

**CITY OF BELLEVUE**

**ORDINANCE NO. 2010-10-01**

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF BELLEVUE, KENTUCKY (“CITY”), AUTHORIZING AND APPROVING THE ISSUANCE OF CITY OF BELLEVUE, KENTUCKY GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010, OR SUCH SERIES TO BE DETERMINED BY THE FINANCIAL ADVISOR (THE “BONDS”), IN A PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 OR, IN THE ALTERNATIVE, ENTERING INTO A GENERAL OBLIGATION LEASE IN A PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 (THE “LEASE”); 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 OR LEASE, AS APPLICABLE, WHEN AND AS THE SAME BECOME DUE; AUTHORIZING THE ESTABLISHMENT OF CERTAIN FUNDS TO PROVIDE FOR THE COLLECTION OF REVENUES, IF ANY, FROM THE FACILITY AND, TO THE EXTENT REQUIRED, THE PROCEEDS OF THE TAX; AUTHORIZING THE PUBLICLY ADVERTISED, COMPETITIVE SALE OF SAID BONDS OR THE ENTERING INTO OF A GENERAL OBLIGATION LEASE AND THE DISBURSEMENT OF THE PROCEEDS THEREOF; AUTHORIZING THE INVESTMENT OF FUNDS PURSUANT TO KRS § 66.480; PROVIDING FOR DELEGATION BY THE CITY COUNCIL OF AUTHORITY TO THE MAYOR OF THE CITY TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS OR LEASE, AS APPLICABLE; AND AUTHORIZING CERTAIN OTHER ACTIONS WITH REGARD TO THE ADVANCE REFUNDING OF THE CITY OF BELLEVUE, KENTUCKY GENERAL OBLIGATION PUBLIC PROJECT BONDS, SERIES 2002B, IN THE ORIGINAL PAR AMOUNT OF \$2,555,000 (“PRIOR BONDS”), GENERALLY, INCLUDING THE AUTHORIZATION OF AN ESCROW AGREEMENT, IF REQUIRED, CONTINUING DISCLOSURE AGREEMENT AND SUCH OTHER DOCUMENTS, AGREEMENTS AND CERTIFICATES NECESSARY OR REQUIRED FOR THE ISSUANCE OF THE BONDS OR THE ENTERING INTO OF THE LEASE, AS APPLICABLE; AND DESIGNATING THE BONDS OR LEASE AS “BANK QUALIFIED” OBLIGATIONS FOR FEDERAL INCOME TAX PURPOSES.**

WHEREAS, the City of Bellevue, Kentucky, acting by and through its City Council, (the “City”) desires to advance refund the City of Bellevue, Kentucky General Obligation Public Project Bonds, Series 2002B, in the original par amount of \$2,555,000 (the “Prior Bonds”); and

WHEREAS, the net proceeds from the Prior Bonds were used to (i) provide financing for retiring at maturity the City's outstanding General Obligation Public Project Bond Anticipation Notes (Port Bellevue Project), Series 2001 (the "Prior Notes"), originally issued to acquire real estate and to construct and install various improvements to and around such real estate including clearing, grading and retaining improvements, water system improvements, storm sewer system improvements, sanitary sewer system improvements, paving improvements and landscaping improvements, and (ii) pay certain costs related to the issuance of the Prior Bonds; and

WHEREAS, The American Recovery and Reinvestment Act of 2009 (the "ARRA"), Pub.L. 111-5, Feb. 17, 2009, 123 Stat. 115, amends the Internal Revenue Code of 1986 (the "Code") to provide for the issuance of various types of bonds and financing programs which may be applicable to instruments such as the Bonds or Lease and whereby additional financing programs may be added pursuant to federal legislation subsequent to ARRA (such programs provided for by ARRA and subsequent federal legislation are referred to herein collectively as the "ARRA Programs") and the City desires to take advantage of any ARRA Program which may be in its best interests with respect to the financing contemplated by this Ordinance; and

WHEREAS, in order to assure the payment of the Bonds or Lease, as applicable, it is necessary that the City authorize a levy of a tax sufficient for that purpose; provided, however, it is now anticipated that the Revenues of the City will be sufficient to provide, in full, for the payment of the Bonds or Lease, as applicable.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLEVUE, 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 hereat.

That this Ordinance shall constitute a contract between the City and the Registered and Beneficial Owners of the Bonds or the lessor of the Lease herein authorized and no change, alteration, or amendment in the provisions hereof shall be made subsequent to the delivery of said Bonds or Lease, as applicable.

For the purposes of this Ordinance and the Bonds or Lease, as applicable, the following terms shall have the meanings hereinafter set forth:

"Act" means Sections 66.011 through 66.191 of the Kentucky Revised Statutes if Bonds are issued and Sections 65.940 through 65.956 if a Lease financing arrangement is selected.

"Bonds" means the principal amount not to exceed \$3,000,000, as authorized by this Ordinance, of City of Bellevue, Kentucky General Obligation Refunding Bonds, Series 2010, or such series, and to be dated, as determined by the Financial Advisor, as authorized by KRS 66.011 through 66.191.

“Bond Counsel” means Steptoe & Johnson PLLC, Lexington, Kentucky.

“Bond Registrar” or “Registrar” means the Depository acting in its capacity as the registrar of the Bonds and Paying Agent for the Bonds or Lease, as applicable, and assuming the obligations of a registrar as set forth in this Ordinance.

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

“Costs” means all costs incident to the advance refunding and redemption of the Prior Bonds; including, but not being limited to, the expenses of financing the Costs of Issuance incident to the issuance of the Bonds or Lease, as applicable.

“Costs of Issuance” means those expenses incident to the issuance of the Bonds or the Lease, as applicable, including, but not being limited to, the fees of any rating agency, Financial Advisor, Bond and/or Tax Counsel, Title Attorneys, Bond Registrar and Paying Agent, publication cost, and any other cost associated with the issuance and delivery of the Bonds or the Lease, as applicable.

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

“Depository” means such bank as may be appointed by the Mayor, without further action of the City Council, who may also act as Bond Registrar and Paying Agent for the Bonds and depository for the various funds established by this Ordinance.

“Event of Default” shall mean the City’s (i) failure to comply with the provisions of the Act or this Ordinance; (ii) failure to pay the principal and interest on the Bonds or Lease Rental Payments on the Lease when due; (iii) failure to reimburse any Fund established hereby, in accordance with the reimbursement provisions hereof; or (iv) failure to comply with the Code.

“Facility” means the real estate acquired by the City and the improvements thereto, including water system improvements, storm system improvements, paving, and landscaping improvements, owned and maintained by the City as a public project.

“Facility Revenues” or “Revenues” means proceeds from operations of the Facility, if any.

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

“Investments” means those investments permitted under KRS § 66.480.

“Issuer” or “City” means the City of Bellevue, Kentucky.

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

“Lease” means any General Obligation Lease Agreement entered into by the City as lessee pursuant to the authority granted by this Ordinance, as authorized by KRS 65.940 through 65.956.

“Lease Rental Payments” means Base Rentals and Additional Rentals, as defined in the Lease, payable pursuant to the Lease.

“Paying Agent” means the Bond Registrar assuming the obligations of a paying agent as set forth in this Ordinance.

“Pledged Receipts” means the combination of the Tax and Facility Revenues adequate each year to pay the principal and interest requirements of the Bonds or the Lease, as applicable.

“Prior Bonds” means the City of Bellevue, Kentucky General Obligation Public Project Bonds, Series 2002B, in the original par amount of \$2,555,000

“Project” means (i) the advance refunding of the Prior Bonds,(ii) payment of accrued interest, if any, and (iii) paying Costs of Issuance.

“Registered Owners” or “Bondowner” or “Owner” means, when used with referenced to the Bonds, the registered owner of any Bonds and, when used with referenced to the Lease, the lessor of the Lease.

“State” means the Commonwealth of Kentucky.

“State Local Debt Officer” shall have the same meaning as set forth in KRS §65.940(16).

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

## **Section 2. Necessity for and Authorization of Bonds or Lease.**

That for the purposes set forth in the Preamble to this Ordinance, there is hereby declared a necessity for, and there is hereby authorized to be issued, an amount not to exceed \$3,000,000, as authorized by this Ordinance, principal amount of the City of Bellevue, Kentucky General Obligation Refunding Bonds, Series 2010, or such series, and to be dated, as determined by the Financial Advisor or the entering into a General Obligation Lease in a principal amount not to exceed \$3,000,000, as authorized by this Ordinance and shall be dated as determined by the Financial Advisor.

If the Mayor determines that issuing Bonds is in the City’s best interests, then the Bonds shall be dated as determined in the winning bid set forth in the Official Bid Form and selected by the

Mayor, without further action of the City Council and with the advise of the Financial Advisor pursuant to section 8 of this Ordinance, awarding Bonds to the purchaser thereof and establishing the interest rate or rates on the Bonds. Principal on the Bonds shall be payable at maturity. Interest on the Bonds shall be payable semiannually, at the stated interest rate or rates on the principal amount thereof. The Bonds shall be serial or term bonds maturing in the years and in the amounts to be established in the Official Bid Form accepted by the Mayor as the successful bid for the purchase of the Bonds, after advertised competitive sale of the Bonds, based on the interest rates bid in the successful bid and the provisions of this Ordinance and specifically this Section 2, provided that the final maturity date of the Bonds shall be set forth in the Official Bid Form accepted by the Mayor as the successful bid for the purchase of the Bonds; and, further provided that the aggregate net interest cost of the Bonds shall not exceed nine percent (9%) per annum. After the sale of the Bonds, the Mayor shall submit a written report to the City setting forth the results of the sale of the Bonds.

If the Mayor determines that entering into a Lease is in the City's best interests, then the Lease shall be dated as determined by the Mayor, without further action of the City Council and with the advice of the Financial Advisor pursuant to section 8 of this Ordinance, shall be with such lessor as shall be selected by the Mayor, such lessor may include a local government financing pool or other local government finance program, and provide for an interest rate or rates with respect to the Lease and the Mayor is authorized to enter into any other agreements relating to such local government financing pool or other local government finance program as are necessary and appropriate with the advice of Bond Counsel and the Financial Advisor. Principal payments with respect to the Lease shall be payable on such dates as shall be determined by the Mayor with the advice of the Financial Advisor. The interest component of the Lease shall be payable on such dates as may be determined by the Mayor with the advice of the Financial Advisor. The principal payments under the Lease shall be payable on such dates as may be determined by the Mayor with the advice of the Financial Advisor. Provided that, notwithstanding the foregoing, the final maturity date of the Lease shall be no longer than 40 years from the date of the Lease and, further provided that the aggregate net interest cost of the Lease shall not exceed nine percent (9%) per annum.

**Section 3. Form and Execution of Bonds; Authentication; Optional and Mandatory Redemption.**

(A) The Bonds shall be issued in book-entry only form, unless the successful bidder elects to issue standard bond certificates, and shall be substantially in the same form as that attached to this Ordinance as Exhibit "A" (except as amounts and dates may be changed therein), the redemption provisions of which are incorporated herein by reference thereto.

The Bonds shall be executed with the facsimile signature of the Mayor, attested by the facsimile signature of the City Council Clerk and may be imprinted with a facsimile of the corporate seal of the City.

The Bonds shall be payable at the principal office of such bank as may be appointed by the Mayor, without further action by the City Council. No Bond shall be valid or binding upon the City unless and until it is authenticated by the manual signature of a duly authorized representative of the Registrar and Paying Agent.

(B) Mandatory Redemption/Term Bonds. 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. Any Mandatory Sinking Fund Redemption provisions shall be set forth in the final Bond certificate and/or the Final Official Statement or similar disclosure document or memorandum, which provisions are incorporated herein, without further action of the City Council.

(C) Optional Redemption. Any Optional Redemption provisions shall be set forth in the final Bond certificate and/or the Final Official Statement or similar disclosure document or memorandum, which provisions are incorporated herein, without further action of the City Council.

(D) Notice of Redemption. If less than all Bonds which are payable by their terms on the same date are to be called, the particular Bonds, or portions of Bonds payable on such same date and to be redeemed from such series, shall be selected by lot by the Registrar and Paying Agent, in such manner as the Registrar and Paying Agent in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof, and that, in selecting Bonds for redemption, the Registrar and Paying Agent shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000.

At least thirty (30) days before the Redemption Date of any Bonds, the Registrar and Paying Agent shall cause a notice of such redemption to be mailed, postage prepaid, to all Registered Owners of the Bonds to be redeemed at their addresses as they appear on the registration books kept by the Registrar and Paying Agent, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption. 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 numbers or letters, if any, of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. In case any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall state also that on or after the Redemption Date upon surrender of such Bonds, a new Bond in principal amount equal to the unredeemed portion of such Bonds will be issued.

On the date so designated for redemption, notice having been sent in the manner and under the conditions hereinabove provided and moneys for payment of the redemption price being held in separate accounts by the Bond Registrar/Paying Agent for the Bondowners or portions thereof to be redeemed, the Bonds or portions of Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds or portions of Bonds on such date, interest on the Bonds or portions of the Bonds so called for redemption shall cease to accrue, and the Bondowners or Registered Owners of such Bonds or portions of Bonds shall have no rights

in respect thereof except to receive payment of the redemption price thereof and to receive Bonds for any unredeemed portions of Bonds.

In case part but not all of an outstanding Bond shall be selected for redemption, the Registered Owner thereof or his attorney or legal representative shall present and surrender such Bond to the Bond Registrar/Paying Agent for payment of the principal amount hereof so called for redemption, and the City shall execute and the Bond Registrar/Paying Agent shall authenticate and deliver to or upon the order of such Registered Owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered a Bond of the same series and maturity and bearing interest at the same rate.

**Section 4. Form of Lease.**

The Lease shall be in such form and shall contain such payment terms as shall be determined by the Mayor with the advice of the Financial Advisor and Bond Counsel.

**Section 5. Compliance with Constitution; Designation and Certification of Public Project; Authorization of Tax; Pledge of Tax, Facility Revenues and Pledged Receipts to Payment of Bonds or Lease, as Applicable; Designation as General Obligation Refunding Bonds.**

(A) That the debt represented by the Bonds or Lease, as applicable, 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 or Lease, as applicable, 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 or Lease, as applicable, 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 KRS § 66.111, there is hereby authorized to be levied, and the City hereby covenants to so levy and collect, each year that the Bonds or Lease, as applicable, remain outstanding, a Tax in an amount sufficient to provide for the full payment of the principal and interest requirements on said Bonds or Lease, as applicable; provided, however, that said Tax shall be levied only to the extent that the Facility Revenues or other receipts from taxes or other sources are not sufficient to provide for the full payment of the accruing interest and maturing principal on the Bonds or Lease, as applicable, each year.

(D) That by the adoption of this Ordinance, the City covenants with Owners of the Bonds or the lessor of the Lease, as applicable, that it shall levy each year a Tax in a sufficient amount and appropriate in its annual budget, together with other moneys available to it, including the Facility Revenues, an amount of funds sufficient to pay the “debt charges” on the Bonds or Lease, as applicable, as defined in KRS § 66.011(4).

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

Notwithstanding the foregoing, the Tax shall only be levied, collected and applied to the payment of said “debt charges” on the Bonds or Lease, as applicable, to the extent the Facility Revenues are not sufficient to meet such “debt charges.”

(F) That there is hereby pledged to the payment of the Bonds or Lease, as applicable, the Tax, to the extent required each year, and the Facility Revenues, which together, shall constitute the “Pledged Receipts” securing said Bonds or Lease, as applicable, in accordance with the terms of this Ordinance.

(G) That the City hereby declares, determines and certifies that the Facility constitutes a “public project” within the meaning of KRS § 66.011(17).

(H) The City covenants to levy, collect and segregate the Tax to the extent the Facility Revenues, if any, or the general revenues of the City, are inadequate to meet the current annual debt service requirements of the Bonds or Lease, as applicable, and hereby designates the Bonds or Lease, as applicable, as full general obligations of the City to the payment of which the full faith, credit, revenue and taxing authority of the City are hereby pledged for the prompt payment thereof.

(I) That the Tax, to the extent required, and the Facility Revenues, shall, as received, be deposited in the appropriate Sinking Fund for the Bonds or Lease, as applicable, and applied solely to the payment of the principal and interest requirements of and administrative expenses for the Bonds or Lease, as applicable.

**Section 6. Delegation of Authority to Determine Certain Matters Relating to the Bonds or the Lease, as applicable.** The City hereby delegates to the Mayor the authority, upon the advice of Bond Counsel and Financial Advisor, to determine if Bonds shall be issued pursuant to the authority of KRS 66.011 through 66.191, or a Lease shall be issued and entered into pursuant to KRS 65.940 through 65.956. Additionally, the City hereby delegates to the Mayor the authority, upon the advice of the Bond Counsel and Financial Advisor, to determine whether the Bonds or Lease, as applicable, should be issued as traditional tax-exempt obligations, as obligations issued under an ARRA Program, or a combination thereof. Finally, the City hereby delegates to the Mayor the authority, upon the advice of the Bond Counsel and Financial Advisor, to determine whether the Bonds or Lease, as applicable, shall be issued to or as part of a local government financing pool or other local government finance program and whether the City shall take any other actions as are necessary and appropriate to participate in such a local government financing pool or other local government finance program.

In addition to the authority authorized in preceding paragraph, if Bonds or Lease are issued under an ARRA Program that provides for the option of a tax credit or a direct payment to the issuer, the Mayor is further authorized to: (a) determine whether the tax credit shall be provided as a credit

to the bondholders or lessor, as applicable, or as a direct payment to the City; (b) make such elections as are provided for under the Code so that the Bonds or Lease, as applicable, may be issued pursuant to such ARRA Program; (c) authorize payment of a supplemental coupon on the Bonds or an additional interest amount on the Lease, if necessary; (d) designate the Bonds or Lease, as applicable, with respect to any ARRA Program; and (e) take any other actions, including executing any necessary certificates, necessary or appropriate to comply with or take full advantage of any ARRA Program.

Bonds shall be sold in compliance with KRS 66.141.

If a Lease is issued or entered into, at the election of the Mayor, such Lease may be sold pursuant to a private negotiated sale under the authority of KRS 65.942(3). The Mayor is hereby delegated the authority to: (a) select one or more underwriters, upon advice of the City's Bond Counsel and Financial Advisor; (b) approve the appropriate forms of the Preliminary Official Statement and Official Statement to be used to market the obligations being sold; (c) approve the terms of and execute a Bond Purchase Agreement; (d) accept the terms and conditions of the sale of the obligations being sold which are in the best interest of the City and (e) determine whether credit enhancement for the Bonds or Lease is in the best interests of the City and if so determined to use proceeds of the Bonds or Lease to obtain such credit enhancement.

The City hereby authorizes the Mayor or his lawfully authorized designee, if necessary, to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds or obligations representing undivided interests in the Lease. The City authorizes the Mayor or his lawfully authorized designee to designate the Preliminary Official Statement as "final" for purposes of Rule 15c2-12 of the Securities Exchange Commission. The Mayor or his lawfully authorized designee is further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds or obligations representing undivided interests in the Lease so that it may be provided to the purchaser of the Bonds or obligations representing undivided interests in the Lease.

**Section 7. Execution of Documents Authorized; Notice to State Local Debt Officer.**

That in order to effect the financing plan evidenced by the Bonds or Lease, as applicable, the Mayor, City Council Clerk, City Treasurer and/or such other City official as may be designated by the City, are hereby authorized to execute those documents necessary to provide for the issuance of said Bonds or Lease, as applicable, and the payment thereof, including but not limited to the following:

- (i) the Bonds or Lease, as applicable, and such closing documents and/or certificates as Bond Counsel may require, and
- (ii) such other documents as are required to implement the refunding and redemption of the Prior Bonds and the issuance of the Bonds generally, including an Escrow Agreement, if required, Continuing Disclosure Agreement, Tax Certificates and any

other certificates or documents required by Bond Counsel to sell and issue the Bonds or to enter into the Lease, as applicable.

A Lease shall be issued and entered into following notification to the State Local Debt Officer as required by KRS 65.944(1)(a).

**Section 8. Employment of Financial Advisor and Bond Counsel; Advertised Sale of Bonds; Acceptance of Bid.**

The employment of Ross, Sinclair & Associates, LLC, Lexington, Kentucky, as Financial Advisor is hereby authorized, approved and directed; and, the employment of Steptoe & Johnson PLLC, Lexington, Kentucky, as Bond Counsel is hereby authorized, approved and directed.

If the Bonds are authorized, such Bonds shall be sold at public sale after advertising according to law, and the Mayor 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 the Financial Advisor.

Upon the receipt of the sealed, competitive bids after the required advertisement, the Mayor, in conjunction with the Financial Advisor, shall calculate the best purchase offer and the exact principal amount of Bonds to be awarded, and accept the offers to purchase said Bonds on behalf of the City without further action by the City Council.

If a Lease is issued or entered into, such Lease may be sold pursuant to a private negotiated sale under authority of KRS 65.942(3) pursuant to the authority granted in Section 6 of this Ordinance without further action of the City Council.

**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 Sinking Fund (or Bond Fund), which shall receive the receipts of the Tax herein authorized, to the extent required for the Bonds or Lease, as applicable, the Facility Revenues of or from the Facility and any amount remaining in any Escrow Fund after the Prior Bonds have been finally discharged and all fees and expenses in connection therewith have been paid. Said Sinking Fund moneys shall be used only for the payment of the principal and interest requirements of the Bonds or Lease, as applicable. Upon the delivery of the Bonds or Lease, as applicable, the accrued and capitalized interest shall be deposited into said fund.

(B) Costs of Issuance Fund, which shall receive from the proceeds of the Bonds or Lease, as applicable, the amounts necessary to pay the Costs of Issuance of the Bonds or Lease, as applicable, upon the delivery of said Bonds or Lease, as applicable. The Depository shall remit the

required payments in the amounts and to the parties specified in writing by the Mayor or City Treasurer, or such other City official as may be designated by the City, upon the delivery of the Bonds or Lease, as applicable. Any amounts remaining in the Costs of Issuance Fund following the payment of all such Costs of Issuance shall be transferred to the Sinking Fund.

(C) Any other fund, including a debt service reserve fund, required by law, or deemed necessary and appropriate by the Financial Advisor.

(D) Moneys on deposit in the funds enumerated in subsections (A) through (C) 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.**

Such bank as may be appointed by the Mayor, without further action by the City Council, is hereby designated as the Bond Registrar, Paying Agent and Depository for the Bonds or Lease, as applicable. The Bond Registrar, Paying Agent and Depository shall receive compensation for its services in accordance with its agreement with the City. Should the Bonds or Lease be part of a local government financing pool or other local government finance program, then the Trustee of that program shall act as Bond Registrar, Paying Agent and Depository.

(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 or to register the lessor of the Lease, if applicable;
- (ii) Upon being supplied with a properly authenticated assignment satisfactory to said Bond Registrar (in the sole discretion of said Bond Registrar), to transfer the ownership of Bond certificates or the Lease from one Registered Owner to another within three (3) business days of the receipt of proper authentication by said Bond Registrar; and
- (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 of Bond certificates 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 its attorney 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 Mayor 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.

The Bond Registrar/Paying Agent may be removed by the City if at any time so requested by an instrument or concurrent instruments in writing, filed with the Bond Registrar/Paying Agent and signed by the Registered Owners of a majority in principal amount of the Bonds then outstanding or their attorneys-in-fact duly authorized.

### **Section 11. Tax Covenants.**

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 or with respect to the Lease, as applicable, shall be excludable from the gross income of the recipients thereof for Federal income tax purposes under any valid provision of the Code.

The City shall not permit at any time or times any of the proceeds of the Bonds or Lease, as applicable, to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause such Bonds or Lease, as applicable, to be “arbitrage bonds” as defined in Section 148 of the Code, as then in effect.

The City further covenants that prior to the issuance of said Bonds or Lease, as applicable, and as a condition precedent to such issuance, the City shall certify by issuance of a certificate of the Mayor, or City Treasurer, or such other City official as may be designated by the City, supplemental to this Ordinance, that on the basis of the facts, estimates and circumstances in existence on the date of issue of said Bonds or Lease, as applicable, it is not expected that the proceeds of said Bonds or Lease, as applicable, will be used in a manner which would cause such obligations to be “arbitrage bonds” under the Code.

**Section 12. Contractual Nature of Ordinance.** This Ordinance shall constitute a contract between the City and all who may become the Registered Owners of the Bonds or the lessor of the Lease, and any general obligation bonds or general obligation leases subsequently issued ranking on a parity therewith, and after the issuance and delivery of such Bonds or Lease, as applicable, 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 Council 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 or Lease, as applicable,; all expenses in connection therewith to be borne by the City.

**Section 13. Bank Qualified.** The City, by the adoption of this Ordinance, reasonably anticipates that the total principal amount of qualified tax-exempt obligations which it will issue during the calendar year ending December 31, 2010, will not exceed \$30,000,000 and therefore designates the Bonds or Lease, as applicable, as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code.

**Section 14. 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 15. Conflicts Repealed; Effective Date of Ordinance.** All ordinances, resolutions 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. This Ordinance shall take effect from and after its passage, approval and the publication of a summary thereof.

*[Signatures and certification for Ordinance on the following pages S-1]*

Given first reading on October 13, 2010

Given second reading and passed and adopted on November 10, 2010

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Council Clerk

**CERTIFICATION**

I, the undersigned, do hereby certify that I am the duly qualified and acting City Council Clerk of the City of Bellevue, Kentucky; that the foregoing is a true and complete copy of a certain Ordinance duly adopted by the City Council of City of Bellevue, Kentucky, at a duly convened public meeting properly held on November 10, 2010; that said Ordinance appears as a matter of public record in the official records of the City Council; that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.805 to 61.850; that a quorum was present at said meeting; that said Ordinance has not been amended, modified, revoked or repealed; and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this \_\_\_\_\_, 2010.

\_\_\_\_\_  
City Council Clerk

**EXHIBIT "A"**

**[Form of Bond]**