full text of which ordinance is hereby made for a complete statement of its provisions and terms.

/s/ Dirk M. Bedarff
Dirk M. Bedarff, Esq.
Peck, Shaffer & Williams LLP
50 East River Center Blvd., Suite 1150
Covington, Kentucky 41011