

CITY OF SOMERSET, KENTUCKY
ORDINANCE NO. 2019- 26

AN ORDINANCE APPROVING THE EXECUTION, AND DELIVERY OF A LEASE AGREEMENT IN A MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$7,000,000 FOR THE PURPOSE OF REFINANCING THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2011, THE PROCEEDS OF WHICH FINANCED THE COSTS OF THE CONSTRUCTION OF VARIOUS PUBLIC PROJECTS WITHIN THE CITY; APPROVING THE SOLICITATION OF BIDS FOR AND THE AWARD OF THE LEASE; PROVIDING FOR THE PAYMENT AND SECURITY OF THE LEASE AND DEPOSITS TO A SINKING FUND; AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO THE LEASE; AND MAKING CERTAIN DESIGNATIONS REGARDING THE LEASE.

WHEREAS, the City of Somerset, Kentucky (the "City") heretofore issued its General Obligation Bonds, Series 2011 (the "Prior Bonds") the proceeds of which were used to finance a portion of the costs of (i) improvements to the City's water park, (ii) miscellaneous gas and sewer improvements and extensions, (iii) streetscapes, and (iv) repairs to the City's Grand Central Boulevard, all for the use of the City (the "Prior Projects"); and

WHEREAS, the City has determined that the present conditions of the municipal market are more favorable than at the time the Prior Bonds were issued, and it is therefore advantageous and in the best interests of the City for the City to refinance the Prior Bonds with the proceeds of a Lease Agreement (the "Lease") entered into between the City and a financial institution to be selected by the City after soliciting proposals from eligible bidders (the "Lessor"), in a principal amount not to exceed \$7,000,000, pursuant to Section 65.940 et. seq. of the Kentucky Revised Statutes (the "Act"); and

WHEREAS, the City desires to solicit proposals for purchase of the Lease, in accordance with the Act and all legal requirements, and to authorize the Mayor to accept the proposal which offers the lowest financing cost for the Lease;

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

Section 1. Affirmation of Preambles. It is hereby found, determined, and declared that the facts, recitals, and definitions set forth in the Preamble of this Ordinance are true and correct and are hereby affirmed, and all acts described in the Preamble of this Ordinance are hereby ratified. Such facts, recitals, and definitions are hereby adopted and incorporated as a part of this Ordinance.

Section 2. Recitals and Authorization. The City, as lessee, hereby approves the Lease Agreement in substantially the form presented or described to the members of this City Council. It is hereby found and determined that the Prior Projects have been and continue to be public property used for public purposes. It is further determined that it is necessary and desirable and in the best interests of the City to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease and all representations, certifications, and other matters contained in the Closing Memorandum with respect to the Lease, or as may be required by

Dinsmore & Shohl, LLP as Bond Counsel, prior to delivery of the Lease, are hereby approved, ratified, and confirmed. The Mayor and Clerk of the City are hereby authorized to execute the Lease, together with such other agreements or certifications which may be necessary to accomplish the transactions contemplated by the Lease.

Section 3. General Obligation Pledge. Pursuant to the Constitution of the Commonwealth and KRS Chapters 65 and 66, the obligation of the City created by the Lease shall be a full general obligation of the City and, for the payment of the Lease Payments, the full faith, credit, and taxing power of the City are hereby pledged for the prompt payment thereof. During the period the Lease is 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 Lease Payments when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended, and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other taxes of the City are available for the payment of the Lease Payments and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other taxes so available and appropriated. Amounts shall be transferred from the Sinking Fund (as defined herein) to the Lessor at the times and in the amounts required by the Lease.

There is hereby established, or it is acknowledged that there has heretofore been established, a sinking fund (the "Sinking Fund") with the Lessee in accordance with the requirements of KRS Chapter 66, which is hereby ordered to be continued and maintained as long as the Lease shall remain outstanding. The funds derived from said tax levy hereby required or other available taxes shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of all bonds issued under KRS Chapter 66 and "tax supported leases," as defined in KRS Chapter 66, including the Lease, when and as the same fall due.

Section 4. Designation as Qualified Tax-Exempt Obligation. Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the "Code"), the City designated the Prior Bonds as "qualified tax-exempt obligations" for purposes of Code Section 265(b)(3). In compliance with Code Section 265(b)(3)(D), the City hereby represents that the City (including all "subordinate entities" of the City within the meaning of Code Section 265(b)(3)(E)) did not issue "qualified tax-exempt obligations" in an amount greater than \$10,000,000 in the calendar year that the Prior Bonds were issued. To the extent the City does not meet the "qualified tax-exempt obligation" for the purposes of Code Section 265(b)(3) as it pertains to the Prior Bonds, the City hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Code Section 265(b)(3) and the City hereby represents that the City (including all "subordinate entities" of the City within the meaning of Code Section 265(b)(3)(E)) reasonably anticipates that it will not designate in calendar year 2019, "qualified tax-exempt obligations" in an amount greater than \$10,000,000.

Section 5. Solicitation of Bids. The Lease shall be sold, as provided by law, to the bidder offering the best proposal, hereinafter known as "Purchaser," pursuant to a solicitation for

proposals and awarded by the Mayor of the City, based upon the lowest financing cost to the City. To the extent deemed necessary by the financial advisor of the City, the City hereby approves the preparation of any necessary documents related to the solicitation for the purchase of the Lease (collectively, the "Offering Documents") to be prepared by the City or its Bond Counsel or financial advisor in the usual and customary form, and approves the distribution of such Offering Documents to potential bidders.

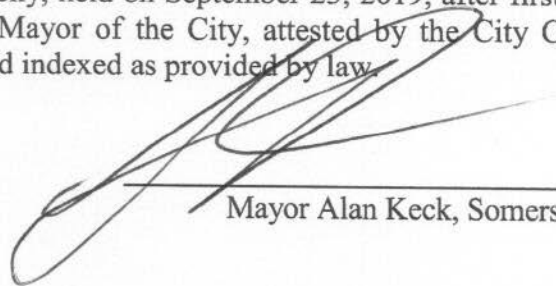
Section 6. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. Open Meetings Laws. This City Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Council and that all deliberations of this City Council 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 8. Conflicts. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

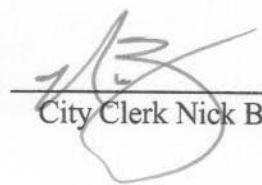
Section 9. Effective Date. This Ordinance shall take effect from and after its passage and publication of a summary thereof, as provided by law.

INTRODUCED, SECONDED AND ADOPTED, at a duly convened meeting of the City Council of the City of Somerset, Kentucky, held on September 23, 2019, after first reading held on September 9, 2019, signed by the Mayor of the City, attested by the City Clerk, ordered published in summary form and filed and indexed as provided by law.



Mayor Alan Keck, Somerset, KY

Attest:



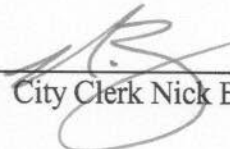
City Clerk Nick Bradley, Somerset, KY

CERTIFICATE

I, the undersigned Clerk of the City of Somerset, certify that the foregoing is a true copy of an Ordinance adopted by the City Council of the City of Somerset at a meeting of the City Council held on September 23, 2019.

I further certify that all actions taken in connection with the Ordinance were in compliance with the requirements of KRS 61.810, 61.815, 61.820 and 61.825, and that said Ordinance is now in full force and effect, all as appears from the official records of the City in my custody and under my control.

Witness my hand as Clerk of the City of Somerset this September 23, 2019.



City Clerk Nick Bradley, Somerset, KY

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