

CITY OF PITTSTON  
LUZERNE COUNTY, PENNSYLVANIA

AN ORDINANCE

FILE OF COUNCIL NO. 7 OF 2023

AN ORDINANCE OF THE COUNCIL OF THE CITY OF PITTSTON, LUZERNE COUNTY, PENNSYLVANIA, SETTING FORTH ITS INTENT TO ISSUE TWO GENERAL OBLIGATION NOTES IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF SEVEN HUNDRED THIRTY THOUSAND DOLLARS (\$730,000) PURSUANT TO THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, 53 PA.C.S. CHAPTERS 80-82, AS AMENDED, REENACTED AND SUPPLEMENTED, KNOWN AS THE LOCAL GOVERNMENT UNIT DEBT ACT (THE "ACT"); FINDING THAT A PRIVATE SALE BY NEGOTIATION IS IN THE BEST FINANCIAL INTEREST OF THE CITY; DETERMINING THAT SUCH NOTES SHALL EVIDENCE NONELECTORAL DEBT OF THE CITY; SPECIFYING THAT SUCH INDEBTEDNESS IS TO BE INCURRED TO PROVIDE FUNDS TO FINANCE A PROJECT OF THE CITY CONSISTING OF ALL OR ANY OF THE FOLLOWING: (1) THE ACQUISITION OF REAL PROPERTY BY THE CITY; (2) THE DESIGN, ACQUISITION, CONSTRUCTION, RENOVATION, IMPROVEMENT, AND INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENTS AND/OR ADDITIONS TO THE CITY'S FACILITIES AND PROPERTIES, INCLUDING, BUT NOT LIMITED TO, THE ACQUISITION OF VEHICLES AND OTHER MUNICIPAL EQUIPMENT, STREET PAVING, STREETScape PROJECTS AND IMPROVEMENTS, RECREATION FACILITIES IMPROVEMENTS AND EQUIPMENT ACQUISITION, SANITARY AND STORM SEWER REPAIRS AND IMPROVEMENTS AND EQUIPMENT ACQUISITION, MUNICIPAL BUILDINGS AND MUNICIPAL FACILITIES RENOVATIONS AND IMPROVEMENTS, TECHNOLOGY AND INFORMATION IMPROVEMENTS AND EQUIPMENT ACQUISITION; (3) ADDITIONAL CAPITAL PROJECTS OF THE CITY TO THE EXTENT APPROVED BY THE COUNCIL OF THE CITY; AND (4) PAYING THE COSTS AND EXPENSES OF ISSUANCE OF THE COSTS AND EXPENSES OF ISSUANCE OF THE NOTES; SETTING FORTH THE REASONABLE ESTIMATED USEFUL LIVES OF THE CAPITAL PROJECTS TO BE FINANCED BY THE NOTES; ACCEPTING ONE OR MORE PROPOSALS FOR THE PURCHASE OF SUCH NOTES AT PRIVATE SALE BY NEGOTIATION; PROVIDING THAT SUCH NOTES, WHEN ISSUED, SHALL CONSTITUTE GENERAL OBLIGATIONS OF THE CITY; FIXING THE DENOMINATION, DATED DATE, INTEREST PAYMENT DATES, INTEREST RATES, REDEMPTION PROVISIONS AND PLACE OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH NOTES; AUTHORIZING SPECIFIED OFFICERS OF THE CITY TO CONTRACT WITH THE PAYING AGENT FOR ITS SERVICES IN CONNECTION WITH THE NOTES; SETTING FORTH THE SUBSTANTIAL FORMS OF THE NOTES EVIDENCING THE DEBT; AUTHORIZING EXECUTION AND ATTESTATION OF SUCH NOTES;

PROVIDING COVENANTS RELATED TO DEBT SERVICE APPLICABLE TO SUCH NOTES TO THE EXTENT REQUIRED BY THE ACT AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY IN SUPPORT THEREOF; CREATING TWO SINKING FUNDS IN CONNECTION WITH SUCH NOTES, TO THE EXTENT REQUIRED BY THE ACT; DESIGNATING THE PAYING AGENT TO BE THE SINKING FUND DEPOSITARY; PROVIDING A COVENANT TO INSURE PROMPT AND FULL PAYMENT FOR SUCH NOTES WHEN DUE; SETTING FORTH REGISTRATION AND TRANSFER PROVISIONS WITH RESPECT TO SUCH NOTES; AUTHORIZING THE EXECUTION OF ONE OR MORE INVESTMENT AGREEMENTS BY SPECIFIED OFFICERS OF THE CITY (IF APPLICABLE) AND THE PURCHASE OF CERTAIN U.S. TREASURY OBLIGATIONS OR ANY OTHER SECURITIES OR INVESTMENTS IN CONNECTION WITH THE PROJECT; AUTHORIZING AND DIRECTING SPECIFIED OFFICERS OF THE CITY TO DO, TO TAKE AND TO PERFORM CERTAIN SPECIFIED, REQUIRED, NECESSARY OR APPROPRIATE ACTS TO EFFECT THE ISSUANCE OF THE NOTES, INCLUDING, WITHOUT LIMITATION, THE PREPARATION OF A DEBT STATEMENT AND BORROWING BASE CERTIFICATE, AND THE FILING OF SPECIFIED DOCUMENTS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, ALL AS REQUIRED BY THE ACT; DECLARING THAT THE DEBT TO BE EVIDENCED BY SUCH NOTES, TOGETHER WITH ALL OTHER INDEBTEDNESS OF THE CITY, WILL NOT BE IN EXCESS OF ANY APPLICABLE LIMITATION IMPOSED BY THE ACT; AUTHORIZING PROPER OFFICERS OF THE CITY TO DELIVER THE NOTES UPON THE APPROVAL OF THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; SETTING FORTH CERTAIN COVENANTS PRECLUDING THE CITY FROM TAKING ACTIONS WHICH WOULD CAUSE THE SERIES C NOTE TO BECOME AN "ARBITRAGE BOND" OR A PRIVATE ACTIVITY BOND" AS THOSE TERMS ARE USED IN THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), AND APPLICABLE REGULATIONS PROMULGATED THEREUNDER; DESIGNATING THE SERIES C NOTE AS A "QUALIFIED TAX-EXEMPT OBLIGATION" UNDER SECTION 265(b) OF THE CODE; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HERewith.

WHEREAS, the City of Pittston, Luzerne County, Pennsylvania (the "City"), is a home rule charter city operating under the Home Rule Charter and Optional Plans Law of the Commonwealth of Pennsylvania (the "Commonwealth"); and

WHEREAS, it is necessary that the indebtedness of the City be increased for the purposes of providing funds to finance and/or reimburse all or any of the following: (1) the acquisition of real property by the City; (2) the design, acquisition, construction, renovation, improvement, and installation, furnishing and equipping of improvements and/or additions to the City's facilities and properties, including, but not limited to, the acquisition of vehicles and other municipal equipment, street paving, streetscape projects and improvements, recreation facilities

improvements and equipment acquisition, sanitary and storm sewer repairs and improvements and equipment acquisition, municipal buildings and municipal facilities renovations and improvements, technology and information improvements and equipment acquisition; (3) additional capital projects of the City to the extent approved by the Council of the City; and (4) paying the costs and expenses of issuance of the hereinafter-defined Series C Note (the "Series C Project"); and

WHEREAS, it is also necessary that the indebtedness of the City be increased for the purposes of providing funds to finance and/or reimburse all or any of the following: (1) the acquisition of real property by the City; (2) the design, acquisition, construction, renovation, improvement, and installation, furnishing and equipping of improvements and/or additions to the City's facilities and properties, including, but not limited to, the acquisition of vehicles and other municipal equipment, street paving, streetscape projects and improvements, recreation facilities improvements and equipment acquisition, sanitary and storm sewer repairs and improvements and equipment acquisition, municipal buildings and municipal facilities renovations and improvements, technology and information improvements and equipment acquisition; (3) additional capital projects of the City to the extent approved by the Council of the City; and (4) paying the costs and expenses of issuance of the hereinafter-defined Series D Note (the "Series D Project", and together with the Series C Project, the "Project"); and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the City, pursuant to constitutional and statutory authority, to be exceeded; and

WHEREAS, the hereinafter-defined Notes will be issued pursuant to the Act of the General Assembly of the Commonwealth of Pennsylvania, 53 P.a.C.S., Chapters 80-82, as amended, reenacted and supplemented, and known as the Local Government Unit Debt Act (the "Act"); and

WHEREAS, to finance the costs of the Series C Project, Manufacturers and Traders Trust Company (the "Series C Purchaser") has determined to make a loan to the City in the maximum principal amount of Three Hundred Thirty-Five Thousand Dollars (\$335,000) and has issued its Proposal, dated November 10, 2023, to the City for the financing of the costs of the Series C Project (the "Series C Proposal"); and

WHEREAS, to finance the costs of the Series D Project, Manufacturers and Traders Trust Company (the "Series D Purchaser", and together with the Series C Purchaser, the "Purchasers") has determined to make a loan to the City in the maximum principal amount of Three Hundred Ninety-Five Thousand Dollars (\$395,000) and has issued its Proposal, dated November 10, 2023, to the City for the financing of the costs of the Series D Project (the "Series D Proposal", and together with the Series C Proposal, the "Proposals"); and

WHEREAS, the City desires to formally approve the Project, to accept the Proposals, to authorize the incurrence of nonelectoral debt under the Act, and to authorize the execution and delivery of the Proposals; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Pittston,

Luzerne County, Pennsylvania (the "Council"), and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. The maximum aggregate principal amount of the General Obligation Notes, Series C and D of 2023 (collectively, the "Notes") of the City proposed to be issued is Seven Hundred Thirty Thousand Dollars (\$730,000), same to be issued for the foregoing purposes and same to be incurred as nonelectoral debt. The Notes consist of the City's Three Hundred Thirty-Five Thousand Dollars (\$335,000) maximum principal amount General Obligation Note, Series C of 2023 (the "Series C Note") and Three Hundred Ninety-Five Thousand Dollars (\$395,000) maximum principal amount Federally Taxable General Obligation Note, Series D of 2023 (the "Series D Note"); and

SECTION 2. The City hereby approves the Project to be undertaken consisting providing funds for financing and/or reimbursing all or any of the following: (1) the acquisition of real property by the City; (2) the design, acquisition, construction, renovation, improvement, and installation, furnishing and equipping of improvements and/or additions to the City's facilities and properties, including, but not limited to, the acquisition of vehicles and other municipal equipment, street paving, streetscape projects and improvements, recreation facilities improvements and equipment acquisition, sanitary and storm sewer repairs and improvements and equipment acquisition, municipal buildings and municipal facilities renovations and improvements, technology and information improvements and equipment acquisition; (3) additional capital projects of the City to the extent approved by the Council of the City; and (4) paying the costs and expenses of issuance of the Notes.

The City hereby finds and certifies that realistic cost estimates have been obtained for the costs of the Project from financial analysts, registered architects, professional engineers or other persons qualified by experience to provide such estimates.

It is hereby determined and declared that the realistic estimated useful life of the capital project to be financed and/or reimbursed by the proceeds of the Series C Note is at least 40 years and the realistic estimated useful life of the capital project to be financed and/or reimbursed by the proceeds of the Series D Note is at least 40 years.

It is hereby certified that a principal amount of the Notes at least equal to the realistic estimated cost of such capital project shall mature prior to the end of the useful life of such project.

Stated installments or maturities of principal of the Notes will not be deferred beyond the later of one year after the estimated date for the completion of the construction portion of the Project, if any, or two years from the date of issuance of the Notes.

SECTION 3. Said indebtedness shall be evidenced by two general obligation Notes in the maximum aggregate principal amount of Seven Hundred Thirty Thousand Dollars (\$730,000), dated and bearing interest from the earliest date of possible issue of said Notes under the statutory time requirements as set forth in the Act, at rates of interest as set forth in the Proposals, payable on the unpaid balance of said Notes during the terms of said Notes. The

Series C Note shall mature in maximum installments of principal and interest as shown on the attached schedule hereinafter referred to as Exhibit A. The Series D Note shall mature in maximum installments of principal and interest as shown on the attached schedule hereinafter referred to as Exhibit B.

The City reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payment dates thereof, in accordance with the limitations as specified in the Proposals, if any.

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

SECTION 4. The Notes are hereby declared to be general obligations of the City.

SECTION 5. The City hereby covenants that it shall include the amount of debt service on the Notes for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts from its general revenues for the payment of such debt service; and shall duly and punctually pay or cause to be paid from its general revenues the principal of the Notes and the interest thereon at the dates and places and in the manner stated in the Notes 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 City are hereby irrevocably pledged.

The maximum amounts which the City hereby covenants to pay in each of the fiscal years that the Series C Note is outstanding on the basis of a tax-exempt fixed interest rate as specified in the Series C Proposal are shown on Exhibit A attached hereto. The maximum amounts which the City hereby covenants to pay in each of the fiscal years that the Series D Note is outstanding on the basis of a taxable fixed interest rate as specified in the Series D Proposal are shown on Exhibit B attached hereto.

SECTION 6. In accordance with the provisions of Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), the City hereby finds, determines and designates the Series C 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 City 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 2023. The City also determines that it will not engage in any action or inaction which will or may cause the Series C Note to fail or cease to constitute a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code.

SECTION 7. The City covenants to and with the registered owners of the Series C Note that it will make no use of the proceeds of such issue or do or suffer any other action which, if such use or action had been reasonably expected on the date of issue of such Series C Note, would cause such Series C Note to be an "arbitrage bond" or a "private activity bond" as those terms are defined in Section 148 and Section 141 of the Code and the applicable

regulations thereunder. The City further covenants that it will comply with the requirements of such Section 148 and Section 141 and with the regulations thereunder throughout the term of this issue. In addition, the Mayor or Deputy Mayor of the City, being the official(s) responsible for issuing the Series C Note, attested by the City Administrator or Assistant City Administrator of the City, are hereby authorized and directed to execute and deliver, in the name and on behalf of the City, any and all documents or other instruments which Note Counsel may reasonably request in connection with the providing of its opinion that the Series C 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 promulgated thereunder, including, without limitation, a certificate dated the date of issuance and delivery of the Series C Note, which certificate shall set forth the reasonable expectations of the City as to the amount and use of the proceeds of the Series C Note.

SECTION 8. The form of the Series C Note shall be substantially as shown on the attached Exhibit C and the form of the Series D Note shall be substantially as shown on the attached Exhibit D.

SECTION 9. The Notes shall be executed in the name and under the corporate seal of the City by the Mayor and the Controller of the City and attested to by the City Administrator of the City in substantially the forms attached hereto together with such changes, modifications, insertions and deletions, including the appropriate designation of the year such Notes are issued, as such officers, with the advice of counsel, deem necessary and appropriate; its execution and delivery thereof shall be conclusive evidence of the approval and authorization by the City of the final terms of the Notes. The City Administrator, Controller, Treasurer or other proper official of the City is hereby authorized and directed to deliver the Notes to the Purchasers and receive payment therefor on behalf of the City. The Mayor or Deputy Mayor of the City or the City Administrator or Assistant City Administrator of the City are each, both severally and jointly, 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, the filing, either before or after the issuance of the Notes, additional debt statements or any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 10. The Fidelity Deposit and Discount Bank, Dunmore, Pennsylvania, or such other paying agent which shall be a bank or bank and trust company authorized to do business in the Commonwealth, as may be selected by the Mayor of the City, is hereby designated as the Sinking Fund Depository for the obligations herein authorized, and there is hereby created and established (i) a sinking fund to be known as the "City of Pittston, Luzerne County, Pennsylvania, Sinking Fund - General Obligation Note, Series C of 2023" (the "Series C Sinking Fund") and (ii) a sinking fund to be known as the "City of Pittston, Luzerne County, Pennsylvania, Sinking Fund – Federally Taxable General Obligation Note, Series D of 2023" (the "Series D Sinking Fund", and together with the Series C Sinking Fund, the "Sinking Funds") for the payment of the principal and interest thereon which shall be deposited into the Sinking Funds no later than the date upon which the same becomes due and payable. The City Administrator, Controller, Treasurer, or other appropriate officer of the City shall deposit into the Sinking Funds, which shall be maintained until such obligations are paid in full, sufficient

amounts for payment and interest on the obligations 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 City withdraw available monies from the Sinking Funds and apply said monies to payment of the principal of and interest on the respective obligation.

SECTION 11. The Mayor or Deputy Mayor of the City is hereby authorized to contract with The Fidelity Deposit and Discount Bank, Dunmore, Pennsylvania, or such other paying agent which shall be a bank or bank and trust company authorized to do business in the Commonwealth, as may be selected by the Mayor or Deputy Mayor of the City, for its services as Sinking Fund Depository for the Notes and Paying Agent for the same (the "Paying Agent").

SECTION 12. In compliance with Section 8161 of the Act, the Council has determined that a private sale by negotiation, rather than public sale, is in the best financial interest of the City. The Proposals are hereby accepted and the Notes in the maximum aggregate principal amount Seven Hundred Thirty Thousand Dollars (\$730,000), herein authorized to be issued and sold, are hereby awarded and sold to the Purchasers in accordance with their commitments to purchase the said Notes at par provided the said Notes are dated the date of delivery thereof to the Purchasers and are in substantially the forms set forth in Exhibit C and D to this Ordinance with such changes as may be approved by the officers of the City executing such Notes; 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. A copy of the Series C Proposal shall be attached hereto as Exhibit E and a copy of the Series D Proposal shall be attached hereto as Exhibit F. The Proposals shall be lodged with the official minutes of this meeting and are hereby incorporated herein by reference.

SECTION 13. If necessary, the City hereby approves the execution of one or more investment agreements, the purchase of certain U.S. Treasury obligations or any other securities or investments (the "Investments") for investment of the proceeds of the Notes in connection with the Project. The City hereby authorizes and directs the Mayor or Deputy Mayor of the City to execute and the City Administrator or Assistant City Administrator of the City to attest any investment agreement on behalf of the City, in the form approved by the Solicitor and Note Counsel to the City. The Investments shall be limited to those authorized under law for proceeds of the Notes.

SECTION 15. All expenses incurred in connection with issuance of the Notes shall be paid out of the proceeds derived from the issuance of the Notes and the Mayor or Deputy Mayor of the City is authorized to approve requests for payment of such expenses and to pay such expenses.

SECTION 16. The City hereby appoints and engages Stevens & Lee, P.C., to act as Note Counsel to the City in connection with the issuance of the Notes and to facilitate the intent of this Ordinance. The Mayor or Administrator of the City are hereby each, both severally and jointly, authorized and directed to execute and to deliver an engagement letter with Stevens & Lee, P.C., and the execution and delivery of such agreement shall constitute conclusive evidence of the authorization and approval thereof by the City.

SECTION 17. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in a newspaper of general circulation in the City is ratified and confirmed. The advertisement of enactment in said newspaper is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 18. The proper officers of the City are hereby authorized to execute and deliver such other documents and to take such other action as may be necessary or proper to effect the completion of the financing or the intent and purposes of this Ordinance.

SECTION 19. All expenses incurred in connection with issuance of the Notes shall be paid out of the proceeds derived from the issuance of the Notes and the Mayor or Deputy Mayor of the City is authorized to approve requests for payment of such expenses and to pay such expenses.

SECTION 20. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the City that the remainder of this Ordinance shall remain in full force and effect.

SECTION 21. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

SECTION 23. This Ordinance shall be effective in accordance with Section 8003 of the Act.


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ORDAINED AND ENACTED THIS 15TH DAY OF NOVEMBER, 2023.

CITY OF PITTSTON  
Luzerne County, Pennsylvania



By:   
Mayor

Attest:

  
City Administrator