

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF INDIANA**

ENACTED JUNE 10, 2020 AND NUMBERED _____

**FORMAL ACTION CONSTITUTING A DEBT ORDINANCE
UNDER THE LOCAL GOVERNMENT UNIT DEBT ACT**

AUTHORIZING THE INCURRING OF NONELECTORAL DEBT BY THE ISSUANCE OF ONE OR MORE GENERAL OBLIGATION NOTES IN A COMBINED PRINCIPAL AMOUNT OF SIXTEEN MILLION DOLLARS (\$16,000,000); COVENANTING TO PAY, AND PLEDGING UNLIMITED TAXING POWER FOR THE PAYMENT OF, THE NOTES; FIXING THE FORM, INTEREST RATES, MATURITY, REDEMPTION AND OTHER PROVISIONS FOR THE PAYMENT THEREOF; ACCEPTING PROPOSALS FOR THE PURCHASE OF THE NOTES; AUTHORIZING A FILING OF REQUIRED DOCUMENTS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; RATIFYING AND DIRECTING CERTAIN ACTIONS OF OFFICERS; AND MAKING CERTAIN OTHER COVENANTS AND PROVISIONS IN RESPECT OF THE NOTES.

Note Counsel:

Dinsmore & Shohl LLP
Six PPG Place, Suite 1300
Pittsburgh, PA 15222

Solicitor:

Matthew T. Budash, Esq.
120 South Seventh Street
Indiana, PA 15701

WHEREAS, the Governing Body of the above-named Local Government Unit (defined hereinafter) deems it advisable to borrow principal sum of \$16,000,000 pursuant to the Local Government Unit Debt Act, 53 Pa.C.S.A. §8001 *et seq.* (the "Debt Act"), for the purposes described on **Exhibit P** hereto (the "Project"); and

WHEREAS, certain local financial institutions (as further defined herein, the "Purchasers") have presented certain Purchase Contracts (defined hereinafter), attached hereto as **Exhibit PC**, to purchase the Notes (defined hereinafter) to be issued by the Local Government Unit in order to achieve the financing of the Local Government Unit's Project.

NOW, THEREFORE, IT IS HEREBY ENACTED THAT:

Section 1. Definitions

Unless the context clearly indicates otherwise, the following terms shall, for all purposes of this Ordinance, have the meanings hereby ascribed to them. Moreover, such terms, together with all other provisions of this Ordinance, shall be read and understood in a manner consistent with the provisions of the Debt Act, as generally interpreted by the Department (herein defined) or by courts maintaining competent jurisdiction.

Words or phrases importing the masculine gender shall be read and understood to include the feminine and neuter genders and those importing number shall include singular or plural, both as appropriate to the context. The word "person," in addition to natural persons, shall mean and include corporations, associations and public bodies and their successors unless the context shall indicate otherwise.

"County Code" means The County Code, as amended, 16 P.S. §101, *et seq.*

"Dated Date" means the date of delivery of the Notes, expected to be July __, 2020, or such other date upon which interest will begin to accrue on the Notes, that is determined and fixed by the Local Government Unit, and which is acceptable to the Purchaser.

"Department" means the Pennsylvania Department of Community and Economic Development.

"Designated Officer(s)" shall mean and include, individually or jointly, the Chairman of the Board of County Commissioners of the Local Government Unit, the Vice Chairman, the Secretary, and the Chief Clerk and the Financial Supervisor (and their appropriate successors acting by reason of absence or other incapacity), being those duly elected or appointed and acting officials of the Local Government Unit hereby authorized to undertake and perform the actions herein specified, which are necessary and proper to the issuance of the Notes and compliance with the Debt Act.

"First Note Payment Date" means December 15, 2020, the date upon which interest on the Notes is first payable.

"General Fund" means that fund, established on the books of the Local Government Unit according to accepted governmental fund accounting principles, into which all tax collections, state and federal subsidies and other general revenues not otherwise required to be segregated are received and from which all general costs of operations are paid.

"Governing Body" means the Board of County Commissioners of the Local Government Unit.

"Loan Agreement(s)" means that agreement (or agreements) for the lending of credit under the Notes, as such term is further defined in Section 2 hereof.

"Local Government Unit" means the County of Indiana, a county of the sixth class and a political subdivision of the Commonwealth of Pennsylvania, duly organized and validly existing under the Constitution and laws of the Commonwealth, particularly The County Code, as amended.

"Maturity Date(s)" means each of the following dates, respective to the particular Note:

Series A	December 15, 2047
Taxable Series B	June 15, 2023
Taxable Series C	December 15, 2026
Series D	December 15, 2031

"Note" or "Notes" means one or more of the debt obligations of the Local Government Unit authorized herein and identified individually as the "General Obligation Note, Series A of 2020," in the principal amount of \$5,715,000; the "General Obligation Note, Taxable Series B of 2020," in the principal amount of \$4,837,000; the "General Obligation Note, Series C of 2020," in the principal amount of \$866,000; and the "General Obligation Note, Series D of 2020," in the principal amount of \$4,277,000. Each such Note may be referred to herein as the "Series A Note," the "Series B Note," the "Series C Note" and the "Series D Note," respectively.

"Note Counsel" means Dinsmore & Shohl LLP, Suite 1300, Six PPG Place, Pittsburgh, Pennsylvania 15222.

"Note Payment Date(s)" means, singularly or jointly, June 15 and December 15 of each year during the term of the Notes, commencing with the First Note Payment Date.

"Placement Agent" means Boenning & Scattergood, Inc., 400 Lydia Street, Suite 100, Carnegie, Pennsylvania 15106.

"Principal Installment Date(s)" means, singularly or jointly, December 15 of each year during the term of each of the Series A, Series C and Series D Notes, from 2021 (Series A and Series C Notes) and from 2026 (Series D Note), to and including their respective Maturity Dates, on which December 15 dates a portion of the principal of each of such Notes shall be due and payable, in the form of a mandatory redemption of the Notes, as term instruments. In the case of the Series B Note, the term means, and is synonymous with, its Maturity Date.

"Project" has the meaning given to such term in Exhibit P hereto.

"Purchase Contract(s)" means and includes the one or more written commitments of the Purchasers, responsive to the Request for Term Sheet circulated by the Placement Agent, for the purchase and sale of the Notes, as presented by the Purchasers, and accepted by the Local Government Unit by execution and delivery of the same pursuant to Section 6 hereof.

"Purchase Price" means, with respect to each Note, 100% of the par amount of said instrument, together with accrued interest, if any, to the date of delivery of said Note, less any such fees, discounts or interest as shall be specified in the Purchase Contract.

“Purchaser(s)” means, in the case of the Series A and Series B Notes, First Commonwealth Bank, 654 Philadelphia Street, Indiana, Pennsylvania 15701 (“FCB”) and S&T Bank, 800 Philadelphia Street, Indiana, Pennsylvania 15701 (“S&T”), jointly, (as such joint purchase may, at their choosing, be accomplished by an appropriate inter-bank participation agreement), and in the case of the Series C and Series D Notes, FCB.

“Sinking Fund(s)” means those special and individual funds for the payment of the principal of, interest on and all other obligations due in respect of the Notes, as established pursuant to Section 4 hereof.

“Solicitor” means Matthew T. Budash, Esq., 120 South Seventh Street, Indiana, Pennsylvania 15701.

Section 2. Authorization.

The Local Government Unit hereby authorizes the incurrence, and the increase, of nonelectoral indebtedness in a combined principal amount of \$16,000,000, to be evidenced by each of the Notes, each in substantially the form attached hereto as Exhibit A to the Loan Agreement (with such changes as the Designated Officers, hereinafter defined, shall approve), in order to pay the costs of the Project. The Notes will be dated the Dated Date, will be in the combined principal amount of \$16,000,000, as shall be further specified in the Purchase Contracts, and will each bear interest on the amount drawn and outstanding at any time thereunder, according to the following schedule of interest rates, for and during the respective periods during the term of each of the Notes, payable on each of the Note Payment Dates, beginning on the First Note Payment Date, as follows:

Series A Note

The interest rate on the Series A Note will be fixed at 2.62% from its Dated Date through and including December 14, 2030, then re-sets, over the course of two five-year, and one-seven year, intervals, as set out in the following table:

Beginning Date:	Ending Date:	Maximum Rate:
December 15, 2030	December 14, 2035	6.580%
December 15, 2035	December 14, 2040	8.158%
December 15, 2040	Final Maturity	9.740%

according to the following formula: the “bank qualified” tax-exempt equivalent of the then-applicable five (5) year Federal Home Loan Bank of Pittsburgh Fixed Rate, Five Year Federal Home Loan Bank rate, plus 2.50%, not to exceed the maximum rates set out in the above table.

Series B Note

The interest rate on the Series B Note will be fixed at a fully variable rate, adjusted monthly on the day of each monthly, equal to the greater of: (a) [Thirty Day Libor plus 2.50%; or (b) 2.67%, not to exceed a rate of 4.17%, from its Dated Date through and including June 15, 2023, the date of its Final Maturity.

Series C Note

Formatted: Space After: 0 pt

The interest rate on the Series C Note will be fixed at 2.91% from its Dated Date through and including December 15, 2026, the date of its Final Maturity.

Series D Note

The interest rate on the Series D Note will be fixed at 2.70% from its Dated Date through and including December 15, 2031, the date of its Final Maturity.

Each of the Notes shall be subject to prepayment, in advance of its Maturity Date, at the option of the Local Government Unit, according to the following provisions:

Series A Note	<u>At any time, in whole or in part (but in multiples of \$1,000), on fifteen days' prior written notice, with payment of a premium of 1.00% of the principal amount being prepaid; provided, however and except that, payment of such premium shall be waived for prepayments occurring during any one or more of the following time periods during the term of the Note: (1) from September 15, 2030 through December 15, 2030; (2) from September 15, 2035 through December 15, 2035; and (3) from September 15, 2040 through December 15, 2040.</u>
Series B Note	At any time, on five days' notice, without premium or penalty
Series C Note	<u>At any time, in whole or in part (but in multiples of \$1,000), on fifteen days' prior written notice, with payment of a premium of 1.00% of the principal amount being prepaid.</u>
Series D Note	<u>At any time, in whole or in part (but in multiples of \$1,000), on fifteen days' prior written notice, with payment of a premium of 1.00% of the principal amount being prepaid.</u>

Furthermore, each of the Notes will be issued subject to, and its terms and conditions of payment and security further delineated by and under, one or more Loan Agreements, which shall incorporate the terms and conditions of the Purchase Contracts. Such Loan Agreements, substantially in the form attached hereto as **Exhibit LA**, are hereby approved, and the same shall be executed and delivered, with such changes as the Designated Officers shall approve, upon the issuance and delivery of each of the Notes, in exchange for the Purchase Price of said Note at the settlement thereof.

The Local Government Unit hereby authorizes and directs the Chairman or Vice-Chairman and the Chief Clerk to execute and deliver the Notes, the Loan Agreements and all such documents, and any of the Designated Officers to do and perform all acts, necessary and proper for the issuance and further security of the Notes, including the filing of proceedings with the Department to enable its approval to issue, sell and deliver the Notes under the Debt Act.

The Designated Officers are hereby further authorized and directed to provide to the Purchasers each year for as long as any Note is outstanding, copies of its annual audited financial statements (including operating statistics) within 180 days of fiscal year end, annual operating budgets within 60 days of fiscal year end, and such other financial reports as the Purchaser may reasonably request, and as the same shall be further delineated in any Loan Agreement.

Section 3. Preparation of Debt Statement

As required by §8110 of the Debt Act, the Chairman of the Board of County Commissioners and the Chief Clerk of the Local Government Unit are authorized to prepare, execute and acknowledge the Debt Statement, and its accompanying Borrowing Base Certificate.

Section 4. Security and Payment of the Notes

The Notes will be general obligations of the Local Government Unit. The Local Government Unit hereby covenants with the owners from time to time of each Note to: (a) include the amount necessary to service the debt on the Note, for each fiscal year in which such sums are payable, in its budget for that year; (b) appropriate such amounts from its taxes and general revenues to the payment of the debt service; and (c) duly and punctually pay, or cause to be paid, from its General Fund, its Sinking Fund or from any other of its revenues or funds, the principal of and the interest on the Note at the dates and place and in the manner stated in the Note, according to the intent and meaning thereof.

For such budgeting, appropriation and payment of the Notes, the Local Government Unit hereby irrevocably pledges its full faith, credit and unlimited taxing power. The Local Government Unit further covenants and agrees to undertake, perform and pursue all acts, applications, appeals, procedures and petitions, including the filing and pursuit of legal actions and remedies within appropriate administrative and judicial forums, necessary to permit and enable the Local Government Unit to levy and collect taxes and other revenues sufficient to fulfill the foregoing covenant. The amounts of debt service covenanted to be paid are set forth in **Exhibit DS**, attached to this Debt Ordinance and incorporated by reference.

As provided in the Debt Act, the foregoing covenants are specifically enforceable, and are intended to represent a complete, absolute and unconditional obligation to pay the interest on and principal of the Notes as and when due.

In addition to the foregoing, the Local Government Unit specifically dedicates and pledges for the payment and security of the Series B Note any and all proceeds received, as and when received, from an expected grant payable to the Local Government Unit or its designee from the Governor's Office of the Budget under its Redevelopment Assistance Capital Program, for and in respect of component (b) of the Project.

Notwithstanding the foregoing, nothing contained herein shall prohibit or restrain the authorization, issuance, sale or delivery of additional general obligation bonds or notes of the Local Government Unit on a parity with these Series, upon adoption of an appropriate covenant to budget, appropriate and pay additional revenues and funds for the payment and security of such additional obligations.

The Local Government Unit does hereby create, and orders to be established (in its name and identified by reference to the Notes), one or more Sinking Funds for the payment of the Notes with FCB, which is a bank lawfully conducting business in the Commonwealth of Pennsylvania, and does further covenant to maintain such Sinking Funds, in accordance with the Local Government Unit Debt Act, until

each respective Note is paid in full. Any Designated Officer is hereby authorized and directed to contract with FCB for its services in such capacity. FCB shall undertake the duties of sinking fund depository according to the provisions of the Debt Act, while the Local Government Unit shall serve as its own Paying Agent and Registrar, also, in both cases, in compliance with current industry standards and practices.

Section 5. Tax Covenants

The Local Government Unit hereby states its intention to comply with all the provisions of Sections 103 and 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended (the "Tax Code"); the Local Government Unit represents and covenants that it has undertaken and performed, and will undertake and perform, or, as appropriate, discontinue, upon the instruction of Note Counsel, all those acts necessary and proper to the maintenance of the exclusion from gross income of the interest on the Notes (*which term shall, for purposes of this Section 5, refer only to the Series A and Series D Notes, and shall specifically exclude the (Taxable) Series B and Series C Notes*) to the registered owner(s) thereof conferred by those Sections, as interpreted by applicable regulations, rulings or other pronouncements of the Secretary of the United States Department of the Treasury.

The Local Government Unit covenants that the Notes are not an issue: (1)(a) more than 10 percent of the proceeds of which are to be used for any private business use, and (b) the payment of the principal of, or the interest on, more than 10 percent of the proceeds, directly or indirectly, is (x) secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or (y) to be derived from payments in respect of property, or borrowed money, used or to be used for a private business use; nor (2) the proceeds of which, in an amount exceeding the lesser of five percent of such proceeds, or \$5,000,000, are to be used to make or finance loans to persons other than governmental units.

The Local Government Unit certifies that it is a county and political subdivision duly organized and validly existing under the Constitution and laws of the Commonwealth, particularly the County Code.

The Local Government Unit covenants that no portion of the proceeds of the Notes is reasonably expected (at the time of issuance of the Notes) to be used, nor will intentionally be so used, directly or indirectly, (1) to acquire higher yielding investments, or (2) to replace funds which were used directly or indirectly to acquire higher yielding investments. This prohibition does not apply to proceeds invested in higher yielding investments (a) for a reasonable temporary period until such proceeds are needed for the purpose of the Notes, or (b) as a part of a reasonably required reserve or replacement fund. For these purposes, "higher yielding investment" means any investment property (generally, a security or debt obligation) that produces a yield over the term of the Notes which is materially higher than the yield on the Notes, but does not include any tax-exempt obligation.

The Local Government Unit covenants to pay and rebate its arbitrage profits (being an amount equal to the sum of (1) the excess of (a) the amount earned on all nonpurpose investments over (b) the amount which would have been earned if the nonpurpose investments were invested at a rate equal to the yield on the Notes; plus (2) any income attributable to said excess (provided, further, that any gain or loss on the disposition of a nonpurpose investment will be taken into account) to the United States in accordance with the provisions of Section 148(f) of the Tax Code and regulations thereunder, but only as and to the extent that none of the following exceptions apply to the Local Government Unit).

Rebate to the United States as described above shall not be required of the Local Government Unit if, and in the event that any one of the following exceptions applies: (i) **SIX MONTH SAFE HARBOR** - the gross proceeds of the Notes are expended for the Project by no later than the day which is six months

after the date of issuance of the Notes, or, the gross proceeds, except the lesser of five percent of the gross proceeds of the Notes, or \$100,000, are so expended by said date and such remaining portion is expended by no later than the day which is one year after the date of issuance of the Notes; (ii) **18-MONTH SPEND-DOWN** - the following cumulative percentages of the gross and investment proceeds of the Notes are expended for the Project by no later than the day which is the indicated period of time following the date of issuance of the Notes: 15% - six months; 60% - one year; 100% - eighteen months (except that not more than 5%, representing only reasonable retainage on the costs of the Project, may remain unexpended after eighteen months, but not in excess of thirty months); (iii) **TWO YEAR SPEND-DOWN (RESERVED--CONSTRUCTION ISSUES ONLY)**; or (iv) **SMALL ISSUER** - (a) 95 percent or more of the net sale proceeds (being gross proceeds minus amounts deposited into a reasonably required reserve fund) of the Notes are to be used for local governmental activities of the Local Government Unit (or a subordinate entity), and (b) the aggregate face amount of all tax-exempt obligations other than private activity bonds, issued by the Local Government Unit, and all subordinate entities thereof (but not including any obligations not outstanding or to be redeemed, as may be excluded under prevailing interpretations of the Tax Code and regulations thereunder), during the calendar year in which the Notes are issued, is not reasonably expected to exceed \$5,000,000 (\$15,000,000, in the case of certain bonds for school construction purposes).

For these purposes, "gross proceeds" means any proceeds and replacement proceeds of the Notes, "available construction proceeds" has the meaning used in §148(f)(4)(C)(vi)(I) of the Tax Code, "sale proceeds" means all amounts actually or constructively received from the sale of the Notes, except accrued interest on the Notes deposited to the Sinking Fund, and "nonpurpose investment" means any investment property acquired with the gross proceeds of the Notes and not required to carry out the governmental purpose of the Notes.

The Local Government Unit shall prepare, or cause to be prepared, execute and submit to the Secretary IRS Form 8038-G (or 8038-GC, as applicable) according to all the requirements for information reporting contained in Section 149(e) of the Tax Code.

The Local Government Unit hereby designates (or, as appropriate, "deems designated") the Notes to be a "qualified tax-exempt obligation" for the purposes of, and according to all the terms and conditions of, Section 265(b)(3) of the Tax Code. Having considered tax-exempt obligations previously issued, together with the Notes, during the calendar year in which the Notes is being issued, the Local Government Unit represents and covenants that the reasonably anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the Local Government Unit (together with all subordinate entities) during said calendar year does not exceed \$10,000,000. For these purposes, "tax-exemption obligations" means any obligation the interest on which is wholly-exempt from taxes under the Tax Code.

Section 6. Award

After due consideration of sundry factors and current market conditions, the Local Government Unit hereby: (1) determines that a private sale by invitation of the Notes is in the best financial interest of the Local Government Unit; and (2) authorizes the Chairman or Vice-Chairman of the Board of County Commissioners (or their appropriate successors acting by reason of absence or other incapacity), in their sole discretion, to award the sale of the Notes to the Purchasers, by means of the execution and delivery to the Purchasers of the Purchase Contracts. The execution and delivery of the Purchase Contracts is hereby authorized and confirmed.

Section 7. Expeditious Settlement

The Local Government Unit hereby authorizes and directs Note Counsel, Placement Agent and Solicitor to undertake and perform all actions on behalf of the Local Government Unit necessary and proper to the expeditious settlement of the sale of the Notes.

The Designated Officers are further authorized and directed to undertake and perform, or cause to be undertaken or performed, all the ordinary duties of the Local Government Unit (and the same are hereby specifically approved) which may be required under, or reasonably contemplated by, the Purchase Contracts, and the Project, including without limitation, the call for redemption of the Prior Bond (as defined in **Exhibit P** attached hereto), the purchase of investments and establishment of an escrow fund, if necessary, retention of professionals, and execution and delivery of any certificates, orders, security agreements and other similar documents and agreements that may be necessary, in the opinion of the Purchasers, its counsel, Note Counsel, Placement Agent or Solicitor, for proper settlement of the sale of the Notes.

Section 8. Note Ordinance a Contract

Upon the Local Government Unit's execution of one or more Purchase Contracts relating to the Notes, this Ordinance, together with the Loan Agreements relating thereto, if and when executed and delivered, shall be deemed to be contracts with the holders, from time to time, of the Notes.

DULY ENACTED on June 10, 2020.

COUNTY OF INDIANA

[SEAL]

By: _____
Name: R. Michael Keith
Title: Chairman, Board of Commissioners

Attest:

By: _____
Name: Robin Maryai
Title: Chief Clerk

By: _____
Name: Robin Gorman
Title: Commissioner

By: _____
Name: Sherene Hess
Title: Commissioner

DESCRIPTION OF PROJECT

"Project" means: (a) the acquisition and construction of repairs, renovations, rehabilitations and general improvements to and of the County Courthouse and the County Jail, including particularly the relocation of Judge's Chambers and the Office of the Coroner; (b) the acquisition and construction of the new education facility, prospectively named the "Indiana County Education and Technology Center" to house the operations, among other educational institutions and programs, of the Westmoreland County Community College; (c) the refunding, in order to substitute notes for bonds, pursuant to Debt Act Section 8241(b)(5), of the Local Government Unit's General Obligation Bond, Series E of 2018 (the "Prior Bond") and (d) the payment of costs of issuance of the Notes. Reasonable estimates of the cost of the Project, which is not less than the principal amount of the indebtedness authorized hereby, together with the useful life of the capital assets which are being financed or refinanced (in a series of refinancings) by the Notes (being, on a weighted average, in excess of twenty-five (25) years), have been obtained with the assistance of engineers, architects and other persons qualified by experience. Nothing contained herein prohibits the Governing Body, under proper enactment of an ordinance and compliance with all provisions of law, from amending, adding to, subtracting from, substituting for or otherwise altering the Project.

EXHIBIT P

DEBT SERVICE PAYMENT SCHEDULE

EXHIBIT DS

FORM OF LOAN AGREEMENT
(INCLUDING FORM OF NOTE)

EXHIBIT LA

PURCHASE CONTRACTS

EXHIBIT PC

CERTIFICATE

I, the undersigned, a Designated Officer of the named Local Government Unit, hereby certify that the foregoing and attached is a true copy of an ordinance which was duly enacted by the affirmative vote of the majority of all the members of the Governing Body thereof at a meeting held on the date of the execution thereof; that due notice of such meeting was given and the meeting was at all times open to the public; that such Ordinance was duly recorded; that this Ordinance is still in full force and effect as of the date hereof; that the vote upon said Ordinance was called and duly recorded upon the minutes of the Governing Body; and that the members of the Governing Body voted in the manner following:

	Yes	No	Abstain	Absent
R. Michael Keith	_____	_____	_____	_____
Robin Gorman	_____	_____	_____	_____
Sherene Hess	_____	_____	_____	_____

WITNESS my hand and seal of the Local Government Unit this ____ day of _____, 20__.

COUNTY OF INDIANA

[SEAL]

Chief Clerk