

ORDINANCE NO. 90-009 SERIES 1990

BOND ORDINANCE

ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF SCOTT, KENTUCKY, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF THE COUNTY OF SCOTT, KENTUCKY INDUSTRIAL DEVELOPMENT BONDS (INTERSTATE TRANSFORMER COMPANY PROJECT) SERIES 1990, DATED AS OF SEPTEMBER 1, 1990, IN THE PRINCIPAL AMOUNT OF \$2,000,000, FOR THE PURPOSE OF ACQUIRING PROPERTY, PLANT AND EQUIPMENT.

WHEREAS, the County of Scott, Kentucky (the "County"), a political subdivision of the Commonwealth of Kentucky, is authorized and empowered by Sections 103.200 to 103.287, inclusive, of the Kentucky Revised Statutes, as amended (the "Act"), to issue bonds and lend the proceeds of the bonds to any person to defray the costs of a "building" project, as defined in the Act; and

WHEREAS, Interstate Transformer Company (the "Company"), has offered to the County to finance the acquisition of property, plant and equipment located at 1949 Lexington Road, Georgetown, Scott County, Kentucky (the "Project"), if the County will agree to issue its County of Scott, Kentucky Industrial Development Bonds (Interstate Transformer Company Project) Series 1990, in the aggregate principal amount of \$2,000,000 (the "Bonds"), pursuant to the Act. Such Project is to be used and occupied by the Company and will tend to relieve existing conditions of unemployment and result in the employment of a substantial number of workers and promote the economic development of the County and the surrounding area; and

WHEREAS, by Inducement Contract and other actions taken, the County has invited the Company to proceed with the proposed Project; and

WHEREAS, under the terms of a proposed Loan Agreement (hereinafter identified), the Company has agreed to pay the County sufficient payments in ample time to pay the principal and interest requirements of the Bonds, and which payments shall be pledged, together with the Loan Agreement itself, as security for the payment of the principal of and interest on the Bonds; and

WHEREAS, the County has found that the operation of the proposed Project will tend to relieve existing conditions of unemployment in the County and the surrounding area and will otherwise promote the general welfare and economic development of the County and all of its citizens and inhabitants;

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF SCOTT, KENTUCKY:

1. AUTHORIZATION OF BONDS. For the purpose of paying the costs, not otherwise provided, of the Project, the County hereby authorizes and approves the issuance of its County of Scott, Kentucky Industrial Development Bonds (Interstate Transformer

Company Project) Series 1990, in the aggregate principal amount of \$2,000,000 (the "Bonds"), which amount shall be the maximum amount of such Bonds to be outstanding at any one time, issued as fully registered Bonds, in said amount, which Bonds may be exchanged for and/or reissued in the denomination of \$100,000 each or any integral multiple thereof, as more fully provided for in the Trust Indenture hereinafter approved. The Bonds shall bear interest from November 1, 1990 at such rate and shall be payable in such amounts and at such times as specified in the Placement Agreement (hereinafter approved), all as agreed upon by the County, the Company, the Trustee (hereinafter identified) and the Underwriter (hereinafter identified), pursuant to Section 103.230 of the Kentucky Revised Statutes; provided, however, that the maximum rate of interest on the Bonds shall not exceed fifteen percent (15%) per annum.

2. APPROVAL AND AUTHORIZATION OF EXECUTION OF VARIOUS DOCUMENTS; LOAN AGREEMENT; TRUST INDENTURE. The following documents in the respective forms attached to this Ordinance, are hereby approved, subject to such minor changes, changes of dates, insertions or omissions as may be approved by the County Judge/Executive, such approval to be conclusively evidenced by the execution of said documents, in order to effectuate the purposes of this Ordinance; and the County Judge/Executive is hereby authorized to execute and acknowledge same for and on behalf of the County; and the Fiscal Court Clerk is authorized to attest same and to affix thereto the corporate seal of the County. Said documents are hereby ordered to be filed in the office of the Fiscal Court Clerk, labelled respectively, Exhibits A and B, as identified below, and each of said documents is ordered to be recorded with this Ordinance in the official records of the County:
  - (a) The Loan Agreement (the "Loan Agreement"), to be dated as of September 1, 1990, between the County and the Company. (Exhibit A).
  - (b) The Trust Indenture (the "Indenture"), to be dated as of September 1, 1990, between the County and Citizens Fidelity Bank and Trust Company, Louisville, Kentucky, as trustee (the "Trustee"). (Exhibit B).
3. DISBURSEMENT OF PROCEEDS OF BONDS. The Company and the Trustee are authorized to carry out the procedures specified in the Indenture for the expansion and equipping of the Project and for the payment from time to time of the costs of such expansion and equipping and related expenses as same progresses. Such procedures shall include reimbursement to the Company for advances made by the Company toward the cost of the Project in contemplation of the issuance of the Bonds, in reliance on the commitment of the County in the original Inducement Contract approved by Inducement Resolution enacted by the Fiscal Court of the County on \_\_\_\_\_, 1990.
4. REVENUES OF THE PROJECT. The revenues of the Project, including the loan payments to be received by the County under the terms of the Loan Agreement, are determined to be sufficient to pay the principal of and interest on the Bonds, together

with the fees and expenses of the Trustee, as the same become due and payable; and all of said payments and any and all other payments, revenues and proceeds received under the Loan Agreement in connection with the Project, together with the Loan Agreement, are hereby pledged to secure all such payments, and in addition, for such other purposes as are more fully specified in the Indenture.

5. DESIGNATION OF TRUSTEE. Citizens Fidelity Bank and Trust Company, Louisville, Kentucky, is hereby designated as the corporate trustee under the Indenture and also as the paying agent and registrar for the Bonds.
6. EXECUTION OF BONDS. The Bonds shall be executed in the manner provided in the Indenture and shall be delivered to the Trustee for proper authentication and delivery by the Trustee to the Underwriter, with instructions to that effect, as provided in the Indenture.
7. COUNTY JUDGE/EXECUTIVE AND OTHER COUNTY OFFICIALS TO TAKE ANY OTHER NECESSARY ACTION. Pursuant to the Constitution and laws of the Commonwealth of Kentucky, the County Judge/Executive, the Fiscal Court Clerk and all other appropriate officials of the County are hereby authorized and directed to take any and all further action and to execute and deliver all other documents as may be reasonably necessary to effect the issuance and delivery of the Bonds.
8. LIMITED OBLIGATION. The Bonds shall not be a general obligation of the County but shall be payable solely from the amounts payable under the Loan Agreement and other revenues of the Project. Neither the County, the Commonwealth of Kentucky nor any other political subdivision of the Commonwealth shall be obligated to pay the principal of or interest on such Bonds or other costs incident thereto except from the revenues of the Project pledged therefore. Neither the faith and credit nor the taxing power of the County, the Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal of, or premium, if any, or interest on the Bonds or other costs incident thereto.
9. ELECTION TO ISSUE THE BONDS PURSUANT TO SECTION 144(A)(4) OF THE INTERNAL REVENUE CODE. The County Judge/Executive of the County is authorized to make an election to issue the Bonds in an amount in excess of \$1,000,000 and not exceeding \$10,000,000, pursuant to Section 144(a)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), and to file or cause to be filed the appropriate Statement of Election and all other documents necessary to accomplish and perfect such election. The County Judge/Executive is entitled to rely upon information furnished by the Company in making such election unless the County Judge/Executive shall be aware of any fact or circumstances which would cause such Statement of Election to be questioned.
10. COMPLIANCE WITH FEDERAL ARBITRAGE REQUIREMENTS. The County has approved the covenant in the Indenture that sums derived from the proceeds of the

Bonds shall not be invested in investments in a manner which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 158 of the Code and the applicable Regulations thereunder.

Prior to or at the time of delivery of the Bonds, the County Judge/Executive and/or the County Treasurer, who are jointly and severally charged with the responsibility for the issuance of the Bonds, are authorized to execute the appropriate certification with reference to the matters required and contemplated by the Code and the applicable Regulations, setting out all known and contemplated facts concerning the anticipated construction, expenditures and investments, including the execution of necessary and/or desirable certifications contemplated by the Code and the applicable Regulations in order to assure that interest on the Bonds will be excluded from gross income for Federal income tax purposes and that the Bonds will not be treated as "arbitrage bonds." Such officers are entitled to rely upon information furnished by the Borrower in making such certifications and representations unless they, or either of them, shall be aware of any fact or circumstances which would cause such certifications or representations to be questioned.

Notwithstanding anything herein to the contrary, neither the County nor any official of the County shall be liable for any act or omission of the County or such official, to the Company, the Trustee, or any owner of the Bonds for failure to comply with any covenant or certification herein made or made in any of the documents relating to the issuance of the Bonds and the Loan Agreement and the Indenture shall so provide.

11. SEVERABILITY CLAUSE. If any section, paragraph clause or provision of this Ordinance shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.
12. CAPTIONS OF CLAUSES. The captions of this Ordinance are for convenience only and are not to be construed as part of this Ordinance nor as defining or limiting in any way the scope or intent of the provisions hereof.
13. PROVISIONS IN CONFLICT REPEALED. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.
14. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall take effect from and after its enactment, adoption, approval and publication of Notice of Enactment and Summary hereof (including the title and a certified summary of this Ordinance), which publication is hereby approved and ordered to be made by the Fiscal Court Clerk, pursuant to KRS Chapter 67 and KRS 103.210.

INTRODUCED AND GIVEN FIRST READING ON September 17, 1990.

GIVEN SECOND READING, ENACTMENT AND ADOPTED September 24, 1990.

COUNTY OF SCOTT, KENTUCKY

By George Lusby  
George Lusby,  
County Judge/Executive

(Seal of County)

ATTEST:

Martha Neclerio  
Martha Neclerio,  
Fiscal Court Clerk

CERTIFICATE OF FISCAL COURT CLERK

I, Martha Neclerio, hereby certify that I am the duly qualified and acting Fiscal Court Clerk of the County of Scott, Kentucky; that the foregoing Ordinance is a true copy of an Ordinance introduced and given first reading at a properly convened meeting of said Fiscal Court on Sept. 17, 1990, and given second reading and duly enacted by the Fiscal Court of said County, signed by the County Judge/Executive of said County, and attested under seal by me as Fiscal Court Clerk, at a properly convened meeting of said Fiscal Court held on Sept. 24, 1990, as shown by the official records in my custody and under my control, that Notice of the Enactment and Summary of said Ordinance has been ordered to be published as required by law (KRS Chapter 67 and KRS 103.210), and that said Ordinance appears as a matter of public record in the County Ordinance Book.

I further certify that said meetings were duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825, that a quorum was present at each of said meetings, that said Ordinance has not been modified, amended, revoked or repealed, and that same is now in full force and effect.

IN WITNESS WHEREOF, I have thereto set my hand as Fiscal Court Clerk and the official seal of the County this 24 day of September, 1990.

Martha Neclerio  
Martha Neclerio

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