

ORDINANCE NO. 159

Enacted April 11, 2012

of the
BOROUGH OF INDIAN LAKE
(Somerset County, Pennsylvania)

respecting
\$7,000,000 GENERAL OBLIGATION NOTES, SERIES A AND B OF 2012

WHEREAS, the Governing Body of the above-named Local Government Unit (the "Local Government Unit") deems it advisable to borrow the amount shown above, pursuant to the Local Government Unit Debt Act (the "Act"), for the: (a) payment of a portion of the costs of the repair, restoration and rehabilitation of the Indian Lake Borough Dam (as generally described in analyses, reports, plans and specifications developed by GAI Consultants, Inc. and CME Engineering LP (together, the "Professional Engineer")); (b) current refunding, in order to exchange notes for bonds, of the Local Government Unit's outstanding General Obligation Bond, Series of 2010 (the "Prior Bond") which Prior Bond was issued to provide funds to finance or refinance a portion of the costs of the improvements described in (a) above; and (c) payment of the costs of issuing the Notes (collectively, the "Project"); and

WHEREAS, 1st Summit Bank (the "Purchaser-A" or the "Bank-A") has presented a written purchase contract (the "Purchase Contract-A"), attached hereto within **Exhibit PC**, to purchase a note to be issued by the Local Government Unit in order to achieve the financing of a portion of the Project; and

WHEREAS, Somerset Trust Company (the "Purchaser-B" or the "Bank-B") has presented a written purchase contract (the "Purchase Contract-B"), attached hereto within **Exhibit PC**, to purchase a note to be issued by the Local Government Unit in order to achieve the financing of a portion of the Project; and

WHEREAS, as appropriate in the context, 1st Summit Bank and Somerset Trust Company may be referred to herein, collectively, as "Purchaser" or "Banks", or, singularly, as "each Purchaser" or "each Bank";

NOW, THEREFORE, it is hereby enacted that:

Section 1 -- Authorization.

1.01. The Local Government Unit hereby authorizes the incurrence of electoral indebtedness in the principal amount set forth above, to be evidenced by installment obligations (the "Notes"), in the forms attached hereto as **Exhibit B**, in order to pay the costs of the Project. The Notes will be dated the date of their delivery, and will bear interest at the variable rates described in their forms over their twenty-five year terms, and will be payable (at maturity or upon earlier redemption) on the date and/or at the times, shown within **Exhibit B** attached hereto.

1.02. The Local Government Unit hereby specifically finds and determines that: (a) the costs of the Project have been determined by its Professional Engineer from bids received and contracts completed and performed, and/or from professional estimates, in the case of the final Phase III of the Project's development; and (b) as completed, following the Phase III improvements, the remaining useful life of the Project is at least thirty (30) years.

1.03. The Chief Legislative Officer and the Chief Administrative Officer or their duly elected and acting successors (the "Designated Officers") are hereby authorized and directed to execute and deliver such documents, and to do and perform all acts necessary and proper for the issuance and further security of the Notes, including their execution and sealing and delivery to the Purchasers.

1.04. The Designated Officers are hereby further authorized and directed to provide to each Purchaser a copy of the audited financial statements of the Local Government Unit no later than 180 days after each fiscal year end of the Local Government Unit while the Notes are outstanding.

1.05. The Local Government Unit hereby covenants and agrees to comply with the depository account requirements of each Purchaser, and any other conditions and/or requirements of either Purchaser (except the prepayment penalties contained in Purchase Contract-B, which have been waived by Purchaser-B), set forth within **Exhibit PC** attached hereto.

Section 2 -- Preparation of Debt Statement.

2.01. If and as required by §8110 of the Local Government Unit Debt Act, the Designated Officers of the Local Government Unit shall prepare, execute and acknowledge the Debt Statement, and its accompanying Borrowing Base Certificate.

Section 3 -- Security and Payment of Notes.

3.01. The Notes shall be general, full faith and credit obligations of the Local Government Unit. The Local Government Unit hereby covenants with each Bank and with subsequent holders, from time to time, of the Notes that it will (a) include the amount of the debt service for each fiscal year in which any installment of principal or interest is payable in its budget for that year, (b) appropriate such amounts to the payment of such debt service and (c) duly and punctually pay or cause to be paid the principal of and interest on the Notes on the dates at the place and in the manner stated therein according to the true 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 taxing power. The maximum amounts of debt service payable in respect of each of the Notes is set forth in **Exhibit B**.

3.02. The Local Government Unit does hereby create, and orders to be established (in its name and identified by reference to each Note), a Sinking Fund for the payment of each Note with each respective Purchaser and does further covenant to maintain each such Sinking Fund in accordance with the Local Government Unit Debt Act, until each respective Note is paid in full. A Designated Officer is hereby authorized and directed to contract with each Bank for its services in such capacity.

Section 4 -- Tax Covenants.

4.01. The Local Government Unit hereby covenants that no part of the proceeds of the Notes will be used, at any time, directly or indirectly, in a manner which, if such use had been reasonably expected on the date of issuance of the Notes, would have caused the Notes to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the Regulations thereunder applicable to the Notes and that it will comply with the requirements of that Section and the Regulations throughout the term of the Notes.

4.02. If: (a) the principal amount of the Notes plus the aggregate principal amount of all other tax-exempt obligations issued and to be issued by or on behalf of the Local Government Unit during the current calendar year exceeds \$5,000,000; and if (b) the gross proceeds of the Notes are invested at a yield greater than the yield on the Notes; and if (c) the gross proceeds of the Notes are not expended or deemed to have been expended either within six months from the date of issuance, or, if the Project is a construction project, within two years from the date of issuance (and according to certain periodic expenditure

thresholds), all pursuant to §1.148.7 of the Regulations, the Local Government Unit covenants that it will rebate to the U.S. Treasury, at the times and in the manner required by the Code, the difference (if a positive number) between the investment income received on the Notes' proceeds and the investment income that would have been earned had the Notes' proceeds been invested at the yield of the Notes.

4.03. The Local Government Unit hereby designates each of the Notes as a Qualified Tax-Exempt Obligation pursuant to Section 265(b)(3) of the Code and represents that the total amount of obligations designated and to be designated by or on behalf of the Local Government Unit during the current calendar year does not and is not expected to exceed \$10,000,000.

4.04. The Local Government Unit will file IRS Form 8038-G and any other forms or information required by the Code or the Regulations to be filed with the Internal Revenue Service in order to further ensure the exclusion of the interest on the Notes from gross income tax for federal income tax purposes.

Section 5 -- Award.

Having determined that a private sale by negotiation of the Notes is in the best financial interest of the Local Government Unit, the Governing Body hereby awards and sells each respective Note to each of the Purchasers in accordance with each respective Purchase Contract, as set out in **Exhibit PC**, whose previous acceptance and execution by the Designated Officers at the meeting of March 21, 2012 is hereby confirmed and ratified, and provided further that the revised Purchase Contract of Purchaser-A is hereby accepted and approved. The Local Government Unit shall execute and deliver to each of the Purchasers, if and as requested, a loan agreement and/or intercreditor agreement evidencing and reconciling the obligation of each of the Notes and the rights of each of the respective Purchasers, in such form as may be approved by bond counsel and/or solicitor of the Local Government Unit.

Section 6 -- Ordinance a Contract.

This Ordinance shall be deemed to be a contract with the holders, from time to time, of the Notes.

DULY ENACTED on April 11, 2012

BOROUGH OF INDIAN LAKE

By: Patricia A. Dewar
President, Borough Council

(SEAL)
Attest:
Thomas J. Meyant
Secretary

APPROVED, this 11th day of April, 2012

By: [Signature]
Mayor