

RESOLUTION NO. 7 of 2014

**RESOLUTION OF PLYMOUTH BOROUGH, LUZERNE COUNTY,
AUTHORIZING A TAX AND REVENUE ANTICIPATION NOTE SERIES OF
2015 IN AN AGGREGATE PRINCIPAL AMOUNT OF \$200,000 TO BE ISSUED
IN JANUARY OF 2015 AND TO MATURE ON DECEMBER 31, 2015 WITH THE
TERMS SET FORTH IN THE FOREGOING AND ATTACHED CERTIFICATE
AND TRANSMITTAL; APPROVING A FORM OF NOTE; AUTHORIZING
DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE NOTE;
AUTHORIZING AND DIRECTING THE FILING OF PROCEEDINGS WITH
THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT;
PROVIDING FOR PAYMENT AND SECURITY OF THE NOTE; MAKING
CERTAIN FEDERAL INCOME TAX COVENANTS IN RESPECT OF THE
NOTE; ACCEPTING THE PROPOSAL OF FIRST KEYSTONE COMMUNITY
BANK FOR THE PURCHASE OF THE NOTE**

WHEREAS, the Borough of Plymouth, Luzerne County, Pennsylvania, hereinafter called the "Borough", duly organized and subsisting as a political subdivision of the Commonwealth of Pennsylvania, anticipates the receipt of both current taxes and current revenues, as yet uncollected, during fiscal year ending December 31, 2015; and

WHEREAS, based upon monthly estimates of its expected taxes, revenues and expenditures for the upcoming fiscal year, the Borough anticipates that its cash on hand and certain times during such fiscal year may temporarily be reduced to undesirably low levels; and

WHEREAS, the Borough is authorized, pursuant to the Local Governmental Unit Debt Act (the "Debt Act"), as codified by the Act of December 19, 1996, P.L. 1158. No. 177, as amended; to borrow money from time to time in any fiscal year in anticipation of the receipt of current taxes and other revenues and to evidence such borrowing by the issuance and sale of tax and revenue anticipation notes; and

WHEREAS, First Keystone Community Bank (the "Purchaser"), has submitted a proposal to purchase the Borough's tax and anticipation note in aggregate principal amount of \$200,000.00; and

WHEREAS, the Borough desires by adoption of this Resolution to accept such proposal and authorize issuance and sale of its tax and revenue anticipation note in accordance with the Debt Act,

NOW, THEREFORE, BE IT RESOLVED by the Plymouth Borough Council as follows:

1. Plymouth Borough hereby authorizes the issuance of a Tax and Revenue Anticipation Note, Series 2015 in an aggregate principal amount of TWO HUNDRED THOUSAND

(\$200,000.00) DOLLARS, (the "Note"), in anticipation of receipt of current taxes and revenues in the 2015 fiscal year to First Keystone Community Bank, Purchaser.

2. The Note shall be as a registered note, in the denomination of \$200,000.00, shall be dated as of January 5, 2015 and mature on December 31, 2015, shall bear interest (calculated on the basis of a 360-day year and the actual number of days elapsed) at a fixed rate of interest of 0.69% percent. The Note shall be substantially in the form attached hereto as Exhibit A with such changes as the President of Council shall deem appropriate.
3. The principal of and interest on the Note shall be payable at maturity, in lawful money of the United States of America at the office of First Keystone Community Bank, in Berwick, Pennsylvania, which is hereby appointed paying agent and registrar for the Note and sinking fund depositary and is hereinafter called "Paying Agent."
4. The Principal of the Note maybe prepaid in whole or part, at any time at the option of the Borough prior to maturity without any premium or penalty in accordance with the terms of the Note attached hereto and made a part hereof.
5. The proposal of the Purchaser, attached as Exhibit "B" presented to the Borough Council this day to purchase the Note at a price of par (the "Note Purchase Proposal") is hereby accepted and approved, and the Note is hereby awarded to the Purchaser. In the event the sale is a negotiated sale, the Borough Council hereby finds and determines, on the basis of all information available to Council that a private sale of the Note by negotiation is in the best financial interest of the Borough.
6. Any officer of the Borough is hereby authorize and directed to notify the Purchaser of the Borough's acceptance of the Note Purchase Proposal, to execute such acceptance on a duplicate original thereof, to deliver the same to the Purchaser and to file the original of the Note Purchase Proposal with the records of the Borough.
7. The Note shall be a general obligation of the Borough and shall be equally and ratably secured by the pledge of, security interest in, and a first lien and charge on, the taxes and other revenues to be received by the Borough during the period the Note will be outstanding, together with all proceeds thereof. Such pledge, lien and charge shall be fully perfected as against the Borough, all its creditors and all third parties from and after the filing of appropriate financing statements in accordance with the Uniform Commercial Code and Section 8125 of the Debt Act. The execution and filing of such financing statements are hereby authorized and directed.
8. The Borough hereby establishes a sinking fund for the Note to be held by the Paying Agent in the name of the Borough but subject to withdrawal only by the Paying Agent.

The Borough covenants and agrees to deposit in said sinking fund not later than December 31, 2015, the principal of and interest on the Note due on December 31, 2015. The Paying Agent shall without further authorization, withdraw moneys from the sinking fund and apply such moneys to the payment of the principal of and interest on the Note.

9. The President or Vice President of Council is hereby authorized and directed to execute in the name of, on behalf of, and under the seal of, the Borough, the Note in a form and containing the terms above described above, and the Secretary or Assistant Secretary or Treasurer of the Borough is hereby authorized and directed to attest to the same. Such officers are hereby authorized and directed to deliver the Note to the Purchaser upon receipt of the proceeds thereof and upon compliance with all conditions precedent to such delivery required by the Debt Act, this Resolution and the Note Purchase Proposal. Immediately, upon receipt of the purchase price for the Note, the President or Vice President of Council is authorized to make disbursements to pay the financing costs incurred in conjunction with the issuance of the Note.

10. The President and Secretary of the Borough have been authorized and directed to prepare a Certificate as to the Taxes and Revenues to be Collected (the "Certificate") and a calculation of the maximum anticipated cumulative cash flow deficit (the "Cash Flow Calculation Worksheet"), each of which, if prepared and submitted to the Council of Commissioners in accordance with Sections 8122 and 8126 of the Debt Act and in accordance with United States Treasury Regulations, respectively, is hereby approved.

11. It is hereby determined that the aggregate principal amount of the Note does not exceed the lesser of : (i) eighty-five percent(85%) of the sum of the taxes and revenues to be collected or received in the 2014 fiscal year during the period when the Note will be outstanding as estimated by the President and Secretary of the Borough in the Certificate; or (ii) the maximum anticipated cash flow deficit of the Borough for the 2015 fiscal year, as reported by the President and Secretary of the Borough in the Cash Flow Worksheet.

12. The Chairman or Vice Chairman of Council and the Secretary or Assistant Secretary of the Borough are hereby authorized to certify to the Purchaser at the time of delivery of the Note that the amount of the Note to remain outstanding will not exceed the limitations of Section 8122 of the Debt Act. A copy of such certificate shall be retained by the Borough until maturity of the Note.

13. The Borough covenants to comply with the requirements of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all requirements regarding the use or investments of the proceeds of the Series Note and the rebate requirements in Section 148(f) of the Code.

14. The Borough hereby represents and warrants, after due investigation and to the best of its knowledge, that (i) the Borough is a governmental unit with general taxing powers; (ii) the Note is not a "private activity bond" within the meaning of Section 141 of the Code; (iii) ninety-five percent (95%) or more of the net proceeds of the Note is to be used for local governmental activities of the Borough (or of a governmental unit the

jurisdiction of which is entirely within the jurisdiction of the Borough); and (iv) the aggregate face amount of all tax-exempt obligations (other than "private activity bonds") issued or to be issued by the Borough and all other entities which must be aggregated with it pursuant to the Code during the 2012 calendar year, including the Note is not reasonably expected to exceed \$5,000,000.00. The Borough hereby authorizes the proper officers of the Borough to execute a certificate to that effect at the time of closing. The Borough hereby further represents and warrants, after due investigation and to the best of its knowledge, that (i) the Note is not a "private activity bond" within the meaning of Section 141 of the Code; (ii) the aggregate face amount of "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Code (which includes qualified 501(c)(3) bonds but not any other private activity bonds) issued by the Borough and all other entities which must be aggregated with it pursuant to the Code in the 2012 calendar year, including the Note is not reasonably expected to exceed \$10,000,000.00. The Borough hereby designates the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code (relating to the disallowance of the interest deduction for indebtedness incurred by banks, thrift institutions and other financial institutions to purchase or carry tax-exempt obligations). The Borough hereby authorizes the proper officers of the Borough to execute a certificate to that effect at the time of closing. Therefore, the Borough expects that only twenty percent (20%) of the interest deduction for indebtedness incurred by the bank, thrift institutions and other financial institutions to purchase or carry the Note will be denied under Sections 265(b)(1) and 291(e)(1)(B) of the Code.

15. The Chairman or Vice Chairman of Council and the Secretary or Assistant Secretary of the Borough are hereby authorized and directed to cause certain documents and proceedings in connection with the authorization, issuance and sale of the Note (including certified copies of this Resolution and the Certificate and a true copy of the Note Purchase Proposal) to be filed with the Department of Community and Economic Development of the Commonwealth of Pennsylvania in accordance with Section 8128 of the Debt Act.

16. The Borough hereby warrants to the Purchaser, its successors and assigns, that it has not encumbered or pledged its anticipated tax receipts or other revenues for the 2015 fiscal year and further covenants that, except for outstanding operating expenses incurred for the current fiscal year, for the payment of which the Note is being issued and sold, it will not, as long as the principal of or interest on the Note shall remain unpaid, incur any further obligations against such tax receipts or other revenue ranking prior to or on parity with the Note without the prior written consent of the Purchaser.

17. The proper officers of the Borough are hereby authorized and directed to perform all other actions necessary or desirable for the valid issuance, sale and delivery of the Note in accordance with the Debt Act, the aforesaid proposal of the Purchaser and the provisions of this Resolution.

18. Inconsistent Actions. All prior resolutions or parts thereof inconsistent herewith are hereby repealed.

19. This Resolution shall be effective immediately upon adoption.

This Resolution approved and duly adopted at an advertised and properly constituted Special Meeting of the Plymouth Borough Council held on December 30, 2014 and recorded in the minutes of Plymouth Borough.

Plymouth Borough

By: William Dixon
William Dixon, President
Plymouth Borough Council

ATTEST:

Holly D. Spee
Holly Spee, Secretary

[SEAL]