

ORDINANCE NO. 2000-08

AN ORDINANCE AUTHORIZING THE ISSUANCE OF VARIABLE RATE REVENUE BONDS SERIES 2000 (BLAKLEY FAMILY YOUNG MEN'S CHRISTIAN ASSOCIATION, INC. PROJECT) OF THE CITY OF SOMERSET, KENTUCKY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,615,000, THE PROCEEDS OF WHICH SHALL BE LOANED TO BLAKLEY FAMILY YOUNG MEN'S CHRISTIAN ASSOCIATION, INC. TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A BUILDING WHICH IS SUITABLE FOR USE IN MAKING RECREATIONAL AND CULTURAL BENEFITS AVAILABLE TO THE PUBLIC; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING A LOAN AGREEMENT AND TRUST INDENTURE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE SUCH BONDS; AUTHORIZING A BOND PURCHASE AGREEMENT, TAX REGULATORY AGREEMENT, AND OFFICIAL STATEMENT; AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.

WHEREAS, the City of Somerset, Kentucky (the "Issuer"), by virtue of the laws of the Commonwealth of Kentucky, including Sections 103.200 to 103.285 of the Kentucky Revised Statutes, as amended, is authorized and empowered among other things (a) to make a loan for financing or refinancing the costs of acquiring, constructing and equipping an "industrial building", as defined in Section 103.200 of the Kentucky Revised Statutes, within the boundaries of the Issuer (b) to issue and sell its revenue bonds to provide moneys for such loan and (c) to enact this Ordinance and execute and deliver the agreements and instruments hereinafter identified; and

WHEREAS, this City Council (the "Issuing Authority") has heretofore determined and does hereby confirm that the acquisition, construction and equipping of the Project, as hereinafter defined, is a Project designed to make recreational and cultural benefits available to the public which will promote the welfare of the people of the Commonwealth of Kentucky, promote reconversion to a peacetime economy, relieve conditions of unemployment, aid in the rehabilitation of returning veterans, encourage the increase of industry in the Commonwealth of Kentucky, promote the economic welfare of the people of the Issuer, create or preserve jobs and employment opportunities and assist in the development of industrial activities to the benefit of the people of the Issuer, and that the Issuer, by assisting with the financing of the Project through the issuance of revenue bonds in a principal amount not to exceed \$3,615,000 (the "Series 2000 Bonds") will be acting in the manner consistent with and in furtherance of the provisions of the laws of the Commonwealth of Kentucky, particularly Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act");

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

Section 1. Definitions. All defined terms used herein and those not otherwise defined herein shall have the respective meanings given to them in the Indenture of Trust with respect to the Series 2000 Bonds (the "Indenture") between the Issuer and Fifth Third Bank, Cincinnati, Ohio, an Ohio banking corporation and its successors in trust, as trustee (the "Trustee").

Any reference herein to the Issuer or the Issuing Authority, or to any officers or members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this Ordinance.

Section 2. Determination of Issuer. Pursuant to the Act, this Issuing Authority hereby finds and determines that the Project is an "industrial building" as defined in the Act and is consistent with the provisions of the Act; that such industrial building consists of an industrial building suitable for use to make recreational and cultural benefits available to the public, as set forth in Section 103.200(1)(e) of the Act; and that such industrial building is to be acquired and financed with the proceeds of the Series 2000 Bonds pursuant to the provisions of the Act.

The Issuer further determines and does hereby confirm that the Bonds are "qualified tax-exempt obligations" within the meaning of §265(b)(3) of the Code. In compliance with §265(b)(3)(D) of the Code, the Issuer hereby certifies that it will not designate more than \$10,000,000 of "qualified tax-exempt obligations" issued by the Issuer in calendar year 2000 as "such qualified tax-exempt obligations". The Issuer hereby further certifies that the Issuer (including all subordinate entities of the Issuer) does not reasonably anticipate issuing more than \$10,000,000 of "qualified tax-exempt obligations" during calendar year 2000.

The Issuing Authority, as the "applicable elected representative" of the Issuer for purposes of Section 147(f) of the Code, hereby approves the issuance of the Bonds in the maximum aggregate face amount not to exceed \$3,615,000, the proceeds of which will be loaned to Blakley Family Young Men's Christian Association, Inc., and used to finance a portion of the Project as follows:

The Project consists of the acquisition, construction and equipping of a building and related facilities to be used for cultural and recreational purposes, to be located at 100 East Somerset Church Road in Somerset, Kentucky.

Section 3. Authorization of Bonds. It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided herein and pursuant to the authority of the Act, the Series 2000 Bonds for the purposes of financing the acquisition, construction and equipping of an "industrial building" (the "Project") and to pay expenses related to such issuance, all in accordance with the provisions of the Indenture and the Loan Agreement dated as of April 1, 2000 (the "Agreement") between the Issuer and Blakley Family Young Men's Christian Association, Inc. (the "YMCA"). The Series 2000 Bonds shall be designated "Variable Rate Revenue Bonds (Blakley Family Young Men's Christian Association, Inc. Project), Series 2000." The maximum amount of Series 2000 Bonds to be outstanding at any one time is \$3,615,000.

Section 4. Terms and Execution of the Bonds. The Series 2000 Bonds shall be issued in the forms and denominations, shall be numbered, dated and payable as provided in the Indenture. The Series 2000 Bonds shall mature as provided in the Indenture, and have such terms, bear such

interest, and be subject to mandatory and optional redemption as provided in the Indenture. This Issuing Authority hereby fixes and establishes the interest rate on the Series 2000 Bonds in the manner and pursuant to the provisions of the Indenture. The Series 2000 Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and City Clerk. In case any officer whose signature or a facsimile thereof shall appear on the Series 2000 Bonds shall cease to be such officer before the issuance or delivery of the Series 2000 Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until after that time.

The form of the Series 2000 Bonds submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Indenture, in an aggregate principal amount not to exceed \$3,615,000, shall represent the approved form of Series 2000 Bonds of the Issuer.

Section 5. Sale of the Bonds. In accordance with a written request, addressed to the Mayor from the YMCA, the Bonds are hereby awarded to Wachovia Securities, Inc., as underwriter (the "Underwriter"), at the purchase price set forth, and on the terms and conditions described, in the Bond Purchase Agreement with respect to the Series 2000 Bonds (the "Bond Purchase Agreement") among the Issuer, the YMCA and the Underwriter. The Mayor and City Clerk are authorized and directed to make on behalf of the Issuer the necessary arrangements to establish the date, location, procedure and conditions for the delivery of the Series 2000 Bonds to the Underwriter, and to take all steps necessary to effect due execution and delivery to the Underwriter of the Series 2000 Bonds (or temporary bonds delivered in lieu of definitive Series 2000 Bonds until their preparation and delivery can be effectuated) under the terms of this Ordinance, the Bond Purchase Agreement and the Indenture. It is hereby determined that the price for and the terms of the Series 2000 Bonds, and the sale thereof, all as provided in the aforesaid documents, are in the best interests of the Issuer and consistent with all legal requirements.

Section 6. Arbitrage Provisions. The Issuer will restrict the use of the proceeds of the Series 2000 Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Series 2000 Bonds are delivered to the Underwriter, so that they will not constitute arbitrage bonds under Section 148 of the Code. The Mayor or any other officer having responsibility with respect to the issuance of the Series 2000 Bonds, is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Series 2000 Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and regulations thereunder.

Section 7. Authorization of Indenture, Loan Agreement, Bond Purchase Agreement, Tax Regulatory Agreement, Official Statement and All Other Documents to be Executed by the Issuer. In order to better secure the payment of the principal of, premium, if any, and interest on the Series 2000 Bonds as the same shall become due and payable, the Mayor and City Clerk are authorized and directed to execute, acknowledge and deliver in the name and on behalf of the Issuer, the Indenture, Loan Agreement, Tax Regulatory Agreement, Official Statement and Bond Purchase Agreement in substantially the forms submitted to the Issuer, which are hereby approved, with such changes therein not inconsistent with this Ordinance and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same on behalf of the

Issuer. The approval of such changes by said officers, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of such Indenture, Loan Agreement, Tax Regulatory Agreement, Official Statement and Bond Purchase Agreement by such officers.

The distribution of a Preliminary Official Statement relating to the Series 2000 Bonds is approved. The use and distribution of a final Official Statement relating to the original issuance of the Series 2000 Bonds, substantially in the form of the Preliminary Official Statement with changes therein to reflect the terms of the Series 2000 Bonds established by this Ordinance and the Indenture, and any amendments thereof or supplements thereto, is hereby authorized.

The Issuer has not confirmed, and assumes no responsibility for, the accuracy, sufficiency or fairness of any statements in the Preliminary Official Statement or the Official Statement or any amendments thereof or supplements thereto, or in any reports, financial information, offering or disclosure documents or other information relating to the Underwriter, the Project or the YMCA, or the history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the YMCA or contained otherwise in the Official Statement.

The Mayor and City Clerk are each hereby separately authorized to take any and all actions and to execute such financing statements, assignments, certificates and other instruments that may be necessary or appropriate in the opinion of Peck, Shaffer & Williams LLP, as Bond Counsel, in order to effect the issuance of the Series 2000 Bonds and the intent of this Ordinance. The City Clerk, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Series 2000 Bonds, along with such information from the records of the Issuer as is necessary to determine the regularity and validity of the issuance of the Series 2000 Bonds.

Section 8. Covenants of Issuer. In addition to other covenants of the Issuer in this Ordinance, the Issuer further covenants and agrees as follows:

(a) Payment of Principal, Premium and Interest. The Issuer will, solely from the sources herein or in the Indenture provided, pay or cause to be paid the principal of, premium, if any, and interest on each and all Series 2000 Bonds on the dates, at the places and in the manner provided herein, in the Indenture and in the Series 2000 Bonds.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Series 2000 Bonds, Indenture, Loan Agreement, Bond Purchase Agreement and Tax Regulatory Agreement, and in all proceedings of the Issuer pertaining to the Series 2000 Bonds. The Issuer warrants and covenants that it is, and upon delivery of the Series 2000 Bonds will be, duly authorized by the laws of the Commonwealth of Kentucky, including particularly and without limitation the Act, to issue the Series 2000 Bonds and to execute the Indenture, Loan Agreement, the Tax Regulatory Agreement and the Bond Purchase Agreement, and all other documents to be executed by it, to provide for the security for payment of the principal of, premium, if any, and interest on the Series 2000 Bonds in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Series 2000 Bonds and execution and delivery of the Indenture, Loan Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and all other documents to be executed by it in connection with the issuance of the Series 2000 Bonds, have been or will be duly and effectively taken; and that the Series 2000

Bonds will be valid and enforceable special obligations of the Issuer according to the terms thereof. Each provision of the Ordinance, the Indenture, Loan Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and each Series 2000 Bond, and all other documents to be executed by the Issuer in connection with the issuance of the Series 2000 Bonds, is binding upon each officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; and each duty of the Issuer and of its officers and employees undertaken pursuant to such proceedings for the Series 2000 Bonds is established as a duty of the Issuer and of each such officer and employee having authority to perform such duty.

Section 9. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance, or in any Series 2000 Bond, or in the Indenture, Loan Agreement, the Tax Regulatory Agreement or the Bond Purchase Agreement, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Series 2000 Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Series 2000 Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Series 2000 Bond, or otherwise, of any sum that may remain due and unpaid upon any Series 2000 Bond, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Indenture, Loan Agreement, the Tax Regulatory Agreement and the Bond Purchase Agreement and the issuance of the Series 2000 Bonds.

Section 10. No Debt or Tax Pledge. The Series 2000 Bonds do not constitute an indebtedness of the Issuer within the meaning of the Constitution or laws of the Commonwealth of Kentucky. The Series 2000 Bonds shall be payable solely from the revenues and security interests pledged for their payment as provided in the Indenture, and neither moneys raised by taxation nor any other general or special revenues of the Issuer shall be obligated or pledged for the payment of principal of, premium (if any) or interest on the Series 2000 Bonds.

Section 11. 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 12. Open Meetings Law. This Issuing Authority hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Issuing Authority, and that all deliberations of this Issuing Authority 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.

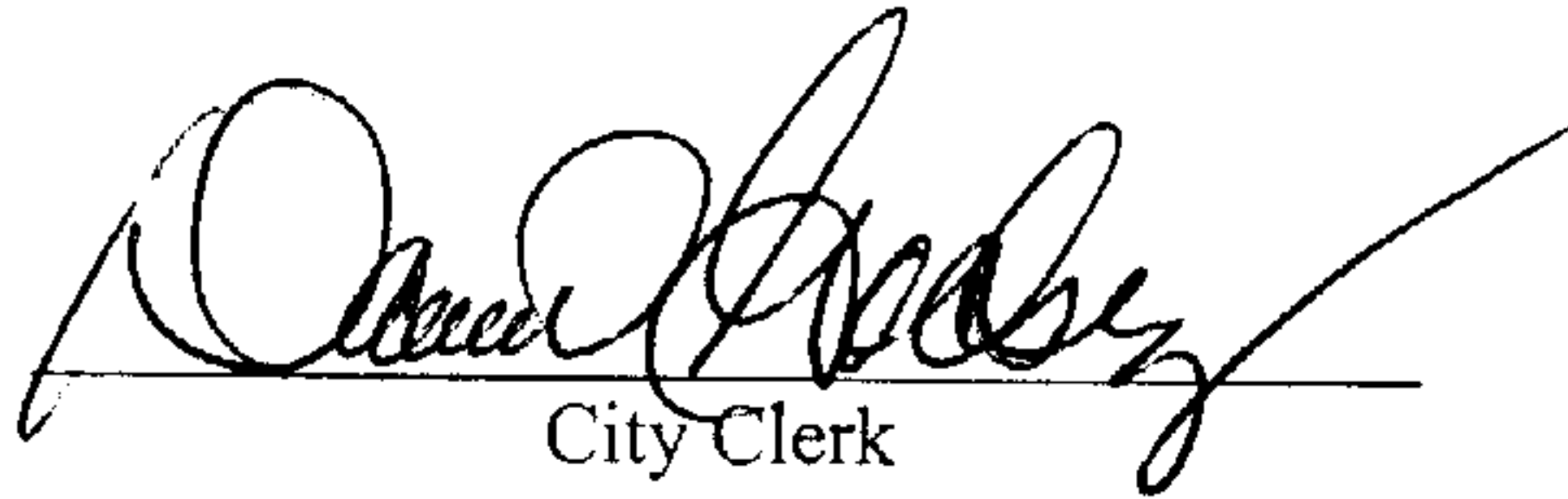
Section 13. Effective Date. This Ordinance shall be in full force and effect from and after its passage, attestation and publication of a summary hereof.

This Ordinance was introduced, seconded and given first reading approval at a duly convened meeting of the City Council of the City of Somerset, Kentucky, held on the 27th day of March, 2000, and given second reading approval and adopted at a duly convened meeting of the City Council held on the 10th day of April, 2000.



Mayor

Attest:

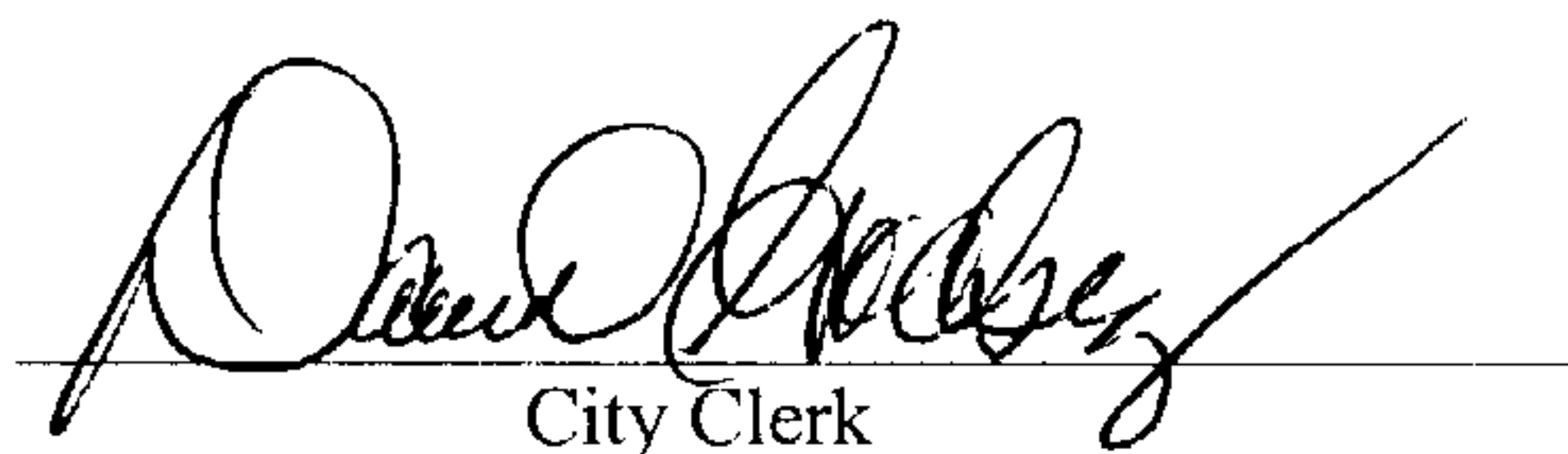


City Clerk

CERTIFICATION

The undersigned, City Clerk of the City of Somerset, Kentucky, does hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the City Council of the City of Somerset, Kentucky, at a duly convened meeting properly held on the 10th day of April, 2000, signed by the Mayor and now in full force and effect, as shown by the official records in my custody and under my control.

WITNESS my hand, this 13th day of April, 2000.


City Clerk