

COUNTY OF LUZERNE, PENNSYLVANIA

RESOLUTION R-2012-107
Adopted December 18, 2012

AUTHORIZING THE ISSUANCE OF A TAX AND REVENUE ANTICIPATION NOTE, SERIES A OF 2013 IN THE PRINCIPAL AMOUNT OF TEN MILLION DOLLARS (\$10,000,000); PROVIDING FOR THE DATED DATE, INTEREST RATE, MATURITY DATE, PAYMENT AND PLACE OF PAYMENT IN RESPECT OF THE NOTE; ACCEPTING THE PROPOSAL ATTACHED HERETO AS EXHIBIT "B" FROM THE FINANCIAL INSTITUTION OR ENTITY NAMED THEREIN FOR THE PURCHASE OF THE NOTE; NAMING A SINKING FUND DEPOSITARY/PAYING AGENT; AUTHORIZING THE PROPER OFFICERS OF THE COUNTY TO EXECUTE AND DELIVER THE NOTE AND CERTAIN OTHER DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH; DESIGNATING THE NOTE AS A "QUALIFIED TAX-EXEMPT OBLIGATION" UNDER SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING OF THE NECESSARY DOCUMENTS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT OF THE COMMONWEALTH OF PENNSYLVANIA; SETTING FORTH A FORM OF THE NOTE.

WHEREAS, the County of Luzerne, Pennsylvania (the "County"), anticipates receiving taxes and other revenues during the fiscal year ending December 31, 2013, which taxes and other revenues are currently uncollected; and

WHEREAS, the County has estimated, on a monthly basis, its expected taxes, revenues and expenditures for the fiscal year ending December 31, 2013, and has determined that during a portion of such fiscal year it will experience a "cumulative cash flow deficit" as such phrase is defined in the regulations promulgated under Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the County has determined to borrow monies for the purpose of funding, in part, such cumulative cash flow deficit by issuing a note to be repaid from the anticipated taxes and revenues, all in accordance with the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, Act 53 Pa.C.S., Chapters 80-82, as reenacted and amended (the "Debt Act"); and

WHEREAS, the County has received an acceptable proposal for the purchase of its Tax and Revenue Anticipation Note as hereinafter described; and

WHEREAS, as required by Section 8126 of the Debt Act, officials of the County have heretofore made an estimate of the taxes and revenues to be received during such fiscal year ending December 31, 2013, and, by their execution of a certificate with respect thereto dated this date, have certified to such estimate.

NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Luzerne, Pennsylvania (the "Council"), in lawful session duly assembled, as follows:

Section 1. For the reasons and purposes recited above, the County hereby exercises its power and authority to borrow money and authorizes the issuance and sale of its Tax and Revenue Anticipation Note, Series A of 2013, in the principal amount of Ten Million Dollars (\$10,000,000) (the "Note") in anticipation of the receipt of current taxes and revenues during the fiscal year ending December 31, 2013, such Note to be issued, sold and delivered as hereinafter provided.

Section 2. The Chair or Vice-Chair of the Council of the County and the County Manager, attested by the Clerk of County Council, is hereby authorized and directed, in the name and on behalf of the County, to prepare and file with the Department of Community and Economic Development of the Commonwealth of Pennsylvania a certified copy of this Resolution, a certificate setting forth the taxes and revenues to be collected in the fiscal year ending December 31, 2013, and a true copy of the accepted Proposal (hereinafter defined) for the purchase of the Note, all as set forth in and required by Section 8128 of the Debt Act. The Chair or Vice-Chair of the Council of the County and the County Manager, attested by the Clerk of County Council, is also hereby authorized and directed, in the name and on behalf of the County, to prepare and verify a certificate, in accordance with Sections 103 and 148 of the Code and the regulations applicable thereto, setting forth the anticipated use of the proceeds, to prepare and deliver to the Purchaser of the Note the certificate required by Section 8127 of the Debt Act relating to the total amount of the County's tax and revenue anticipation notes outstanding on the date of delivery of the Note, and to take any and all other action, and to execute and deliver any and all other documents and instruments, as may be necessary, proper or desirable to effect the issuance and sale of the Note as contemplated herein. The certification made on the date of adoption of this Resolution by the aforementioned officials of the County, relating to the amount of taxes and other revenues remaining to be collected by the County in the fiscal year ending December 31, 2013, is hereby ratified and approved.

Section 3. The Note shall be designated "County of Luzerne, Pennsylvania, Tax and Revenue Anticipation Note, Series A of 2013", shall be in registered form, without coupons, shall be prepayable prior to maturity, shall be in the denomination of Ten Million Dollars (\$10,000,000), shall be dated the date of issuance, shall bear interest at the rate of interest set forth in the Proposal, which rate of interest is subject to modification as provided in the Proposal not to exceed 5.000% per annum, from the date of delivery until maturity, shall mature on June 28, 2013, and shall be payable as to principal and interest at the place and in the manner and be otherwise in substantially the form set forth in the form of Note attached as Exhibit "A" hereto and the Proposal attached as Exhibit "B" hereto.

Section 4. The Note, when issued, will be a general obligation of the County. In accordance with the provisions of Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), the County hereby finds, determines and designates the Note as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code, for the purposes of such Section 265(b) of the Code. The County determines that it and all entities with which it is aggregated under Section 265(b)(3)(E) of the Code have not issued, and do not reasonably expect to issue, tax-exempt obligations which, in the aggregate, exceed or will exceed Ten Million Dollars (\$10,000,000) during the calendar year 2013. The County also determines that it will not engage in any action or inaction which will or may cause the Note to fail or cease to constitute a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code.

Section 5. The Note shall be executed by the Chair or Vice-Chair of the Council of the County and the County Manager, shall have the corporate seal of the County affixed thereto, and shall be duly attested by the Clerk of County Council. The Chair or Vice-Chair of the Council of the County and the County Manager is further authorized and directed to deliver the Note to the Purchaser hereinafter named upon the terms and conditions hereinafter provided and to execute and deliver such other documents and instruments, attested to by the Clerk of County Council, and to take such other action as may be necessary or appropriate to effect the issuance and sale of the Note in accordance with this Resolution and the Debt Act.

Section 6. The Note, together with any other tax and revenue anticipation notes issued, or to be issued, by the County during the County's fiscal year ending on December 31, 2013, shall, upon issuance thereof, be equally and ratably secured by a pledge of, security interest in, and a lien and charge on, the taxes and other revenues to be received by the County during the period when the Note is outstanding; and the Chair or Vice-Chair of the Council of the County or the County Manager is hereby authorized and directed to prepare and file, or to have filed, such financing statements as may be necessary to fully perfect such pledge, security interest, lien and charge pursuant to the Pennsylvania Uniform Commercial Code and Section 8125 of the Debt Act.

Section 7. The County hereby covenants that it will not make any use of the proceeds of the Note or do or suffer any other action which, if such use or action had been reasonably expected on the date of issuance of the Note, would cause the Note to be an "arbitrage bond" or a "private activity bond" as such terms are defined in Section 148 or Section 141 of the Code and the regulations applicable thereto and further covenants that it will comply with Section 148 and Section 141 of the Code, and with any regulations applicable thereto, throughout the term of the Note, including without limitation, any requirements relating to a rebate of certain excess earnings pursuant to Section 148(f) of the Code of any regulations applicable thereto now existing or promulgated hereafter. In connection therewith, the Chair or Vice-Chair of the Council of the County and the County Manager, attested by the Clerk of County Council, is hereby authorized and directed to execute and to deliver, in the name and on behalf of the County, any and all documents or other instruments which Stevens & Lee, Bond Counsel, may reasonably request to provide its opinion that the Note is not an "arbitrage bond" or a "private activity bond" within the meaning of Section 148 and Section 141 of the Code and the regulations applicable thereto.

Section 8. The formal proposal (the "Proposal") of the lender identified therein (the "Purchaser"), presented to the Council is attached hereto as Exhibit "B", is hereby accepted and the Note is hereby awarded to the Purchaser at a private sale for the purchase price of \$10,000,000. The terms of the Proposal are incorporated herein by reference with the same effect as if set forth in full at this place. The Chair or Vice-Chair of the Council of the County and the County Manager, attested by the Clerk of County Council, is hereby authorized and directed to, accept the Proposal, in the name of and on behalf of the County, by executing the County's acceptance on an original copy of the Proposal, to deliver a copy of the same to the Purchaser and to file the original with the records of the County. The Chair or Vice-Chair of the Council of the County and the County Manager, is hereby authorized to deliver the Note to the Purchaser upon receipt of the full principal amount of the purchase price for such Note and upon compliance with all conditions precedent to such delivery as required by the Debt Act, this Resolution and the Proposal; and such Chair or Vice-

Chair of the Council of the County and the County Manager, attested by the Clerk of County Council, is hereby authorized and directed to prepare, verify and deliver to the Purchaser concurrently with the delivery of the Note, the certificate required by Section 8127 of the Debt Act, a copy of which certificate shall be retained with the records of the County until all tax and revenue anticipation notes issued by the County during the fiscal year ending on December 31, 2013, shall have been paid in full.

Section 9. The form of the Note shall be substantially as set forth and attached hereto as Exhibit "A," which form is hereby incorporated by reference and adopted as it fully recited at length herein and said form is hereby approved by this Council.

Section 10. The proper officers of the County are hereby authorized, empowered and directed to contract with a bank or bank or trust company authorized to do business in the Commonwealth of Pennsylvania (the "Paying Agent") for its services as paying agent and sinking fund depository in accordance with the terms of the Proposal, this Resolution and the Debt Act. The proper officers of the County are hereby authorized to establish a sinking fund for the Note with the Paying Agent for the benefit of the holder of the Note. The County Controller or other proper officer of the County is hereby authorized and directed to make deposits to the sinking fund to be held for the payment of principal and interest on the Note no later than the date of final maturity thereof.

Thereafter, the Paying Agent shall, without further authorization or direction from the County or any of its officials, withdraw moneys from the sinking fund and apply such moneys to the payment of principal and interest then due on the Note. Deposit by the County into the sinking fund of the full amount of such money shall satisfy in full the obligation of the County to pay principal and interest with respect to the Note.


Section 11. Stevens & Lee, a professional corporation, is hereby appointed Bond Counsel in connection with the issuance and sale of the Note.

Section 12. The Chair or Vice-Chair of the Council of the County, the County Manager or the Clerk of County Council or the Controller or Deputy Controller or other proper official of the County is hereby authorized and directed to pay at, or subsequent to, the closing for the issuance of the Note, all costs and expense of the issuance incurred by or on behalf of the County or required to be paid by the County, all in accordance with the provisions of the Purchaser's proposal. All such expenses incurred in connection with issuance of the Note shall be paid out of the proceeds derived from the issuance of the Note and the Chair or Vice-Chair of the Council of the County or the County Manager is authorized to approve requests for payment of such expenses and to direct the Purchaser to pay such expenses from the proceeds of the Note.


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DULY ADOPTED, THIS 18TH DAY OF DECEMBER, 2012, BY THE COUNCIL OF
THE COUNTY OF LUZERNE, PENNSYLVANIA, IN LAWFUL REGULAR SESSION
DULY ASSEMBLED.

COUNTY OF LUZERNE, PENNSYLVANIA




Chair, County Council



County Manager

(SEAL)

Attest:



Clerk of County Council