

BOROUGH OF PLYMOUTH

Luzerne County, Pennsylvania

ORDINANCE NO. 1 of 2018

AN ORDINANCE INCREASING THE INDEBTEDNESS OF PLYMOUTH BOROUGH, LUZERNE COUNTY, PENNSYLVANIA, BY THE ISSUE OF A TAXABLE GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$500,000.00 FOR SUNDRY PURPOSES; FIXING THE FORM, NUMBER, DATE, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENT; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, it is necessary that the indebtedness of the Borough of Plymouth Luzerne County, Pennsylvania be increased for the following purpose: to fund the Plymouth Borough Police Pension which is currently underfunded:

WHEREAS, the local government unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$500,000.00 will be needed to fund the Police Pension Fund; and

WHEREAS, the proposed increase of debt, together with its non-electoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the local government unit debt incurring power, pursuant to constitutional and statutory authority to be exceeded;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Plymouth Luzerne County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. That the aggregate principal amount of the Taxable Note of the Borough of Plymouth Luzerne County, Pennsylvania, proposed to be issued is \$ 500,000.00, same to be issued for the foregoing purposes and same to be incurred as non-electoral debt.

SECTION 2. The period of useful life of the funding for which this obligation is to be issued is estimated to be in excess of five years. The funds will be used to fund the Police pension fund, which is currently underfunded and therefore, does not qualify as a tax-exempt obligation under section 265 (b) (3)(B) of the Internal Revenue Code.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note, in fully registered form, in the sum of \$500,000.00 dated and bearing interest from the earliest date of possible issue of said Note under the statutory time requirements as set forth in the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of 1978 Session and known as the Local Government Unit Debt Act, at the rate of interest of 5.00% per annum, payable on the unpaid balance of said Note on December 31st, of each year during the term of said note, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of 5.00% per annum (computed on the basis of 365 days to the year) until paid, which Note shall mature in installments on the annual anniversary date of said Note as follows:

For a term of Eighty four months with Six (6) Annual installments of \$80,000.00 of principal plus accrued interest and one (1) final Annual installment of \$20,000 of principal plus accrued interest due on December 31st of each year.

The local government unit reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payments dates thereof, without notice or penalty.

The principal and interest of said Note shall be payable at the office of the sinking fund depository selected for the Note as hereinafter provided.

SECTION 4. The said Note is hereby declared to be a general obligation of the Plymouth Borough, Luzerne County, Pennsylvania. The local government unit hereby covenants that it shall include the amount of debt service on the Note for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Borough of Plymouth, Luzerne County is hereby irrevocably pledged.

The amounts which the local government unit hereby covenants to pay in each of the following fiscal years on the basis of an interest rate of 5.00% are as follows:
\$80,000.00 per year plus accrued interest due on or before December 31st of each year for six years commencing in 2018 and one final payment of \$20,000.00 plus accrued interest on or before December 31st, 2023.

SECTION 5. The form of said Note shall be substantially as set forth in the attached Exhibit N.

SECTION 6. The said Note shall be executed in the name and under the corporate seal of the local government unit by the President of Council and one member of Council and attested to

by the Secretary. The Secretary is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefore on behalf of the local government unit. The President of Council, and one member of Council and Secretary of the local government unit are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. First Keystone Community Bank is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Sinking Fund 2018 General Obligation Note" for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The Borough Secretary shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository shall, as and when said payments are due, without further action by the local government unit, withdraw available monies in the Sinking Fund and apply said monies to payment of principal and interest on the obligation.

SECTION 8. The President of Council and one member of Council of the local government unit are hereby authorized to contract with First Keystone Community Bank for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with Section 8161 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best

financial interest of the local government unit. Therefore, the general obligation Taxable Note in the amount of \$500,000.00 herein authorized to be issued and sold is hereby awarded and sold to First Keystone Community Bank (Lender) in accordance with its proposal to purchase the said Note at par; provided the said Note is dated the delivery thereof to the First Keystone Community Bank and is in the form set forth in this Ordinance as Exhibit N; and further provided that the proceedings have been approved by the Department of Community and Economic Development if such approval is required under the provisions of the Act.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the Citizens' Voice, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 11. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

SECTION 12. This Ordinance shall be effective on the fifth day after the second legal advertisement as provided for in section 8003(c) of the Local Government Unit Debit Act.

ORDAINED AND ENACTED THIS 11th day of March, 2018 at a regular meeting of the Borough Council.

PLYMOUTH BOROUGH

BY Gary Kochinski
Gary Kochinski, President of Council

ATTEST:

BY Holly Spece
Holly Spece, Secretary

[seal]

Approved by the Mayor, Thomas McTague:

Thomas McTague

Date: 3/11/2018

UNITED STATES OF AMERICA
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF LUZERNE

BOROUGH OF PLYMOUTH

TAXABLE GENERAL OBLIGATION NOTE

\$500,000.00

DATED: _____ 2018

KNOWN BY ALL MEN BY THESE PRESENTS, that the Borough of Plymouth Luzerne County, Commonwealth of Pennsylvania, a local government unit existing by and under the laws of said Commonwealth, for value received, hereby acknowledges itself indebted and promises to pay to the purchaser, First Keystone Community Bank, 11 West Front Street, Berwick, Pennsylvania or registered assigns, the sum of Five Hundred Thousand dollars (\$500,000.00) in installments as follows:

Six (6) annual installments of \$80,000 of principal plus accrued interest and one (1) final annual installment of \$20,000.00 of principal plus accrued interest due on December 31st of each year

with interest on the unpaid principal balance at the rate of Five percent (5.00%) per annum, payable on December 31st, of each year, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of Five Percent (5.00%) per annum (computed on the basis of 365 days to the year), with the option in the local government unit to anticipate any installment of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice of penalty.

Both principal and interest are payable in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public and private debts, at the office of First Keystone Community Bank (Lender), 11 West Front Street, Berwick, Pennsylvania.

It is hereby recited that this Note is authorized to be issued in accordance with the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of the 1978 Session.

It is hereby certified that all acts, conditions, and things required to be done, happen, and be performed precedent to an in the issuance of this Note or in the creation of the debt of which it is evidence, have been done, happened and been performed in regular and due form and manner as required by law; and that this Note, together with all other indebtedness of the said local government unit is not in excess of any constitutional or statutory limitation and for the proper budgeting appropriation, and the prompt and full payment of all obligations of this Note the entire full faith, credit and taxing power of said local government unit are hereby irrevocably pledged.

It is hereby further certified that the said local government unit has effectively covenanted to include the amount of the debt service on this Taxable Note in each fiscal year for which such sums are due, in its budget for that year, to appropriate such amounts to the payment of such debt service, and to periodically pay or cause to be paid the principal and interest thereon at the dates and places and in the manner stated herein, according to the true intent and meaning hereof.

IN WITNESS WHEREOF, the Borough of Plymouth, Luzerne County, Pennsylvania, has caused this Note to be properly executed by the proper officers of the local government unit and its corporate seal to be hereto affixed, attested to by the Secretary as of the ____ day of _____, 2018.

BOROUGH OF PLYMOUTH

BY:

Gary Kochinski, President of Council

Member of Council

ATTEST:

Holly Spece, Borough Secretary

SEAL

EXHIBIT "N"