

**BOROUGH OF KULPMONT
NORTHUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2015-06

AN ORDINANCE AUTHORIZING THE INCURRENCE OF NONELECTORAL DEBT OF THE BOROUGH OF KULPMONT, NORTHUMBERLAND COUNTY, PENNSYLVANIA, BY THE ISSUANCE OF UP TO \$250,000 GENERAL OBLIGATION NOTE, SERIES OF 2015 (THE "NOTE"); BRIEFLY DESCRIBING THE PURPOSE FOR WHICH THE DEBT IS TO BE INCURRED; DETERMINING TO SELL THE NOTE AT A PRIVATE NEGOTIATED SALE; APPROVING THE FORM OF THE NOTE; FIXING THE DATE, INTEREST AND MATURITY OF THE NOTE; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF REQUIRED DOCUMENTS; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITARY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF, AND OTHER NECESSARY ACTION.

WHEREAS, the Borough Council (the "Borough Council") of the Borough of Kulpmont (the "Borough") being the governing body of the Borough has invited Branch Banking and Trust Company, Williamsport, Pennsylvania (the "Bank"), to present a proposal for the purchase at private sale of its General Obligation Note, Series of 2015, in the initial principal amount of \$250,000 (the "Note"); and

WHEREAS, the Bank has presented a proposal for the purchase of the Note as hereinafter stated and the Borough Council desires to accept said proposal; and

WHEREAS, the Borough intends to use the proceeds of the Note to provide funds for (i) the purchase of real estate located at 9 and 11 North Eighth Street, Kulpmont, Northumberland County, Pennsylvania, and (ii) to pay the costs and expenses of issuance of the Borough's 2015 Note (collectively, the "2015 Project"); and

WHEREAS, the Borough has determined that the sum of \$250,000 will be needed to complete the 2015 Project, including payment of issuance expenses in connection with the issuance of the Note; and

WHEREAS, the Borough has obtained realistic cost estimates through actual bids, option agreements or professional estimates from registered architects, professional engineers, financial advisors or other persons qualified by experience to make such estimates, and has determined that

the costs of such 2015 Project, as such costs are defined in Section 8007 of the Act (as hereinafter defined), will be in excess of \$250,000 or the amount actually drawn on the Note; and

WHEREAS, the proposed increase of debt, together with its other indebtedness presently outstanding, will not cause the limitations of the Borough's debt incurring power, pursuant to constitutional and statutory authority, to be exceeded.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of Kulpmont Borough, Northumberland County, Pennsylvania, as follows:

Section 1. The Borough Council hereby authorizes the incurrence of indebtedness by the Borough, pursuant to the Local Government Unit Debt Act, 53 Pa. C.S. §8001 et. seq., as amended (the "Act") in the aggregate principal amount of up to \$250,000 for the purpose of providing funds for and toward the costs of the 2015 Project.

Section 2. It is hereby stated that a realistic estimated useful lives of the component parts of the 2015 Project is in excess of twenty (20) years.

Section 3. The Borough shall issue, pursuant to this Ordinance, a General Obligation Note, Series of 2015, in the aggregate principal amount of up to \$250,000 to finance the indebtedness authorized above.

Section 4. It is hereby stated that the Borough Council has discussed the merits of alternative methods of selling the Borough's Note and has determined that a private, negotiated sale of the Note is in the best interest of the Borough.

Section 5. The indebtedness authorized by this Ordinance is non-electoral debt.

Section 6. The Note will be issued in fully registered form, dated and bearing interest from the date of issue on amounts outstanding, at a variable rate equal to the *Wall Street Journal Prime Rate* plus .50% for the term of the loan. The term of the Note is through September 1, 2016. Interest on the unpaid principal balance shall be payable monthly and all principal shall be payable on September 1, 2016. The maximum interest rate payable on the Note is five percent (5.00%).

Section 7. The Note is hereby declared to be a general obligation of the Borough. The Borough hereby covenants that the Borough shall include the amount of the 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 is hereby irrevocably pledged. The covenants set forth in this paragraph are specifically enforceable.

Section 8. The form of the Note shall be substantially as set forth on Exhibit “B” attached hereto and made a part hereof.

Section 9. The Note shall be executed in the name and under the corporate seal of the Borough by the President (or Vice President) of Borough Council and attested to by the Secretary of the Borough. The Borough Secretary is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefor on behalf of the Borough. The President (or Vice President) of Borough Council and Secretary of the Borough, or any one of such officers alone, are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act, and to take other actions, and execute all such other documents as may be necessary or appropriate to effect the issuance and sale of the Note in accordance with the Commitment Letter, this Ordinance, and the Act, 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, and to designate the Note as "qualified tax exempt obligations" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986 and prepare and execute such documents as may be necessary to accomplish such designation.

Section 10. The Borough covenants that there shall be established and there is hereby established a Sinking Fund (the “Sinking Fund”) for the payment of the Note hereby authorized, said fund to be known as “Sinking Fund - Borough of Kulpmont, General Obligation Note, Series of 2015” with the bank or bank and trust company selected as hereinafter set forth as sinking fund depository. The Borough Secretary shall pay into the appropriate Sinking Fund, which shall be maintained until such Note are paid in full, the amounts required pursuant to the covenant contained in Section 7 hereof, and to be provided for in the appropriation to be made by the Borough for the purpose of making payments of principal and interest due on the Note. The Paying Agent is hereby authorized and directed to pay from the Sinking Fund the principal of, and interest on, the Note as the same become due and payable in accordance with the terms thereof and the Borough hereby covenants that such moneys, to the extent required, will be applied to such purpose.

Section 11. Branch Banking and Trust Company is hereby appointed Paying Agent and Sinking Fund Depository for the Note, and the President of the Borough Council and Secretary of the Borough are hereby authorized to contract with a bank or bank and trust company for its services as sinking fund depository and paying agent for the Note if such additional services shall be necessary or advisable.

Section 12. The Note in the aggregate principal amount of \$250,000, as herein described is hereby awarded and sold, by private sale, to Branch Banking and Trust Company at the price and in accordance with the other terms and conditions contained in its proposal which is hereby accepted. A copy of said proposal, consisting of the term sheet of Branch Banking and Trust Company is attached hereto as Exhibit "C".

Such award and sale is conditional, however, upon the following: (a) all provisions of this Ordinance becoming effective; (b) the approval of the Department of Community & Economic Development of the Commonwealth of Pennsylvania for the issuance of the Note; (c) and the

approval of any other governmental agency, the approval of which is determined to be necessary by Note Counsel or the Borough's Solicitor.

Section 13. The Borough will not assume the payment of any taxes in consideration of the purchase of the Note.

Section 14. The Borough covenants with the Bank, and subsequent registered owners of the Note, that no part of the proceeds of the Note shall at any time be used directly or indirectly to acquire securities or obligations, the acquisition of which would cause the Note to be "arbitrage bonds" as defined in subsection (a) of Section 148 of the Internal Revenue Code of 1986, as amended, or under any similar statutory provisions, or any currently enacted rule or regulation promulgated thereunder or under former Section 103(c) of the Internal Revenue Code of 1954 with the effect that interest on the Note would no longer be exempt from federal income taxes. The Borough further covenants that it will promptly and timely comply with the reporting and filing requirements of Section 149(e) of the Internal Revenue Code of 1986, and regulations issued thereunder.

Section 15. The President or Vice President of the Borough Council or either one of them is hereby authorized to enter into an agreement with the Bank providing for the confirmation and acceptance of the appointments herein made as Paying Agent and Sinking Fund Depository for the Note, for its compensation in such capacities, for the administration of the Sinking Fund and for such other matters as counsel may recommend be included in the Agreement and as the officers may approve by their execution of the Agreement. The above officials are further authorized to contract with the Bank or one or more other banks or bank and trust companies, to the extent deemed necessary or advisable, for additional services as trustee, fiscal agent, sinking fund depository or paying agent.

Section 16. The Borough covenants that it has not, and will not, without prior written consent of the Bank, designate obligations other than the Note as "qualified tax exempt obligations" under Section 265(b)(3)(B) of the Internal Revenue Code of 1986, which obligations, when combined with the Note, would result in more than \$10,000,000 of obligations designated by the Borough as "qualified tax-exempt obligations" having been issued during the 2015 calendar year.

Section 17. The action of the Borough Secretary in advertising a summary of this Ordinance as required by law in *The News Item* on October 23, 2015, is ratified and confirmed and the Borough Secretary is directed to advertise in the *The News Item* within 15 days following the day of final enactment, a notice of the enactment of this Ordinance.

Section 18. In case any one or more of the provisions contained in this Ordinance or in the Note issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Ordinance or of said Note, and this Ordinance or said Note shall be construed and enforced as if such invalid, illegal or unenforceable provisions had never been contained therein.

Section 19. This Ordinance is enacted pursuant to, and the Note issued hereunder shall be issued subject to, the provisions of the Act and all of the mandatory provisions thereof shall apply and be deemed incorporated herein by reference whether or not explicitly stated herein.

Section 20. This Ordinance constitutes a contract with the Bank or subsequent registered owners of the Note and shall be enforceable in accordance with the provisions of the laws of the Commonwealth of Pennsylvania.

Section 21. If any one or more of the provisions contained in this Ordinance or in any Note issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Ordinance or of the and this Ordinance and the Note shall be construed and enforced as if such invalid, illegal or unenforceable provision had never been contained therein.

Section 22. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

Section 23. The appropriate officers of the Borough are authorized and directed to execute and, if appropriate, file and deliver any and all documents and take any action necessary or appropriate for the consummation of the transactions contemplated by this Ordinance.

[Signature Page Follows]

THIS ORDINANCE enacted the ____ day of October, 2015.

BOROUGH OF KULPMONT

By: _____
President of Borough Council

Attest: _____
Secretary

(SEAL)

The foregoing Ordinance adopted by the Borough Council of the Borough of Kulpmont is hereby approved this _____ day of October, 2015.

Mayor of the Borough of Kulpmont

CERTIFICATE

I, Rhonda Wilk, Secretary of the Borough of Kulpmont, hereby certify as follows:

1. The attached Ordinance is a true, complete and correct copy of an Ordinance duly adopted by the affirmative vote of a majority of the members then holding office of the Kulpmont Borough Council, which is the governing body of the Borough of Kulpmont (the "Borough"), at a meeting duly called and held on October 27, 2015.

2. Said meeting was held after due notice to the members of the Borough Council and to the public and was at all times open to the public and otherwise conducted in accordance with the laws of the Commonwealth of Pennsylvania.

3. Advertisement of a summary of said Ordinance was duly made on October 23, 2015, in *The News Item*, a newspaper of general circulation published and circulated in the area of the Borough, which advertisements included a statement that a copy of the full proposed text of said Ordinance was available for inspection by any citizen in the Borough Offices at an address and hours stated therein.

4. Said Ordinance was examined and approved by the members of the Borough Council and was duly recorded in the minutes of the said meeting.

5. The total number of members of the Borough Council is seven (7) and the vote upon said Ordinance was called and duly recorded in the minutes of said meeting and the members voted in the following manner:

Bruno R. Varano _____

Clarence H. Deitrick _____

Joseph A. Winhofer _____

Philip Scicchitano _____

Stephen Motyka _____

Stephanie Niglio _____

Nicholas Bozza _____

6. Advertisement of a notice of adoption of said Ordinance was duly made in *The News Item*, a newspaper of general circulation published and circulated in the area of the Borough, on _____, 2015, which advertisement stated:

a. The substance of any amendments made during final passage, the price bid for the Note, and the interest rate named in the successful bid; and

b. That the final text of the Ordinance as adopted may be examined by any citizen in the Borough Offices at an address and hours stated therein.

[signature page follows]

IN WITNESS WHEREOF, I have placed my hand and the seal of the Borough of
Kulpmont this 27th day of OCTOBER, 2015.

BOROUGH OF KULPMONT

By: _____
Rhonda Wilk, Secretary

(SEAL)

EXHIBIT "A"
AMORTIZATION SCHEDULE

EXHIBIT "B"

FORM OF NOTE

BOROUGH OF KULPMONT
NORTHUMBERLAND COUNTY
COMMONWEALTH OF PENNSYLVANIA
UNITED STATES OF AMERICA

General Obligation Note, Series of 2015

Dated: _____, 2015 Maturity: September 1, 2016 Principal Amount:
\$250,000.00

KNOW ALL MEN BY THESE PRESENTS, that the Borough of Kulpmont (the "Borough"), County of Northumberland, Commonwealth of Pennsylvania, for value received, hereby acknowledges itself indebted and promises to pay to the order of Branch Banking and Trust Company, Williamsport, Pennsylvania (the "Bank"), or its registered assigns, the sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000), or such lesser amount as is actually drawn down.

The interest on the Note shall be payable monthly on the first day of each month commencing January 1, 2016. Interest on the Note shall be calculated on the basis of a three hundred sixty (360) day year, comprised of twelve (12) thirty (30) day months.

Principal on the Note shall be payable in full on September 1, 2016.

The Note will be issued in fully registered form, dated and bearing interest from the date of issue on amounts outstanding, at a variable rate equal to the *Wall Street Journal Prime Rate* plus .50% for the term of the loan. The maximum interest rate payable on the Note is five percent (5.00%).

The Borough shall have the option to redeem this Note at any time or to pay any installment of principal or interest, in whole or in part, at any time prior to the date on which such amount is due, without penalty or premium, upon giving ten (10) days written notice to the Bank.

The Borough hereby designates this Note as a "qualified tax exempt obligation" for the purposes and with the affect set forth in Section 265(b) of the Internal Revenue Code (the "Code") as amended.

Any redemption or prepayment of principal, as hereinbefore authorized, shall be upon written notice addressed to the Bank or its registered assigns, at the address shown in the records of the Borough to be kept by the Paying Agent for such purpose, provided, however, that such notice may be waived by the registered owner. Such redemption or prepayment shall be effective upon deposit with the Paying Agent of the principal amount to be repaid plus any accrued interest, and delivery or deposit in the United States mail of the required written notice.

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 principal office of the Bank in Williamsport, Pennsylvania, and the Bank shall be the "Paying Agent" and "Registrar" for this Note.

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, Act No. 177 approved December 19, 1996, as amended, and pursuant to an ordinance (the "Ordinance") of the Council of the Borough adopted October 27, 2015. The Act, as such shall have been in effect when the Note was authorized, and the Ordinance shall constitute a contract between the Borough and the Bank or registered owner or owners, from time to time, of the Note.

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

It is hereby further certified that the Borough has effectively covenanted to include the amount of the debt service on this 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; the Borough has established with the Paying Agent a sinking fund for the Note and shall deposit therein amounts sufficient to pay the principal of and interest on the Note as the same shall become due and payable.

This Note shall be transferable by the Bank or by any subsequent registered owner, in person, or by his attorney duly authorized, in writing, at the principal office of the Paying Agent, but only upon notation of such registration hereon and on the records of the Borough to be kept for that purpose at the principal office of the Paying Agent by a duly authorized representative of the Paying Agent. The Borough and the Paying Agent may deem and treat the Bank or any other person, from time to time, in whose name this Note is registered as the absolute owner hereof for

the purpose of receiving payment hereof and of interest due hereon, for the purpose of redemption hereof prior to maturity and for all other purposes.

IN WITNESS WHEREOF, the Borough has caused this Note to be properly executed by the President of the Borough Council of the Borough of Kulpmont and attested to by the Secretary of the Borough of Kulpmont, as of the 27th day of OCTOBER, 2015.

BOROUGH OF KULPMONT

By: _____
President of Borough Council

Attest: _____
Secretary

(BOROUGH SEAL)

REGISTRATION RECORD

This Note can be validly negotiated only upon proper execution of the form set forth below, and upon notation of the same upon the books of Branch Banking and Trust Company, Williamsport, Pennsylvania, as Paying Agent and Registrar for this Note, maintained for such purpose. The Authority and the Registrar shall treat the registered owner of this Note, as noted on this Note and on said books, as the absolute owner hereof, and shall not be affected by any changed circumstances, nor by any notice to the contrary.

Original Registered Owner: Branch Banking and Trust Company

| Date | Transferor | Subsequent Purchaser | Registrar |
|-------|------------|----------------------|-----------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

For value received, the last-named Transferor, by its due execution above, hereby, on the above-stated date, sells, transfers and negotiates this Note to the last-named subsequent purchaser, warranting that this transfer is effective and rightful; that, this Note is genuine and has not been materially altered; and that it has no knowledge of any fact which might impair the validity of this Note, and further irrevocably authorizes and directs Branch Banking and Trust Company, Williamsport, Pennsylvania, as Registrar, to make this transfer on its books maintained for such purposes.

Branch Banking and Trust Company, Williamsport, Pennsylvania, as Registrar, by its due execution above, on the above-stated date, acknowledges the transfer of this Note to the subsequent purchaser, who shall now be recognize.

EXHIBIT "C"
TERM SHEET OF
BRANCH BANKING AND TRUST COMPANY