

ORDINANCE NO. 20-10

AN ORDINANCE OF THE CITY OF SOMERSET, KENTUCKY AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020 IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$8,960,000 FOR THE PURPOSE OF CURRENTLY REFUNDING ITS OUTSTANDING: (I) GENERAL OBLIGATION BONDS (ENERGY CENTER PROJECT) 2015A AND (II) GENERAL OBLIGATION BONDS (ENERGY CENTER PROJECT) 2015B, EACH OF WHICH IS HELD BY THE UNITED STATES DEPARTMENT OF AGRICULTURE, AND THE PROCEEDS OF WHICH WERE USED TO FINANCE CONSTRUCTION TO THE CITY'S ENERGY CENTER; APPROVING THE FORM OF BONDS; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE BONDS; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; APPROVING THE PREPARATION OF PRELIMINARY AND FINAL OFFICIAL STATEMENTS WITH RESPECT TO THE BONDS; PROVIDING FOR THE PAYMENT AND SECURITY OF THE BONDS; CREATING A BOND PAYMENT FUND; MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING THE ACCEPTANCE OF THE BID OF THE BOND PURCHASER FOR THE PURCHASE OF THE BONDS; AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the City of Somerset (the "City") has heretofore issued its: (i) General Obligation Bonds (Energy Center Project) 2015A, in the original principal amount of \$8,500,000 (the "Series 2015A Bonds") and (ii) has heretofore issued its: (i) General Obligation Bonds (Energy Center Project) 2015A, in the original principal amount of \$850,000 (the "Series 2015B Bonds," and together with the Series 2015A Bonds, the "Prior Obligations"), the proceeds of which were used to finance the acquisition, construction, and equipping of an energy center for the use of the City; and

WHEREAS, the City has determined that the present conditions of the municipal market are favorable and that it is therefore advantageous and in the best interests of the City for the City to proceed with the refunding of the Prior Obligations through the issuance of its City of Somerset, General Obligation Refunding Bonds, Series 2020, in the maximum aggregate principal amount of not to exceed \$8,960,000 (the "Bonds") to be sold and awarded to the successful bidder or bidders (the "Purchaser") at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes, as amended.

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

Section 1 -- Necessity, Authorization and Purpose. The City hereby declares that it is necessary to issue and authorizes the issuance of its General Obligation Refunding Bonds, Series 2020 in an maximum aggregate principal amount of \$8,960,000, subject to a permitted adjustment of the Bonds awarded increasing the principal amount by up to \$895,000 or decreasing the principal amount by any amount (the "Permitted Adjustment") for the purpose of (i) refunding the Prior Obligations, and (ii) paying the costs of issuing of the Bonds. The exact

principal amount of Bonds to be issued shall be established in the Award Certificate (as hereinafter defined).

An amount of not to exceed \$8,960,000 of Bonds shall be offered for sale in accordance with the provisions hereof, and the determination of the best bids for the Bonds shall be made on the basis of all bids submitted for the principal amount of Bonds so offered; provided however, the Permitted Adjustment is reserved in the City hereunder, with such decrease to be made in any principal maturity, so that the total principal amount of Bonds awarded to the best bidder may be a maximum of \$9,855,000 or such minimum as is determined in the Award Certificate. Upon any such Permitted Adjustment, no rebidding or recalculation of a submitted bid will be required or permitted; the price at which such adjusted principal amount of Bonds will be sold shall be determined as provided in the official terms and conditions of the bond sale.

Section 2 -- Form. The Bonds shall be issued as fully registered Bonds, shall be designated "General Obligation Refunding Bonds, Series 2020," or such other series designation indicating the year in which the Bonds are issued, and shall each express upon their face 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 attached hereto. The Bonds shall be in denominations as requested by the Purchaser, which shall be in integral multiples of five thousand dollars (\$5,000). The Bonds shall each be dated their date of initial issuance and delivery or such other date as is determined in a Award Certificate accepting the bid of the Purchaser (the "Award Certificate"). Interest on the Bonds shall be payable semiannually on the first day of the months (an "Interest Payment Date") set forth in the Award Certificate, commencing on the date set forth in the Award Certificate, at the stated interest rate or rates on the principal amount thereof, calculated on the basis of a 360-day year with thirty-day months. The Bonds shall be serial or term Bonds maturing, on the basis of substantially level debt service, payable in the years and in the amounts to be established in the Award Certificate after advertised competitive sale of the Bonds based on the interest rates set forth in the successful bid (the "Bid") and the provisions of this Section 2, provided that the final maturity date of the Bonds shall be as set forth in the Award Certificate but shall be no later than thirty years after their date of issuance. The interest rate or rates on the Bonds shall be determined in the Award Certificate based on the Bid; provided that the aggregate true interest cost of the Bonds shall not exceed six percent (6.0%).

The Bonds shall be subject to optional redemption prior to their maturity, on or after the date established in the Award Certificate, in whole or in part, in such order of maturity as shall be designated in writing by the City, and by lot within a maturity, at the election of the City upon forty-five days' written notice to the bank designated as the Paying Agent and Registrar for the Bonds in the Award Certificate (the "Paying Agent and Registrar"), at a redemption price equal to the par amount thereof, plus accrued interest to the date of redemption.

If the Purchaser of the Bonds elects, in accordance with the provisions of the Official Terms and Conditions of Bond Sale (the "Official Terms and Conditions of Bond Sale"), to combine the Bonds stated to mature on the maturity dates set out in the Bid of such Purchaser to comprise a term bond ("Term Bonds"), as set out in said successful Bid, then such Term Bonds shall be subject to mandatory redemption in part, at the selection of the Paying Agent and Registrar by lot in such manner as the Paying Agent and Registrar may determine, on each sinking fund payment date, at par plus accrued interest to the redemption date, according to the mandatory sinking fund redemption schedule or schedules set out in the Bid and in principal

amounts corresponding to the maturity schedule set out in the Official Terms and Conditions of Bond Sale (subject to the Permitted Adjustment as herein provided).

At least thirty days before the optional or mandatory sinking fund redemption date of any Bonds 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 Bonds 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 Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Bonds to be redeemed.

On the date so 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 Bond Payment Fund (as hereinafter defined) by the Paying Agent and Registrar for the registered owners of the Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

The Bonds may be issued in book-entry-only form through the services of the Depository Trust Company ("DTC"). If the City determines to issue the Bonds in book-entry-only form the Designated Officers (hereinafter defined) are authorized to execute all documents necessary to accomplish such form of issuance.

Section 3 -- Execution and Delivery. The Bonds 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") 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 Bonds to the Purchaser, upon the terms and conditions provided herein, in the Award Certificate and in the Bid, 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 Bonds.

The City authorizes and directs the Paying Agent and Registrar to authenticate the Bonds and to deliver the Bonds 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 Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day of the month preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. 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 Bonds 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 Bonds 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 without limitation the filing with the State Local Debt Officer required by law.

Section 6 -- Bond Payment Fund, Payment of Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the City to be known as "City of Somerset, Kentucky General Obligation Refunding Bonds, Series 2020 Bond Payment Fund" (the "Bond Payment Fund"), into which the City covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter identified), on or before the twentieth day of each month which precedes an Interest Payment Date on the Bonds, the amount required to pay principal of and interest due on the Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the City, withdraw from the Bond Payment Fund, on such Interest Payment Date of the Bonds, the amounts necessary to pay principal of, and interest on, the Bonds to the registered owner of the same.

The Paying Agent and Registrar is hereby appointed depository of the Bond Payment Fund with respect to the Bonds.

If the City shall fail or refuse to make any required deposit in the Bond Payment Fund 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 Bonds or its assignee, and shall disburse all funds so collected to the owners of the Bonds as payment of the Bonds.

Section 7 -- General Obligation. The Bonds shall be full general obligations of the City and, for the payment of said Bonds and the interest thereon, the full faith, credit, and taxing power of the City are hereby pledged for the prompt payment thereof. During the period the Bonds 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 Bonds 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 Bonds 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.

Section 8 -- Maintenance of Sinking Fund. There has heretofore been established a sinking fund with the City in accordance with the requirements of the Act (the "Sinking Fund"), which is hereby ordered to be continued and maintained so long as any Bonds are 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 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 Bond Payment Fund at the times and in the amounts required by Section 6 hereof.

Section 9 – Approval of Preliminary Official Statement and Official Statement; Sale of Bonds; Award Certificate. The City hereby authorizes the use of a Preliminary Official Statement, including the Official Bid Form and Official Terms and Conditions of Bond Sale to be prepared by the City and its Financial Advisor, ratifies the public distribution of such Preliminary Official Statement and authorizes the Financial Advisor for the City to complete the Preliminary Official Statement to reflect the interest costs to be borne by the Bonds and other relevant facts to serve as the City's Official Statement regarding the Bonds. The Mayor and any Authorized Officer are further authorized to declare the Official Statement to be "final" for purposes of Securities and Exchange Commission Rule 15c2-12.

The Designated Officers are hereby directed to sell the Bonds to the Purchaser at advertised competitive sale, the final principal amount of, the principal amortization of, and the interest rate or rates on the Bonds to be established in accordance with the requirements of Sections 1 and 2 hereof and the Award Certificate. The Mayor is hereby authorized to execute the Award Certificate without further action of the City Council setting forth the terms of the Bonds and any other provisions required by and not inconsistent with this Bond Ordinance.

Section 10 -- Registered Owner; Transfer; Exchange. As long as the Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the registration of such Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Bonds and shall be entitled to all rights and security of the owner of the Bonds hereunder.

Upon surrender for registration of transfer of the Bonds 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 Bonds of the same series of any authorized denomination and of a like tenor and effect.

All Bonds, 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 Bonds of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Bonds in accordance with the provisions of

this Section. Every such exchange or transfer of Bonds, 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 11 -- Disposition of Proceeds. The proceeds of the sale of the Bonds shall be deposited, together with other available funds of the City, as follows: (a) the amount necessary and sufficient to redeem and retire the Prior Obligations within ninety days of the date of issuance and delivery of the Bonds shall be paid to the holder of the Prior Obligations or deposited with the paying agent for the Prior Obligations and applied to the redemption and retirement of the Prior Obligations; (b) accrued interest, if any, shall be deposited to the Bond Payment Fund created in Section 6 hereof; and (c) an amount sufficient to pay the costs of issuing the Bonds shall be deposited to a special cost of issuance fund hereby directed to be established and designated as the "City of Somerset, Kentucky General Obligation Refunding Bonds, Series 2020 Cost of Issuance Fund" (the "Cost of Issuance Fund").

Section 12 -- Designation of Bonds. The Mayor is hereby authorized to determine whether to designate the Bonds as "qualified tax-exempt obligations" for the purposes set forth in § 265(b)(3) of the Internal Revenue Code of 1986, as amended, in the Award Certificate or a closing certificate or other written instrument delivered at closing in connection with the issuance of the Bonds.

Section 13 -- Discharge of Bond Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond 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 14 -- Further Actions. In connection with the undertaking and implementation by the City of the plan of refunding herein described, which is hereby expressly directed, the Designated Officers are hereby authorized and directed to take and carry out such further necessary, desirable, or appropriate actions to effect such plan of refunding.

Section 15 -- Incorporation of Preambles. The preambles of this Ordinance are hereby incorporated as an integral part of this Ordinance, to the same extent as if repeated herein verbatim, it being declared that the statements of fact set forth in such preambles are true and accurate in all respects.

Section 16 -- Severability. If any one or more of the provisions of this Bond 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 17 -- Inconsistent Actions. All prior ordinances, resolutions, orders, or parts thereof inconsistent herewith are hereby repealed.

Section 18 -- 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 Bonds 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 61.823.

Section 19 -- Effective Date. This Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

INTRODUCED AND PUBLICLY READ ON FIRST READING on the June 8, 2020.

PUBLICLY READ, ADOPTED AND APPROVED ON SECOND READING, this the June 22, 2020.

CITY OF SOMERSET, KENTUCKY

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 Somerset, 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 [22 day of June, 2020], 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 as City Clerk of said City as of the 22 day of June, 2020.



City Clerk

ANNEX A

COMMONWEALTH OF KENTUCKY
CITY OF SOMERSET, KENTUCKY
GENERAL OBLIGATION REFUNDING BOND, SERIES 2020

Number R-1 _____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____ %	_____	_____	_____

Registered Owner: Cede & Co.

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Somerset, Kentucky (the "City"), for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on said principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each _____ 1st and _____ 1st, commencing _____ 1, 20__, at the Interest Rate per annum identified above, calculated on the basis of a 360 day year with thirty day months, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal of and interest on this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the corporate trust office of _____ in _____, _____, or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed to the record date registered holder hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This Bond is one of an issue of Bonds of like tenor and effect, except as to denomination and maturity, numbered from R-1 upward, inclusive, of the denomination of \$5,000 or any integral multiple thereof originally aggregating _____ dollars (\$ _____) in principal amount, issued for the purposes of: (a) currently refunding the City's outstanding: (i) General Obligation Bonds (Energy Project Financing) Series 2015A (the "Series 2015A Bonds") and (ii) General Obligation Bonds (Energy Project Financing) Series 2015B (the "Series 2015B Bonds", and together with the Series 2015A Bonds, the "Prior Obligations"), the proceeds of which were used to finance upgrades and improvements to the City's Energy Center; and (b) paying the costs of issuance of the Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and particularly Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the City Council of the City on [June ___, 2020] (the "Bond Ordinance") upon the affirmative vote of at least a majority of the members of its City Council at a public meeting duly and regularly held, and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

owners of the Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

No recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, against any officer, agent or employee, past, present or future, of the City, as such, either directly or through the City, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents, or employees is hereby renounced, waived and released as a condition of and as consideration for the issuance, execution and acceptance of this Bond.

It is hereby certified that all acts, conditions and things required to be done, to occur or be performed precedent to and in the issuance of this Bond, or in the creation of the obligations of which this Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Bond as it falls due and to provide for the redemption of this Bond at maturity or upon earlier redemption.

IN WITNESS WHEREOF, the City has caused this Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its City Clerk, as of the date set forth above.

CITY OF SOMERSET, KENTUCKY

Mayor

Attest:

By: _____
City Clerk

CERTIFICATE OF AUTHENTICATION

This is to certify that this Bond is one of the Bonds described hereinabove.

Authorized Signature

Paying Agent and Registrar

Date of Authentication: _____

CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Attorneys, Covington, Kentucky, regarding the issue of which the within bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for said issue and a copy of which is on file with the undersigned.

City Clerk

