

ORDINANCE NO. _____

AN ORDINANCE APPROVING A LEASE FOR THE FINANCING OF A PROJECT; PROVIDING FOR THE PAYMENT AND SECURITY OF THE LEASE; CREATING A SINKING FUND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO SUCH LEASE

WHEREAS, the governing body of the City of Fort Thomas, 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 the property for public purposes;

WHEREAS, the governing body of the Lessee (the “Governing Body”) has previously determined, and hereby further determines, that the Lessee is in need of the Project, as defined in the Lease hereinafter described; and

WHEREAS, the Governing Body has determined and hereby determines that it is in the best interests of the Lessee that the Lessee and the Kentucky Bond Corporation (the “Lessor”) enter into a Lease Agreement (the “Lease”) for the leasing by the Lessee from the Lessor of the Project;

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

Section 1. Recitals and Authorization. The Lessee hereby approves the Lease Agreement (the “Lease”), in substantially the form presented to this Governing Body. The recitals to this Ordinance are incorporated herein as if set forth in this Section in their entirety and are hereby found and determined to be true and correct. It is further found and determined that the Project identified in the Lease is public property to be used for public purposes, 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 City 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.

There is hereby established, or it is acknowledged that there has heretofore been established, with the Lessee a sinking fund (the "Sinking Fund"). 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 obligations issued under the General Obligation Statutes and all Tax Supported Leases, as defined in the 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. 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 4. Open Meetings Law. This Governing Body hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Governing Body, and that all deliberations of this Governing Body 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 5. Conflicts. All ordinances, 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 6. Effective Date. This Ordinance shall take effect from and after its passage and publication of a summary thereof, as provided by law.

INTRODUCED, SECONDED AND ADOPTED, at a duly convened meeting of the Governing Body, held on _____, 2020, after first reading held on _____, 2020, signed by the Mayor of the Lessee, attested by the City Clerk, filed and indexed as provided by law.

By: _____
Mayor

Attest:

By: _____
City Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Fort Thomas, Kentucky and as such City Clerk, I further certify that the foregoing is a true, correct and complete copy of an Ordinance as appears to me in the official records of the City of Fort Thomas, Kentucky, duly adopted by said governing body at a duly convened meeting held on the date set forth therein, signed by the Mayor, duly filed, recorded and indexed in my office and now in force and effect, and that all action taken in connection with such Ordinance was in compliance with the requirements of Kentucky law, all as appears from the official records of said governing body in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____, 2020.

City Clerk

SUMMARY OF ORDINANCE

At a meeting held on _____, the governing body of the City of Fort Thomas, Kentucky adopted the following ordinance:

AN ORDINANCE APPROVING A LEASE FOR THE FINANCING OF A PROJECT; PROVIDING FOR THE PAYMENT AND SECURITY OF THE LEASE; CREATING A SINKING FUND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO SUCH LEASE

It is hereby certified that the foregoing ordinance provides for approval of a lease with Kentucky Bond Corporation for financing certain public improvements and provides a general obligation pledge to assess sufficient taxes to comply with the obligations to pay lease payments. The full text of the section relating to the pledge to levy and assess a tax to pay the lease obligation is:

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A complete copy of the ordinance may be reviewed at the office of the City of Fort Thomas, Kentucky.

By /s/ _____

City Clerk

The undersigned, an attorney licensed to practice law in the Commonwealth of Kentucky, hereby certifies that the foregoing is a true and accurate summary of an Ordinance that has been prepared by an attorney licensed to practice law in the Commonwealth of Kentucky.

/s/ Daniel D. Briscoe, Jr.
Dinsmore & Shohl LLP
Louisville, Kentucky