

ORDINANCE NO. 2022

AN ORDINANCE OF THE CITY OF DANVILLE, KENTUCKY AUTHORIZING THE SALE AND ISSUANCE OF ITS GENERAL OBLIGATION PUBLIC PROJECT BOND ANTICIPATION NOTE, SERIES 2023, TO PROVIDE INTERIM FINANCING FOR PUBLIC PROJECTS OF THE CITY; AUTHORIZING DESIGNATED OFFICERS OF THE CITY TO PROVIDE FOR THE SALE AND ISSUANCE OF THE NOTE; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTE; AND AUTHORIZING OTHER ACTIONS WITH RESPECT TO THE NOTE AND THE PUBLIC PROJECTS

Recitals

A. Sections 66.011 to 66.191 of the Kentucky Revised Statutes (the "Act") provide that a city may issue its notes or bonds to pay all or any portion of the costs of financing any public project, as defined in the Act, which the city is authorized to acquire, improve, or construct. Terms used and not defined herein are used as defined in the Act.

B. The City of Danville, Kentucky (the "City") has determined that it is necessary and desirable for the City to issue its General Obligation Public Project Bond Anticipation Note, Series 2023 (the "Series 2023 Note" or the "Note") to provide interim financing, pending the issuance of bonds under the Act to provide permanent financing, for one or more public projects of the City, including without limitation the water and sewer utility improvements described in Exhibit A attached hereto (collectively, the "Series 2023 Project").

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

Section 1. Necessity and Purpose. The City hereby declares that it is necessary and desirable to authorize the issuance of the Series 2023 Note under the Act for the purpose of providing interim financing, pending the issuance of bonds under the Act to provide permanent financing, for the Series 2023 Project.

Section 2. Terms of the Series 2023 Note.

A. The Note shall (i) be designated "General Obligation Public Project Bond Anticipation Note, Series 2023", (ii) be numbered sequentially for identification purposes, (iii) be dated the date of its original issuance, (iv) be issued as a single, fully registered promissory note, (v) be registered in the name of the registered owner thereof, (vi) be in denomination equal to the outstanding principal amount thereof, (vii) state that it is issued under the Act, and (viii) state the purpose for which it is issued.

B. The Note shall be issued in such aggregate principal amount, not in excess of \$6,500,000, as determined by the City Manager and the Finance Director of the City (each an "Authorized Officer" and collectively the "Authorized Officers") upon the issuance of the Note.

C. The principal amount of the Note shall include the amount of capitalized interest, if any, determined by the Authorized Officers upon the issuance of the Note.

D. The Note shall mature on a date (the "Maturity Date") not more than three years from the date of issuance of the Note, as determined by the Authorized Officers upon the issuance of the Note.

E. The Note shall bear interest at such single fixed rate of interest, payable on such date or dates prior to maturity (each an "Interest Payment Date"), or only on the Maturity Date, as shall be determined by the Authorized Officers upon the issuance of the Note. Interest shall be computed on the basis of a 360-day year of twelve 30-day months (and, if applicable, rounded pursuant to the rules of the Municipal Securities Rulemaking Board (the "MSRB")).

F. No CUSIP number shall be applied for or assigned to the Note.

G. The Note shall be substantially in the form set forth in Exhibit B, with such changes in or additions to such form as shall be determined by the Authorized Officers upon the issuance of the Note.

Section 3. General Obligation. The Series 2023 Note shall be a general obligation of the City. The full faith, credit, and taxing power of the City are hereby pledged to the payment of the principal of and interest on the Note when and as due. While the Note is outstanding, there shall be and there is hereby levied on all 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 Note when and as due, it being hereby found and determined that the current tax rates of the City are within all applicable limitations. Said tax shall be and is hereby ordered to be 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 the general purposes of the City for each year while the Note is outstanding 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 such year to the extent that other lawfully available funds of the City are available for the payment of the Note and are appropriated for such purpose, the amount of such direct tax upon all taxable property in the City shall be reduced by the amount of such other funds so available and appropriated.

Section 4. Qualified Tax-Exempt Obligation. The City hereby designates the Series 2023 Note as a "qualified tax-exempt obligation" within the meaning of section 265(b)(3)(B) of the Internal Revenue Code. The City has not issued to date during calendar year 2023, and does not anticipate issuing, more than \$10,000,000 of "qualified tax-exempt obligations" during calendar year 2023.

Section 5. Sale of Series 2023 Note. The Note shall be sold by advertised competitive bid to a financial institution that, within the meaning of Rule 15c2-12 of the U.S. Securities and Exchange Commission (the "SEC"), (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Note and (ii) is not purchasing the Note for more than one account or with a view to distributing the Note. Pursuant to KRS 66.141 and KRS 424.130(b) and KRS 424.460,

the Mayor shall advertise the sale of the Note by means of a Notice of Note Sale substantially in the form of Exhibit C, with such changes in or additions to such form as shall be determined by the Authorized Officers.

Section 6. Issuance of Series 2023 Note. The Note shall be executed on behalf of the City by the Mayor, attested by the City Clerk, and the seal of the City shall be printed or impressed thereon. Upon the City Clerk's certification of the Proceedings and payment of the purchase price for the Note, the Note and the certified Proceedings shall be delivered to the Purchaser.

Section 7. Disposition of Proceeds. The proceeds of the sale of the Series 2023 Note shall be deposited as follows: (a) capitalized interest, if any, shall be deposited in the Note Payment Fund hereinafter established; (b) if so determined by the Authorized Officers, an amount sufficient to pay the Financing Costs (as defined in the Act) shall be deposited in a special fund to be established and designated as the "City of Danville, Kentucky General Obligation Public Project Note, Series 2023 Cost of Issuance Fund" (the "Cost of Issuance Fund"), to be held by the Paying Agent, and used to pay or reimburse Financing Costs; (c) the remainder of the proceeds of the Note shall be deposited in a special fund hereby established (the "Series 2023 Construction Fund"), to be held by the Paying Agent or by some other fiduciary as determined by the Authorized Officers, and disbursed to pay or reimburse costs of the acquisition, construction, installation, and equipping of the Series 2023 Project.

Section 8. Reimbursement of Project Expenditures. Pursuant to section 1.150-2 of the Federal Income Tax Regulations, the City hereby declares its intent to reimburse its Utility Fund from proceeds of the Series 2023 Note, if so determined by the Authorized Officers, for capital expenditures paid or incurred prior to the issuance of the Note for water or sewer utility improvements included in the Series 2023 Project.

Section 9. Note Payment Fund; Payment of Note. There is hereby established with the Paying Agent a fund to be known as the "General Obligation Public Project Series 2023 Note Payment Fund" (the "Note Payment Fund"), into which the City covenants to deposit, and into which the Authorized Officers are hereby authorized and directed to deposit, from the Sinking Fund (hereinafter identified), (i) not later than each Interest Payment Date, if any, prior to the Maturity Date, the amount required to pay the interest due on the Note on such Interest Payment Date and (ii) not later than the Maturity Date, the principal of and interest due on the Note on the Maturity Date. The Paying Agent shall, without further authorization from the City, withdraw from the Note Payment Fund, on each Interest Payment Date, if any, and on the Maturity Date, the amount necessary to pay the interest on and principal of the Note due on each such date. The Paying Agent shall pay, by check (or by wire transfer, if so agreed by the Paying Agent and the registered owner of the Note), the amounts due on the Note to the registered owner as shown on the Note Register maintained by the Paying Agent as hereinafter provided. The payment due on the Note on the Maturity Date shall be paid only upon presentation and surrender of the Note to the Paying Agent.

Section 10. Sinking Fund. There has previously been established with the City a sinking fund in accordance with the requirements of the Act (the "Sinking Fund"), which is hereby ordered to be continued and maintained so long as the Series 2023 Note is outstanding.

The funds derived from the tax levy hereby required, or other lawfully available funds, shall be deposited 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 notes and bond, including the Series 2023 Note, issued by the City as general obligations under the Act, when and as the same become due. Amounts shall be transferred from the Sinking Fund to the Note Payment Fund at the times and in the amounts required by Section 9 hereof.

Section 11. Defeasance. The City may at any time provide for the discharge of the Note by depositing into the Note Payment Fund moneys sufficient, or such principal amount of Defeasance Obligations as shall, together with the earnings thereon, be sufficient, to pay all principal and interest due on the Note to and including the Maturity Date. "Defeasance Obligations" shall mean (i) direct obligations of the United States of America or of any agency or instrumentality thereof and (ii) obligations the payment of the principal of and the interest on which is fully and unconditionally guaranteed by the United States of America.

Section 12. Information Filings. The Authorized Officers and the City Clerk, or any of them, are hereby authorized to prepare and file or cause to be prepared and filed, with the advice of Bond Counsel, all notices, tax returns, and other information which may be required or permitted by law to be filed by the City in connection with the Note, including, but not limited to, filings with the State Local Debt Officer of the Commonwealth of Kentucky, the Internal Revenue Service, the MSRB, and the SEC.

Section 13. Proceedings; Further Actions. The Authorized Officers, and each of them, are hereby authorized and directed to prepare, execute, and deliver such Proceedings, and to take such other actions, as may be necessary or desirable in connection with the Series 2023 Note and the Series 2023 Project. All determinations, appointments, and agreements in connection with the sale and issuance of the Note required or permitted under this ordinance (the "Series 2023 Note Ordinance") or the Act shall be documented in the Proceedings.

Section 14. Discharge of Series 2023 Note Ordinance. If the City shall pay in full to the registered owner thereof, or defease as provided in Section 11 hereof, the Series 2023 Note, then the pledges made under this Series 2023 Note 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 15. Paying Agent and Registrar. Unless the Authorized Officers determine to appoint a bank or trust company authorized to exercise trust powers in the Commonwealth of Kentucky as the Paying Agent and Registrar for the Note (the "Paying Agent"), the City's Director of Finance is hereby appointed and shall act as the Paying Agent. The Paying Agent shall maintain a register for the registration and transfer of the Note (the "Note Register") and shall record in the Note Register the name and address of the registered owner of the Note from time to time. Any Paying Agent other than the City's Director of Finance shall certify in the Proceedings the address of its corporate trust office where the Note should be presented and surrendered for payment on the Maturity Date. The Paying Agent shall receive such reasonable compensation for its services as such as the Authorized Officers and the Financial Advisor shall agree in writing.

Section 16. Financial Advisor. Compass Municipal Advisors, LLC is hereby

appointed as financial advisor (the "Financial Advisor") with respect to the Series 2023 Note and any renewal notes or bonds issued to refinance the Series 2023 Note. The Financial Advisor shall receive such reasonable compensation for its services as such as the Authorized Officers and the Financial Advisor shall agree in writing.

Section 17. Bond Counsel. Wyatt, Tarrant & Combs, LLP is hereby appointed as bond counsel ("Bond Counsel") with respect to the Series 2023 Note and any renewal notes or bonds issued to refinance the Series 2023 Note. Bond Counsel shall receive such reasonable compensation for its services as such as the Authorized Officers and Bond Counsel shall agree in writing.

Section 18. Proceedings and Further Actions. The Authorized Officers and the City Clerk, and each of them, are hereby authorized and directed to prepare, execute, and deliver such certificates, documents, agreements, and other Proceedings, and to take such other actions, as may be necessary or desirable in connection with the Series 2023 Note and the Series 2023 Project. Determinations, appointments, and agreements in connection with the sale and issuance of the Note required or permitted under this Series 2023 Note Ordinance or the Act shall be documented in the Proceedings.

Section 19. Open Meetings Compliance. All meetings of the City Commission and of its committees and any other public bodies, at which formal actions in connection with the sale or issuance of the Series 2023 Note 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 particularly the Open Meetings of Public Agencies Act, as amended, KRS 61.800 through 61.850.

Section 20. Severability. If any one or more of the provisions of this Series 2023 Note 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 hereof and shall not affect the validity of such other provisions.

Section 21. Inconsistent Actions. All ordinances and resolutions previously adopted by the City Commission and which are inconsistent herewith are hereby repealed to the extent of any such inconsistency.

Section 22. Effective Date. This Series 2023 Note Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

FIRST READING CONDUCTED on September 11, 2023.

DULY ADOPTED AFTER SECOND READING on September 29, 2023.

CITY OF DANVILLE, KENTUCKY

By: 
Mayor

Attest:

City Clerk

(SEAL)

CERTIFICATION

The undersigned does hereby certify that she is the duly qualified City Clerk of the City of Danville, Kentucky and that the foregoing is a true, correct, and complete copy of an ordinance duly enacted by the City Commission of the City at a duly convened meeting held on September __, 2023, 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.


City Clerk

Date: 9.26.2023

EXHIBIT A

SERIES 2023 PROJECT

1. Perryville Road Phase 3 (approximate construction cost \$2.3M) - 19,000 LF of 12" WL thru Perryville; new hydrants, etc.; Improve capacity to west Boyle and Springfield.
2. Wastewater Treatment Plant Phase 1 (approximate construction cost \$1.5M) –Expand capacity of wastewater treatment plant.
3. McKinney Waterline Project (approximate construction cost \$1.5M) - Provide capacity to McKinney System.
4. U.S. 150 Pump Station Project (approximate construction cost \$500K) - Add booster pump station to improve service in Airport Rd. pressure zone; supplementary service to McKinney Water District.
5. Gose Pike Sewer (approximate construction cost \$400K) – Over 3,000 LF 15" Gravity Sewer to Property Line Pfaff.

EXHIBIT B

FORM OF NOTE

CITY OF DANVILLE, KENTUCKY
GENERAL OBLIGATION PUBLIC PROJECT NOTE, SERIES 2023

No. _____ \$ _____

<u>INTEREST RATE</u>	<u>DATE OF ORIGINAL ISSUANCE</u>	<u>MATURITY DATE</u>
_____ %	_____, 2023	_____, 20__

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The City of Danville, Kentucky (the "City"), a municipal corporation and political subdivision of the Commonwealth of Kentucky (the "Commonwealth"), for value received, hereby acknowledges itself obligated, and promises to pay, in lawful money of the United States of America, to the Registered Owner shown above, or registered assigns, the Principal Amount shown above on the Maturity Date shown above, and to pay interest on said Principal Amount from the date hereof, payable on [___ [date(s)] ___] ([each an] "Interest Payment Date") and] the Maturity Date, at the Interest Rate per annum shown above, calculated on the basis of a 360-day year of twelve 30-day months (and, if applicable, rounded pursuant to the rules of the Municipal Securities Rulemaking Board).

Interest payable on this Note prior to the Maturity Date shall be payable by check mailed by _____, as Paying Agent and Registrar, or any successor paying agent and registrar (the "Paying Agent"), or if so agreed by the Paying Agent and the Registered Owner, by wire transfer, to the Registered Owner as of the Record Date at the address of the Registered Owner for such payment recorded on the register for the Note (the "Note Register") maintained by the Paying Agent. The Record Date shall be the fifteenth day of the calendar month next preceding [each Interest Payment Date prior to the Maturity Date.] The principal of this Note, and the interest on this Note due on the Maturity Date, shall be payable only upon presentation and surrender of this Note at the [designated corporate trust] office of the Paying Agent.

This Note is the Note in the original Principal Amount shown above, issued for the purpose of providing interim financing, pending the issuance of bonds under the Act to provide permanent financing, for public projects of the City, all pursuant to and in full compliance with the laws of the Commonwealth, particularly Sections 66.010 through 66.191 of the Kentucky Revised Statutes (the "Act"), and pursuant to an ordinance duly adopted by the City Commission of the City on September __, 2023 (the "Series 2023 Note Ordinance").

This Note is a general obligation of the City. The full faith, credit, and taxing power of the City are pledged to the payments due hereunder.

No recourse shall be had for the payment of the principal of or the interest on this Note, 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, and employees is hereby renounced, waived, and released as a condition of and as consideration for the issuance and acceptance of this Note.

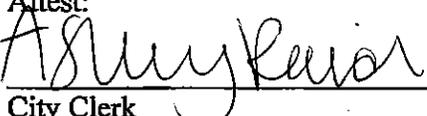
The City may at any time provide for the discharge of this Note by depositing into the Note Payment Fund established by the City moneys sufficient, or Defeasance Obligations as shall, together with the earnings thereon, be sufficient, to pay all principal and interest due on this Note to and including the Maturity Date shown above. "Defeasance-Obligations" shall mean direct obligations of the United States of America or of any agency or instrumentality thereof or obligations the payment of the principal of and the interest on which is fully and unconditionally guaranteed by the United States of America.

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 Note have been done, have occurred, and have been performed in regular and due form and manner as required by law; that the full faith, credit, and taxing power of the City are hereby irrevocably pledged to the payment of the principal hereof and interest hereon; that the obligation represented by this Note 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 principal of and interest on this Note when due.

CITY OF DANVILLE, KENTUCKY



Mayor

Attest:


City Clerk

CERTIFICATE

This is to certify that this is the Note described above.

_____, Paying Agent and Registrar

By: _____
Authorized Signature

Dated: _____

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Wyatt, Tarrant & Combs, LLP, regarding the issue of the within Note, the original of which opinion was dated and manually executed as of the date of delivery of and payment for the Note and a copy of which is on file with the undersigned.

City Clerk

[FORM OF APPROVING OPINION]

ASSIGNMENT

The following abbreviations, when used in the inscription on the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM – as tenants in common	UNIF GIFT MIN ACT - as custodian under Uniform Gift to Minors Act
TEN ENT – as tenants by the entireties	
JT TEN – as joint tenants with right of survivorship and not as tenants in common	

Additional Abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto:

 (Please print or typewrite name and address of transferee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

 Signature

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

 The signature of the assignor must be guaranteed by an eligible guarantor institution which is a member of or participant in a signature guarantee program pursuant to Securities Exchange Commission Rule 17Ad-15 or similar rule or program.

EXHIBIT C

NOTICE OF NOTE SALE

Notice is hereby given that bids will be received by the City of Danville, Kentucky until ___ a.m., Eastern Time, on _____, 2023 for the purchase of the City's General Obligation Public Project Bond Anticipation Note, Series 2023. The terms of the Note and the sale thereof are set forth in the City's Request for Bids, which may be obtained from the City's Financial Advisor, Compass Municipal Advisors, LLC, Attention: Michael George, Managing Director, (859) 806-7680, michael.george@compassmuni.com.

CITY OF DANVILLE, KENTUCKY

By: 
Mayor

Attest:


City Clerk

101240743.3

NOTICE OF NOTE SALE

Notice is hereby given that bids will be received by the City of Danville, Kentucky until 11:00 a.m., Eastern Time, on October 3, 2023 for the purchase of the City's General Obligation Public Project Bond Anticipation Note, Series 2023. The terms of the Note and the sale thereof are set forth in the City's Request for Bids, which may be obtained from the City's Financial Advisor, Compass Municipal Advisors, LLC, Attention: Michael George, Managing Director, (859) 806-7680, michael.george@compassmuni.com.

CITY OF DANVILLE, KENTUCKY

By: /s/ J. H. Atkins
Mayor

Attest:

/s/ Ashley Raider
City Clerk

101244809.2

