

ORDINANCE NO. 11-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOMERSET, KENTUCKY, AUTHORIZING AND APPROVING THE ISSUANCE OF ITS GENERAL OBLIGATION BONDS, SERIES OF 2011 IN THE APPROXIMATE AMOUNT OF \$8,810,000 (WHICH AMOUNT MAY BE DECREASED BY UP TO \$880,000) FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC PROJECTS AS DESCRIBED BELOW, FOR THE USE AND BENEFIT OF THE CITIZENS OF THE CITY; AUTHORIZING THE LEVY OF A DIRECT ANNUAL TAX ON ALL TAXABLE PROPERTY WITHIN THE CITY, IN ADDITION TO ALL OTHER TAXES, IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS WHEN AND AS THE SAME BECOME DUE; AUTHORIZING THE ESTABLISHMENT OF CERTAIN FUNDS TO PROVIDE FOR THE COLLECTION OF THE PROCEEDS OF THE TAX AND THE PAYMENT OF THE BONDS; AUTHORIZING THE PUBLICLY ADVERTISED, COMPETITIVE SALE OF SAID BONDS AND THE DISBURSEMENT OF THE PROCEEDS THEREOF; AUTHORIZING CERTAIN OTHER ACTIONS WITH REGARD TO THE FINANCING AND THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF THE PROJECTS GENERALLY; AND TAKING OTHER RELATED ACTION.

WHEREAS, the City of Somerset, Kentucky, acting by and through its City Council (the "City") has determined that it is necessary and desirable and in the best interest of the citizens of the City, that the City implement the acquisition and construction of certain public projects; consisting of (a) improvements to the City's water park, (b) miscellaneous gas and sewer improvements and extensions, including the gas line river crossing and West Somerset sewer extension, (c) streetscape completion and (d) repairs to Grand Central Boulevard, all of which will be available to the general public (collectively, the "Projects") through the incurrence of indebtedness as herein described by the sale and issuance of the City's "General Obligation Bonds", pursuant to Sections 66.011 through 66.191 of the Kentucky Revised Statutes (the "Act"), for the payment of which the full faith, credit and taxing power of the City are pledged pursuant to this Ordinance; and

WHEREAS, the City has determined that the total cost of said Project is estimated to be approximately \$8,810,000 and proposes to issue its General Obligations Bonds, Series of 2011, dated October 1, 2011 (the "Bonds") in order to finance said Projects; and

WHEREAS, in order to assure the payment of the Bonds, it is necessary that the City authorize the levy of a tax sufficient for that purpose;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSET, KENTUCKY, AS FOLLOWS:

Section 1. PREAMBLE INCORPORATED; ORDINANCE AS CONTRACT; DEFINITIONS. That the Preamble to this Ordinance is hereby incorporated within the body of this Ordinance as fully as if copied in full herein.

That this Ordinance shall constitute a contract between the City and the holders and beneficial owners of the Bonds herein authorized and no change, alteration, or amendment in the provisions hereof shall be made subsequent to the delivery of said Bonds.

For the purposes of this Ordinance and the Bonds the following terms shall have the meanings hereinafter set forth:

“Act” means Sections 66.011 through 66.191 of the Kentucky Revised Statutes.

“Agent Member” means a member of, or participant in, the Securities Depository.

“Authorized Denomination” means the authorized denominations of the Bonds, which shall be \$5,000 or any multiple of \$5,000.

“Bond Counsel” means Wyatt, Tarrant & Combs, LLP, Louisville, Kentucky.

“Bond Payment Fund” means the separate and special account established with the Depository for the Bonds into which there shall be deposited no later than March 15 and September 15 of each year sufficient monies to meet the annual principal and semi-annual interest requirements for the Bonds.

“Bond Registrar” means the Depository acting in its capacity as the registrar of the Bonds and Paying Agent for the Bonds.

“Bonds” means, the \$8,810,000 of City of Somerset, Kentucky, General Obligation Bonds, Series of 2011, dated October 1, 2011.

“Book-Entry Form” means, with respect to the Bonds, a form or system, as applicable, under which (i) the ownership of beneficial interests in Bonds and bond service charges may be transferred only through a book entry and (ii) physical Bond certificates in fully registered form are registered only in the name of a Securities Depository or its nominee as Holder, with the physical Bond certificates in the custody of a Securities Depository.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder.

“Costs” means all costs incident to the acquisition, construction and equipping of the Projects and the costs of issuance of the Bonds.

“Costs of Issuance” means those expenses incident to the issuance of the Bonds, including, but not being limited to, the fees of the rating agencies, Financial Advisor, Bond Counsel, Bond Registrar and Paying Agent.

“Costs of Issuance Fund” means the separate account established with the Depository from the proceeds of the Bonds from which the Costs of Issuance are to be paid.

“Depository” means the Monticello Banking Company, Somerset, Kentucky, which will also act as Bond Registrar and Paying Agent for the Bonds and depository for the various funds established by this Ordinance.

“Financial Advisor” means Ross, Sinclair & Associates LLC, Louisville, Kentucky.

“Investments” means those investments permitted under KRS 66.480.

“KRS” means the Kentucky Revised Statutes, as amended.

“Project Fund” means the separate account established with the Depository into which the proceeds of the Bonds shall be deposited after the deduction of the Costs of Issuance and applied to the acquisition, construction and equipping of the Projects.

“Securities Depository” means any securities depository that is a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act, operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of beneficial interests in bonds and bond service charges, and to effect transfers of bonds in Book-Entry Form, and means, initially, The Depository Trust Company (a limited purpose trust company), New York, New York.

“Securities Depository Nominee” means any nominee of a Securities Depository and shall initially mean Cede & Co., New York, New York, as nominee of The Depository Trust Company.

“Sinking Fund” means the “Series 2011 Sinking Fund” established with the Depository as trust funds into which the proceeds of the Tax shall be deposited and applied only to the payment of the Bonds. Semi-annual transfers from the Sinking Fund shall be made to the Bond Payment Fund.

“Tax” means the direct, annual ad valorem tax on all property within the City of Somerset, Kentucky which is subject to taxation for City purposes, occupational license fees (if any), insurance premium taxes and any and all other receipts of taxes, excises, permits, licenses, fines or other sources of revenue of, or of revenue distributions to, the City.

Section 2. AUTHORIZATION OF BONDS.

That for the purposes set forth in the Preamble to this Ordinance there are hereby authorized to be issued \$8,810,000 principal amount of the City’s “General Obligation Bonds, Series of 2011,” dated October 1, 2011, or such other date as may be recommended to the City by the Financial Advisor (the “Bonds”).

Said Bonds shall bear interest from their date, payable April 1, 2012, and semi-annually thereafter at rates established through the public sale thereof and shall mature or be subject to mandatory redemption as to principal on October 1 in each of the years as follows, subject to adjustment in accordance with the Official Terms and Conditions of Bond Sale hereinafter identified, and as may be approved by the City accepting the successful bid, if any, for the Bonds:

<u>Principal Maturity</u>	<u>Estimated Principal Amount</u>
October 1, 2016	\$240,000
October 1, 2017	250,000
October 1, 2018	245,000
October 1, 2019	495,000
October 1, 2020	510,000
October 1, 2021	525,000
October 1, 2022	545,000

October 1, 2023	565,000
October 1, 2024	585,000
October 1, 2025	610,000
October 1, 2026	635,000
October 1, 2027	660,000
October 1, 2028	690,000
October 1, 2029	720,000
October 1, 2030	750,000
October 1, 2031	785,000

Notwithstanding the authorization of \$8,810,000 of said Bonds, the City may elect to issue up to \$880,000 more or less of said Bonds (the "Permitted Adjustment").

The Bonds will initially be issued as book-entry bonds registered by the Bond Registrar in the name of a nominee of The Depository Trust Company ("DTC"), which will act as securities depository for the Bonds. Individual purchases of such Bonds may be made in book-entry form only, in the principal amount of \$5,000 or any multiple of \$5,000. Principal of and interest on the Bonds shall be payable to DTC, which in turn will remit such principal and interest to the beneficial owners of the Bonds through DTC's participants. The principal of, interest on and premium, if any, on the Bonds not registered in book-entry form shall be payable in accordance with Section 4 hereof.

The Bonds that are designated as Term Bonds, if any, in the certificate of the of the City accepting the successful bid, if any, for the Bonds, as may be Outstanding from time to time, shall be subject to mandatory redemption prior to maturity, from sinking fund installments, on the dates and in the principal amounts set forth in the final Official Statement as described below, at a redemption price, expressed as a percentage of principal amount with respect to each such Bond, of 100% (par), plus in each case accrued interest to the date of redemption.

Each of the Bonds shall contain a recital that it is issued pursuant to the Act.

On the recommendation of the Financial Advisor to the City, the Mayor or Treasurer of the City is authorized to approve the sale of an aggregate principal amount of Bonds as such amount may be adjusted and to make adjustments to the maturity schedule, dated date and optional redemption schedule set forth herein; provided, however, that the Bonds shall mature, or be subject to redemption through mandatory sinking fund installments, annually or semiannually in such amounts through and including a final maturity date of not later than October 1, 2032 and shall be subject to optional or mandatory redemption as shall be determined by the Mayor or Treasurer of the City contemporaneously with the acceptance of the successful bid, if any, for the purchase thereof.

Section 3. FORM AND EXECUTION OF BONDS; OPTIONAL AND MANDATORY REDEMPTION; AUTHENTICATION.

(A) The Bonds shall be issued in fully registered form and shall be in substantially the same form as that attached to this Ordinance as Exhibit A.

The Bonds shall be executed with the original or facsimile signature of the Mayor, attested by the original or facsimile signature of the City Clerk and imprinted with an original or facsimile of the corporate seal of the City.

The Bonds shall be payable at the principal office of the Monticello Banking Company, Somerset, Kentucky. No Bond shall be valid or binding upon the City unless and until it is validated by the manual signature of a duly authorized representative of the Bond Registrar.

(B) In the event the purchaser of the Bonds so elects, the Bonds may be issued as Term Bonds in which event the Paying Agent shall select by lot a principal maturity originally scheduled to mature on the principal due date as reflected by the successful bid and shall notify the Registered Owners of Bonds so selected for mandatory redemption not less than thirty (30) days prior to the principal due date by regular United States Mail.

(C) The Bonds maturing on and after October 1, 2022, shall be subject to prior redemption at the option of the City, in whole or in part, on any date falling on or after October 1, 2021 in any order of maturities (less than all of a single maturity to be selected by lot) upon thirty (30) days' written notice to the Register Owner, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

Section 4. PROCEDURES IN RESPECT OF REGISTRATION AND TRANSFER OF 2011B BONDS: PAYMENT OF PRINCIPAL AND INTEREST. Interest on each Bond not registered in Book-Entry Form to a Securities Depository shall be payable by check mailed by the Bond Registrar to the Holder thereof as of the Record Date, at the address shown on the registration books kept by the Bond Registrar or at such other address as is furnished to the Bond Registrar in writing by such Holder. The principal of and premium, if any, on the Bonds not registered in Book-Entry Form to a Securities Depository shall be payable, without exchange or collection charges, in lawful money of the United States of America on their presentation and surrender as they respectively become due and payable, whether at maturity or by prior redemption or acceleration, at the principal trust office of the Bond Registrar. On request of a Holder of at least \$1,000,000 in aggregate principal amount of the Bonds, all payments of principal of, premium, if any, or interest on the Bonds shall be paid by wire transfer in immediately available funds to an account designated by such Holder.

Principal of, premium, if any, and interest on Bonds registered in Book-Entry Form in the name of the Securities Depository or the Securities Depository Nominee shall be payable by wire transfer from the Bond Registrar to the Securities Depository or its nominee. So long as any Bonds remain Outstanding, the Bond Registrar shall keep and maintain at its principal trust office complete registration records in respect of the Bonds and shall provide for the registration of transfer and exchange of the Bonds in accordance with the terms of this Ordinance, subject to such reasonable procedures and regulations as the Bond Registrar may prescribe.

Except as may be otherwise provided in Section 5 below for Bonds registered in Book-Entry Form in the name of the Securities Depository or the Securities Depository Nominee, each Bond shall be transferable or exchangeable only on the presentation and surrender thereof at the principal trust office of the Bond Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Holder or his authorized representative.

Except as may be otherwise provided in Section 5 below for Bonds registered in Book-Entry Form in the name of the Securities Depository or the Securities Depository Nominee, Bonds shall be exchangeable for a Bond or Bonds of the same maturity and interest rate and in Authorized Denominations, within a single maturity in an aggregate principal amount or amounts equal to the unpaid principal amount of the Bond or Bonds presented for exchange. The Bond

Registrar shall be and is hereby authorized to authenticate, deliver and exchange Bonds in accordance herewith. Each Bond delivered in exchange for a surrendered Bond shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which any Bond is delivered in exchange. Any Bonds surrendered for exchange shall be canceled by the Bond Registrar and the Bond Registrar shall maintain a complete record of all exchanges, transfers and cancellations of Bonds and shall make a report thereof to the City on request.

Except as may be otherwise provided in Section 5 below for Bonds registered in Book-Entry Form in the name of the Securities Depository or the Securities Depository Nominee, no service charge or other transfer fee shall be charged in connection with any transfer or exchange of a Bond. However, the registered owner of any Bond may be required to pay an amount equal to any tax or other governmental charge, if any, that may be imposed in connection with the transfer or exchange of any Bond.

The Bond Registrar shall not be required to transfer or exchange any Bond for the period beginning fifteen (15) days prior to the selection by the Bond Registrar of Bonds to be redeemed prior to maturity and ending on the date of mailing of notice of any such redemption.

Section 5. SECURITIES DEPOSITORY; OWNERSHIP OF BONDS. Except as provided in paragraph (B) of this Section 5, the Bonds shall be registered in the name of the Securities Depository or the Securities Depository Nominee, and ownership thereof shall be maintained in Book-Entry Form by the Securities Depository for the account of the Agent Members thereof. Initially, the Bonds shall be registered in the name of Cede & Co., as the nominee of The Depository Trust Company. Except as provided in paragraph (B) below of this Section 5, the Bonds may be transferred, in whole but not in part, only to the Securities Depository or the Securities Depository Nominee, or to a successor Securities Depository selected or approved by the City or to a nominee of such successor Securities Depository. As to any Bond, the person in whose name the Bond shall be registered shall be the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or on the order of the registered owner thereof or his legal representative.

(A) Neither the City nor the Bond Registrar shall have any responsibility or obligation with respect to:

(1) the accuracy of the records of the Securities Depository or any Agent Member with respect to any beneficial ownership interest in the Bonds;

(2) the delivery to any Agent Member, any beneficial owner of the Bonds or any other person, other than the Securities Depository, of any notice with respect to the Bonds; or

(3) the payment to any Agent Member, any beneficial owner of the Bonds or any other person, other than the Securities Depository, of any amount with respect to the principal, premium, if any, or interest on the Bonds.

(4) So long as any Bonds are registered in Book-Entry Form, the City and the Bond Registrar may treat the Securities Depository as, and deem the Securities

Depository to be, the absolute owner of such Bonds for all purposes whatsoever, including without limitation:

- (i) the payment of principal, premium, if any, and interest on the Bonds;
- (ii) giving notices of redemption and other matters with respect to the Bonds;
- (iii) registering transfers with respect to the Bonds;
- (iv) selection of Bonds for redemption; and
- (v) for purposes of obtaining consents under this Ordinance.
- (vi) notwithstanding the definition of the term "Bond-holder" or "Holder" or "Holder of Bonds" herein, as referencing registered holders of the Bonds, the Bond Registrar shall be entitled to rely on written instructions from a majority of the beneficial owners of the Bonds with reference to consent, if any, required from Holders pursuant to the terms of this Ordinance.

(B) If at any time the Securities Depository notifies the City that it is unwilling or unable to continue as Securities Depository with respect to the Bonds, or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Securities Depository is not appointed by the City within ninety (90) days after the City receives notice or becomes aware of such condition, as the case may be, then this Section 5 shall no longer be applicable and the City shall execute and the Bond Registrar shall authenticate and deliver certificates representing the Bonds to the Bond-holders.

(C) Payment of principal, premium, if any, and interest on any Bonds not registered in Book-Entry Form shall be made as provided in Section 4 hereof.

Section 6. COMPLIANCE WITH CONSTITUTION; DESIGNATION OF PUBLIC PROJECTS; AUTHORIZATION OF TAX; PLEDGE OF TAX TO PAYMENT OF BONDS; DESIGNATION AS GENERAL OBLIGATION BONDS.

(A) That the debt represented by the Bonds is hereby determined to be within the maximum indebtedness of the City permitted under Section 158 of the Constitution of Kentucky.

(B) That the City is authorized to contract the indebtedness represented by the Bonds pursuant to Section 159 of the Constitution of Kentucky and provide for the collection of an annual tax sufficient to pay the interest on said Bonds and establish the hereinafter identified Sinking Fund to provide for the payment of the principal thereof.

(C) That pursuant to Section 157 of the Constitution of Kentucky and Section 66.111 of the Act there is hereby authorized to be levied, and the City hereby covenants to so levy and collect, each year that the Bonds remain outstanding a Tax in an amount sufficient to provide for the full payment of the principal and interest requirements of said Bonds.

(D) That by the adoption of this Ordinance the City covenants with Owners of the Bonds that it shall levy each year a Tax in a sufficient amount and appropriate in its annual budget, together with other monies available to it, an amount of funds sufficient to pay the "debt charges" on the Bonds as defined in Section 66.011(4) of the Act.

(E) That Tax shall include the ad valorem property taxes permitted under Section 157 of the Constitution of Kentucky, occupational license fees (if any); insurance premium taxes, excises and any other receipts from taxes, excises permits, licenses, fines or other sources of revenue of, or of revenue distributions to, the City.

(F) That the City hereby declares and determines that the Projects constitute "public projects" within the meaning of Section 66.011(17) of the Act.

(G) That the Tax, to the extent required, shall, as received, be deposited in the Sinking Fund for the Bonds and applied solely to the payment of the principal and interest requirements of and administrative expenses for the Bonds.

Section 7. EXECUTION OF DOCUMENTS AUTHORIZED.

That in order to effect the financing plan evidenced by the Bonds the Mayor, City Clerk and City Treasurer are hereby authorized to execute those documents necessary to provide for the issuance of said Bonds and the payment thereof; provided, in each instance the particular document in question shall be subject to the review and approval of the City Attorney:

(A) the Bonds, the Official Statement (as described below), related bond sale documentation, and such bond closing documents as Bond Counsel may require, and

(B) such other documents as are required to implement the acquisition, construction and equipping of the Projects, and the issuance of the Bonds generally.

Section 8. RATIFICATION OF EMPLOYMENT OF FINANCIAL ADVISOR; ADVERTISED SALE OF BONDS; ACCEPTANCE OF BID.

(A) That the employment of Ross, Sinclair & Associates LLC., Louisville, Kentucky, as Financial Advisor to the City is hereby authorized, ratified and approved. The Financial Advisor shall prepare an "Official Statement" for distribution to prospective purchasers to the Bonds which shall contain all pertinent information concerning the City, the Projects and the Bonds.

(B) That said Bonds shall be sold at public sale after advertising according to law, and the City Clerk is hereby authorized and directed to make such advertising. The specific terms, bidding conditions and restrictions governing the sale of said Bonds shall be as set forth in the forms of "Notice of Bond Sale," "Official Terms and Conditions of Bond Sale" and "Official Bid Form" which shall be prepared by Wyatt, Tarrant & Combs, LLP, Bond Counsel, Louisville, Kentucky.

Upon the receipt of the sealed or electronic competitive bids after the required advertisement, the Mayor, with the recommendation of the Financial Advisor, shall calculate the best purchase offer and the exact principal amount of Bonds to be awarded, after calculating the Permitted Adjustment of up to 10% of the principal amount of such Bonds to be awarded, if any, and accept the offer to purchase said Bonds on behalf of the City.

Section 9. ESTABLISHMENT OF FUNDS.

That there are hereby authorized to be established the following funds or accounts which shall be maintained with the Depository:

(A) The Series 2011 Sinking Fund which shall receive the receipts of the Tax herein authorized, to the extent required for the Bonds. Said Sinking Fund monies shall be used only for the payment of the principal and interest requirements of the Bonds. Upon the delivery of the Bonds the accrued interest from the date of the Bonds to the date of their delivery shall be deposited in said Fund.

(B) The Bond Payment Fund which shall receive from the Series 2011 Sinking Fund on March 15 and September 15 of each year transfers of amounts sufficient to meet the accruing interest and maturing principal requirements of the Bonds on April 1 and October 1 of each year.

(C) The Project Fund which shall receive the proceeds of the Bonds remaining after the deduction of the Costs of Issuance and accrued interest and be applied to the acquisition, construction and equipping of the Projects (including reimbursement to the City for any funds advanced in anticipation of the issuance of the Bonds). Withdrawals may be made on order of the Mayor. Upon completion of the Projects any surplus remaining on deposit in the Project Fund shall be transferred to the Sinking Fund; provided, however, nothing contained herein shall be construed as limiting the use of said surplus for other public projects designated by the City.

(D) Costs of Issuance Fund which shall receive from the proceeds of the Bonds the amounts necessary to pay the Costs of Issuance of the of Bonds upon the delivery of said Bonds. The Depository shall remit the required payments in the amounts and to the parties specified in writing by the Mayor upon the delivery of the Bonds. Any amounts remaining in the Costs of Issuance Fund following the payment of all such Costs of Issuance shall be transferred to the Series 2011 Sinking Fund.

(E) Monies on deposit in the funds enumerated in subsections (A) through (D) of this Section shall be invested in the Investments permitted and any earnings carried to the credit of the fund from which the investment was made.

Section 10. REGISTRATION OF BONDS; DUTIES OF BOND REGISTRAR AND PAYING AGENT.

Monticello Banking Company, Somerset, Kentucky, is hereby designated as the Bond Registrar, Paying Agent and Depository for the Bonds. The Bond Registrar and Paying Agent shall receive compensation for its services in accordance with its agreement with the City.

(A) The duties of the Bond Registrar shall be as follows:

(i) To register all Bond Certificates in the name of the Registered Owner thereof in accordance with the provisions of the Code;

(ii) Upon being supplied with properly authenticated assignment satisfactory to said Bond Registrar (in the sole discretion of said Bond Registrar), to transfer the ownership of Bond Certificates from one Registered Owner to another

within three (3) business days of the receipt of proper authentication by said Bond Registrar;

(iii) To cancel and destroy (or remit to the City for destruction) all exchanged or matured Bond Certificates, and to maintain adequate records relative thereto;

(B) The duties of the Paying Agent and Depository shall be as follows:

(i) To maintain the various Funds established under this Ordinance and to invest the same in accordance with the provisions hereof;

(ii) To remit, but only to the extent that all required funds are made available to the Paying Agent by the City, semiannual interest payments direct to the Registered Owner of each Bond by regular United States Mail; said interest payments shall be deposited in the United States Mail no later than each interest due date. Matured or redeemed Bonds shall be payable upon presentation to the Paying Agent. For interest payment purposes, the Paying Agent shall be entitled to rely on its records as Bond Registrar as to the ownership of each Bond as of the 15th day of the month preceding an interest due date and the Paying Agent's checks shall be drawn and mailed accordingly;

(iii) To notify each Registered Owner to be prepaid and to redeem Bonds prior to their stated maturity upon their presentation in accordance with the provisions of this Ordinance upon being supplied with sufficient funds, and

(iv) To supply the City with a written accounting evidencing the payment of interest and principal within thirty days following each due date.

The Bond Registrar/Paying Agent shall be entitled to the advice of counsel and shall be protected for any acts taken by it in good faith and reliance upon such advice. The Bond Registrar/ Paying Agent shall not be liable for any action taken or omitted to be taken by it in good faith and believed by it to be within its discretion or the power conferred upon it by this Ordinance or any agreement with the City, or be responsible for the consequences of any oversight or error of judgment.

The Bond Registrar/Paying Agent may at any time resign from its duties set forth in this Ordinance or in any agreement with the City by filing its resignation with the City Clerk and notifying the Registered Owners of the Bonds herein authorized. Thereupon, the City, shall designate a successor Bond Registrar/Paying Agent which shall be an incorporated bank or trust company. Notwithstanding the foregoing in the event of the resignation of the Bond Registrar/Paying Agent, provisions shall be made for the orderly transition of the books, records and accounts relating to the Bonds to the successor Bond Registrar/Paying Agent in order that there will be no delinquencies in the payment of interest or principal due on the Bonds.

Section 11. TAX COVENANTS.

In this Section unless a different meaning clearly appears from the context:

Reference to a provision of the Internal Revenue Code of 1986, as amended, (the "Code") by number or letter includes reference to any law hereafter enacted as an amendment to or substitution for such provision. Words which are used herein and in the Code shall have the meaning given to such words in or pursuant to the Code.

The City shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the City on the Bonds shall, for the purposes of federal income taxation, be excludable from gross income of the Holders. The City shall not permit at any time or times any of the proceeds of the Bonds to be used to acquire or to replace funds which were used directly or indirectly to acquire any securities or obligations which are "higher yielding investments," the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148(a) of the Code.

In order to assure compliance with this Section, thereby better securing and protecting the Holders, the City from the date of adoption of this Ordinance covenants that it will not:

(a) make or cause to be made any investment of tax-exempt Bond proceeds that produces a yield in excess of such applicable maximum yield as may be permitted by the Code, and

(b) invest or cause the Treasurer to, and the Treasurer shall not, independent of any direction of the City, invest monies in any fund created by this Ordinance and allocable to Bonds, in investment obligations that produce a yield in excess of such applicable maximum yield as may be permitted by the Code.

The City further covenants that prior to the issuance of any of the Bonds, and as a condition precedent to such issuance, the City shall certify by issuance of a certificate by an authorized officer having responsibility for the receipt, disbursement, use and investment of the proceeds of such Bonds, that, on the basis of the facts, estimates and circumstances in existence on the date of issue of such Bonds it is not expected that the proceeds of such Bonds will be used in a manner that would cause such obligations to be arbitrage bonds.

The City further covenants that there shall be paid from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the Bonds, from time to time. This covenant shall survive payment in full or defeasance of the Bonds.

Notwithstanding any provision of this Section, if the City shall receive an opinion of nationally recognized bond counsel to the effect that any action required under this Section is no longer required, or to the effect that some other action is required, to maintain the exclusion from gross income of the interest on Bonds the City may rely conclusively on such opinion in complying with the provisions hereof.

The City further hereby covenants as follows, with respect to any Bonds that may be issued on a tax-exempt basis: [i] no portion of the payment of the principal of or interest on the Bonds is under the terms of such Bond issue, or under any underlying arrangement, directly or indirectly secured by an interest in property used or to be used for a private business use (or by an interest in payments in respect of such property), or to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use;

and [ii] none of the proceeds of the Bonds are to be used (directly or indirectly) to make or finance loans to persons other than governmental units, all within the meaning of section 141 of the Code, in any of such cases unless such use or other arrangement will not cause the interest on the Bonds, as applicable, to be included in gross income for Federal income tax purposes, if such Bonds have been issued on a tax-exempt basis.

That pursuant to the provisions of Section 265(b)(3) of the Code the City Council, by the adoption of this Ordinance, hereby designates the Bonds as "qualified tax-exempt obligations" within the meaning of the Code and certifies that it does not reasonably anticipate that the total principal amount of qualified tax-exempt obligations which will be issued by the City during the calendar year ending December 31, 2011 will exceed \$10,000,000.

Section 12. CONTRACTUAL NATURE OF RESOLUTION. This Ordinance shall constitute a contract between the City and all who may become the Registered Owners of the Bonds, and any bonds subsequently issued ranking on a parity therewith, and after the issuance and delivery of such Bonds, no change, variation or alteration of any kind in the provisions of this Ordinance shall be made in any manner except for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provisions contained herein.

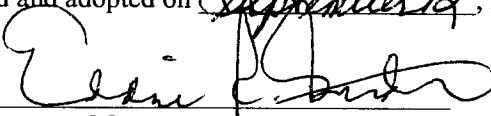
The Mayor and City Clerk are hereby authorized to execute a Continuing Disclosure Agreement with the Depository in order to comply with Rule 15c2-12 of the Securities and Exchange Commission in providing annual financial information in connection with the Bonds; all expenses in connection therewith to be borne by the City.

Section 13. SEVERABILITY. If any section, paragraph or clause hereof shall be held invalid, the invalidity of said section, paragraph or clause shall not affect any of the remaining provisions of this Ordinance.

Section 14. CONFLICTS REPEALED. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are hereby repealed and this Ordinance shall take effect and be in force upon its adoption.

Given first reading on August 22, 2011.

Given second reading and passed and adopted on September 12, 2011.



Mayor

Attest:



City Clerk

60057991.2

NOTICE OF ADOPTION
AND SUMMARY OF BOND ORDINANCE NO. 11-11

Notice is hereby given that an ordinance entitled and summarized as follows was adopted by the City Council of the City of Somerset, Kentucky, on September 12, 2011.

I. TITLE

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOMERSET, KENTUCKY, AUTHORIZING AND APPROVING THE ISSUANCE OF ITS GENERAL OBLIGATION BONDS, SERIES OF 2011 IN THE APPROXIMATE AMOUNT OF \$8,810,000 (WHICH AMOUNT MAY BE INCREASED OR DECREASED BY UP TO \$880,000) FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC PROJECTS AS DESCRIBED BELOW, FOR THE USE AND BENEFIT OF THE CITIZENS OF THE CITY; AUTHORIZING THE LEVY OF A DIRECT ANNUAL TAX ON ALL TAXABLE PROPERTY WITHIN THE CITY, IN ADDITION TO ALL OTHER TAXES, IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS WHEN AND AS THE SAME BECOME DUE; AUTHORIZING THE ESTABLISHMENT OF CERTAIN FUNDS TO PROVIDE FOR THE COLLECTION OF THE PROCEEDS OF THE TAX AND THE PAYMENT OF THE BONDS; AUTHORIZING THE PUBLICLY ADVERTISED, COMPETITIVE SALE OF SAID BONDS AND THE DISBURSEMENT OF THE PROCEEDS THEREOF; AUTHORIZING CERTAIN OTHER ACTIONS WITH REGARD TO THE FINANCING AND THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF THE PROJECTS GENERALLY; AND TAKING OTHER RELATED ACTION.

II. SUMMARY

The ordinance entitled as above:

A. authorizes the issuance by the City, pursuant to the General Provisions on Bonded Debt for Local Government, KRS 66.011 to 66.191 (the "Act"), from time to time and in one or more series, the City's general obligation bonds (the "Bonds") for any purpose or purposes authorized under the Act and to the payment of which the full faith and credit of the City are pledged.

B. provides that the City shall levy in each fiscal year ad valorem taxes without limit as to rate or amount and sufficient in amount, and shall appropriate therefrom in its budget for each fiscal year a sufficient amount, to pay the debt service due on all Bonds outstanding thereunder, to the extent other revenues of the City are not appropriated and used for such purpose.

C. authorizes the issuance by the City thereunder of its General Obligation Bonds, Series of 2011 for the purpose of implementing the acquisition and construction of certain public projects; consisting of (a) improvements to the City's water park, (b) miscellaneous gas and sewer improvements and extensions, including the gas line river crossing and West Somerset

sewer extension, (c) streetscape completion and (d) repairs to Grand Central Boulevard, all of which will be available to the general public.

D. authorizes the Mayor, the City Clerk, and other appropriate officers of the City to execute further instruments and take other actions necessary or desirable for the issuance of the Bonds and effectuating the ordinance.

A copy of the full text of the ordinance is available for public inspection in the office of the City Clerk, City Hall, 400 East Mount Vernon Street, Somerset, Kentucky.

/s/ Eddie R Girdler
Mayor
City of Somerset, Kentucky

/s/ David Godsey
City Clerk
City of Somerset, Kentucky

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