

BOROUGH OF SUMMIT HILL,  
CARBON COUNTY, PENNSYLVANIA

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ORDINANCE NO. 5

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AN ORDINANCE

OF THE COUNCIL OF THE BOROUGH OF SUMMIT HILL (THE "BOROUGH"), CARBON COUNTY, PENNSYLVANIA, AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION NOTE (THE "NOTE") IN THE AGGREGATE PRINCIPAL AMOUNT OF \$650,000; SETTING FORTH THE PURPOSE OF THE ISSUANCE OF THE NOTE TO FUND CERTAIN CAPITAL PROJECTS OF THE BOROUGH PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT; DETERMINING THAT THE NOTE SHALL BE SOLD AT PRIVATE SALE; DETERMINING THE PROJECTS AND ESTABLISHING THEIR USEFUL LIFE; DETERMINING THAT THE DEBT EVIDENCED BY THE NOTE SHALL BE NONELECTORAL DEBT; SETTING FORTH THE INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES AND FINAL MATURITY OF THE NOTE AND THE PREPAYMENT PRIVILEGES; DETERMINING THE NOTE SHALL BE ISSUED ON A DRAWN DOWN, REVOLVING LINE OF CREDIT BASIS; ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE NOTE; DESIGNATING A PAYING AGENT FOR THE NOTE; SETTING FORTH THE METHOD AND PLACE OF PAYMENT OF THE NOTE; APPROVING THE FORM OF THE NOTE; AUTHORIZING THE EXECUTION OF THE NOTE; ENTERING INTO A COVENANT WITH RESPECT TO THE NOTE AND PLEDGING THE BOROUGH'S FULL FAITH, CREDIT AND TAXING POWER THEREFORE, AND ESTABLISHING A SINKING FUND FOR THE NOTE; DESIGNATING A SINKING FUND DEPOSITORY; SETTING FORTH CERTAIN ADDITIONAL TERMS WITH RESPECT TO THE NOTE; AUTHORIZING APPROPRIATE OFFICERS TO FILE UNDER SECTION 8110 OF THE LOCAL GOVERNMENT UNIT DEBT ACT WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, INCLUDING PROCEEDINGS UNDER SECTION 8024 OR 8026 OF THE ACT; MAKING CERTAIN FEDERAL TAX COVENANTS AND DECLARING THE NOTE TO BE A QUALIFIED TAX-EXEMPT OBLIGATION; DECLARING THE DEBT EVIDENCED BY THE NOTE TO BE

WITHIN THE LIMITATIONS OF THE LOCAL GOVERNMENT UNIT DEBT ACT; AUTHORIZING DELIVERY OF THE NOTE; RESTRICTING INVESTMENT OF THE PROCEEDS OF THE NOTE; PROVIDING FOR INVALID PROVISIONS; PROVIDING FOR INCONSISTENT ORDINANCES; PROVIDING WHEN THE ORDINANCES SHALL BECOME EFFECTIVE.

WHEREAS, the Borough of Summit Hill, Carbon County, Pennsylvania (the "Borough"), is a Local Government Unit, as defined in the Pennsylvania Local Government Unit Debt Act, as codified by the Act of December 19, 1996, P.L. 1158, No. 177 constituting Title 53, Part VII, Subpart B of the Pennsylvania Consolidated Statutes, as amended (the "Act"); and

WHEREAS, the Council of the Borough (the "Council") previously determined to undertake construction of new facilities for the municipal offices of the Borough and the Borough fire company, and various other capital projects (the "2008 Improvement Projects" or the "Projects"); and

WHEREAS, the Borough has received actual bids and/or realistic cost estimates from persons qualified by experience as to the costs of the 2008 Improvement Projects and all related equipment, furnishings, machinery, vehicles and apparatus to be acquired and funded, and all related appraisers', attorneys' and Advisors' fees to be incurred with respect to the Projects, the total estimated cost of which is approximately \$3,500,000, including cost of issuance; and

WHEREAS, part of the cost of the 2008 Improvement Projects will be ultimately paid through a Redevelopment Grant (the "Grant"), dated as of July 7, 2008, which the Borough has received from the Commonwealth of Pennsylvania in the amount of \$1,250,000 (Commonwealth Contract No. ME300-609); and

WHEREAS, the Grant is an ongoing reimbursement grant and, as such, the Borough desires to obtain interim financing for the 2008 Improvement Projects prior to the receipt of grant funds; and

WHEREAS, the Council has determined to implement the foregoing decision by the authorization, issuance and sale of its General Obligation Note, Series of 2008, in the aggregate principal amount of \$650,000 (the "Note"), the proceeds from the sale thereof, after payment of the costs of issuance, will fund the Projects, sometimes referred to herein as the "Financing Program"; and

WHEREAS, the Council, in contemplation of the authorization, issuance and sale of the Note, has determined that the Note shall be offered for private sale, by invitation, in accordance with Section 8161 of the Act, which it believes is in the best interest of the Borough, and has designated Public Financial Management Inc., its Financial Advisor (the "Financial Advisor") to circulate a Request for Proposals to obtain quotations from banking institutions for the prospective purchase of the Note; and

WHEREAS, the Council has received and reviewed a written proposal, which, together with the Request for Proposal, shall constitute a Loan Agreement (the "Loan Agreement"), for the purchase of the Note, at private sale in accordance with the Financing Program, from Harleysville National Bank (the "Bank"), which the Council desires, upon the recommendation of the Financial Advisor, to accept; and

WHEREAS, the Council desires to award the Note to the Bank at private sale and to accept the Loan Agreement in the form submitted; to authorize issuance of nonelectoral debt in the aggregate principal amount of the Note in connection with the Financing Program; and to take appropriate action and to authorize such action in connection with the Financing Program, all in accordance with and pursuant to provisions of the Act; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough, as follows:

Section 1. The Council of the Borough of Summit Hill does authorize and direct the issuance of the General Obligation Note, Series of 2008, pursuant to this Ordinance, in the aggregate principal amount of \$650,000, for the purpose of the Financing Program defined in Section 2 hereof. The Note will be an obligation of the Borough payable from its general revenues.

Section 2. The purpose of the issuance and sale of the Note shall be to provide sufficient funds, in addition to those available, to carry out the Financing Program described in the Preamble to this Ordinance, in order to finance the costs of the Projects, which constitute capital projects with a useful life of 5 to 30 years, pursuant to Section 8002 of the Act, and to pay the costs thereof as defined in Section 8007 of the Act, and the amortization of the Note is structured to fully amortize on a level or earlier basis each component of the Projects before the expiration of their useful lives.

Section 3. The Note shall be sold at private sale by invitation, which the Council hereby determines is in the best interests of the Borough.

Section 4. The Council has determined that the debt, of which the Note shall be evidence, shall be nonelectoral debt of the Borough.

Section 5(a). The Council shall issue, execute and deliver the Note to the Bank under the terms and conditions set forth in the Loan Agreement at a closing (the "Closing") in the principal amount of \$650,000 in fully registered form. The Note shall be dated the date of Closing, and shall mature one (1) year from the Closing date. Closing shall occur no later than December 31, 2008.

(b) Absent default, the interest rate (the "Tax Free Rate") on the Note shall be variable at the "Base Rate". The "Base Rate" shall be 65% times the sum of an "Index" plus

100 basis points, plus an additional 25 basis points. The "Index" shall be the interest rate equivalent of the prime rate as published in the Money Rates section of the Wall Street Journal. Such interest rate shall be on a tax free fully bank qualified basis. In the event the interest rate of the Note ceases to be exempt from federal and state income taxation and/or the Note ceases to be a "qualified obligation" as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, then (i) the interest rate on the Note shall convert to an "Upset Rate" (defined below) as of the effective date of taxability, and (ii) the Borough will indemnify and reimburse the Bank for all costs, expenses and liabilities (including without limitation legal fees and costs of litigation) incurred by the Bank as a result thereof. The Upset Rate shall be the then variable prime rate (floating) as published in the Money Rates section of the Wall Street Journal at the time the Note effectively has been determined to no longer be "tax free fully bank qualified" plus 100 basis points. In the event of a default, the interest rate of the Note shall be 3.00% over the Upset Rate (the "Default Rate"), until such default is cured in accordance with the cure provisions contained in the loan documents. At no time during the term of the Loan shall the Tax Free Rate be more than 7.50% nor less than 3.50%. At no time shall the Default Rate or the Upset Rate be more than 11.15%.

(c) The Note shall be issued on a draw down, revolving line of credit basis. The Borough may borrow, repay and reborrow up to the maximum amount of the Note until its maturity date; provided, however, that the total amount of advances and/or re-advances under the Note shall be limited to an aggregate of \$1,250,000. Interest shall only be payable on the principal amount actually outstanding. In the event that less than the full principal amount of the Note is outstanding, the debt service schedule shall be adjusted accordingly.

(d) The Borough will pay regular quarterly payments of accrued interest beginning the end of the first quarter after Closing, for a period of one year, and all subsequent

interest payments are due on the same day of each quarter end after that, in accordance with the Debt Service Schedule attached hereto. The Borough will pay this loan in one payment of all outstanding principal plus all accrued unpaid interest on the 12th month from Closing.

(e) The Note may be prepaid in whole or in part at any time without premium or penalty.

(f) Interest shall be calculated on an "Actual/360 day" basis.

Section 6. The Council shall and does accept the proposal of the Bank for purchase of the Note, which Note shall be and is awarded to the Bank, in accordance with terms and conditions of the Loan Agreement, at private sale by invitation, at a dollar price of 100% of the principal amount thereof at Closing, together with accrued interest from the date thereof to the date of delivery thereof, if any, the Bank having submitted its proposal in accordance with provisions of the Act. Appropriate officers of the Borough are authorized and directed to execute the Loan Agreement.

Section 7. The Council does hereby designate, the Bank, a banking institution having offices in Harleysville, Pennsylvania, or its successor or nominee-affiliate, as the "Paying Agent" for purposes of the Note.

Section 8. The principal of and premium, if any, and interest on the Note shall be payable by account transfer, check or draft of the Paying Agent mailed or delivered to the registered owner at the address shown on the registration books as of the close of business on the fifth (5<sup>th</sup>) day prior to the payment dates, in lawful monies of the United States of America, without deduction of any tax or taxes now or hereafter levied or assessed thereon under any present or future law of the Commonwealth, which tax or taxes this Borough assumes and agrees to pay; provided, however, that the foregoing shall not be applicable to gift, estate or

inheritance taxes or to other taxes not levied or assessed directly on the Note or the interest paid thereon.

Section 9. The Note, subject to any technical corrections or modifications approved by counsel, shall be in the substantial form of the Note attached as Schedule "B" of this Ordinance.

Section 10. The Note shall be executed in the name of and in behalf of this Borough by the signature or facsimile signature of the President or Vice President of the Council, and the official seal of this Borough or a facsimile thereof shall be affixed thereunto, attested by the signature or facsimile signature of the Borough Secretary.

Section 11. This Borough covenants to and with the holder or registered owner of the Note, from time to time, pursuant to this Ordinance, that this Borough shall include the amount of the debt service thereon, for each fiscal year of this Borough in which such sums are payable, in its budget for each such fiscal year, shall appropriate such amounts to the payment of such debt service, and duly and punctually shall pay or shall cause to be paid the principal of the Note and the interest thereon on the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, this Borough shall and does pledge, irrevocably, its full faith, credit and taxing power. As provided in the Act, the foregoing covenant of this Borough shall be enforceable specifically.

Furthermore:

(a) There are created pursuant to Section 8221 of the Act, a sinking fund for the Note, to be known as the "Sinking Fund, General Obligation Note, Series of 2008", or the "2008 Note

Sinking Fund", which sinking fund shall be administered in accordance with applicable provisions of the Act.

(b) From the funds deposited in the appropriate sinking funds, the Paying Agent, without further action of the Borough, is hereby authorized and directed to pay the principal of and interest on the respective Note, and the Borough hereby covenants that such monies, to the extent required, will be applied to such purpose, as follows: the Paying Agent shall pay all interest and principal on the Note, as and when the same shall become due and payable.

Section 12. The Borough appoints the Bank as the Sinking Fund Depository with respect to the Sinking Fund created pursuant to Section 11 of this Ordinance .

Section 13. The President or Vice President of the Council of this Borough is authorized and directed to contract with the Bank for its services as Sinking Fund Depository and as Paying Agent in connection with the Note, and is authorized and directed to execute on behalf of the Borough at the appropriate time, a Paying Agent Agreement with the Bank in its capacity as Paying Agent for the Note. The President or Vice President of the Council are authorized to approve payment at closing on the sale of the Note of all costs and expenses incidental to such issuance and sale and consummation of the Financing Program.

Section 14. The following additional terms and conditions shall apply, as appropriate, to the Note:

(a) Should the Borough fail to provide the Paying Agent with sufficient funds, payable to the Sinking Fund, at appropriate intervals, so as to enable the Paying Agent to pay the principal and interest on the Note as and when due, or should the Borough, through the Paying Agent, fail to make such payments as and when due, or should the Borough fail to perform any other covenant or condition contained in this Ordinance and running to the benefit of the holder or registered owner of the Note, or contained in the Act as applicable to the Note, such failure



shall constitute a default by the Borough, and the registered owner of the Note shall be entitled to all the rights and remedies provided by the Act in the event of default. If any such default occurs, the Paying Agent may, and upon written request of the registered owner of the Note accompanied by indemnity in such form and in such amount as the Paying Agent shall designate or a Court of competent jurisdiction shall set and establish, shall bring suit upon the Note, or by other appropriate legal or equitable action restrain or enjoin any acts by the Borough which may be unlawful or in violation of the rights of the owner of the Note.

(b) With respect to the Note hereunder, when such Note shall be paid by the Borough or the Paying Agent pursuant to the terms and provisions of this Ordinance, the Note shall be cancelled and cremated or otherwise destroyed by the Paying Agent, which shall then furnish the Borough with a Certificate of Cremation or Destruction, if requested.

(c) The Note shall be deemed to be no longer outstanding if provision for payment at maturity or at redemption, such redemption having been irrevocably undertaken, shall have been made in a manner authorized under Section 8250(b) of the Act.

(d) With respect to the Note hereunder, the Borough may, from time to time and at any time, enact a supplemental ordinance in order to: (1) cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance, or (2) grant to or confer upon the owner of the Note any additional rights, remedies, powers, authority, or security that may be lawfully granted to or conferred upon it. This Ordinance may also be amended or modified from time to time, except with respect to the interest payable upon the Note, or with respect to the date of payments and maturity of the Note, and in the case of any such permitted amendment or modification, a certified copy of the same shall be filed with the Paying Agent following approval in writing by the owner of the Note, unless provision for payment or redemption of the Note has been made prior to the effective date thereof as provided in subsection (c) above.

Section 15. The President or Vice President of the Council, the Borough Secretary and the Borough Treasurer, collectively and individually, which shall include their duly qualified successors in office, if applicable, are authorized and directed as appropriate; (a) to prepare, to certify and to file the debt statement required by Section 8110 of the Act; (b) to prepare and file, as required with the Department of Community and Economic Development (the "Department") of the Commonwealth, statements required by Section 8024 or 8026 of the Act, which are necessary to qualify certain nonelectoral and lease rental debt of this Borough and, if necessary, the debt which will be evidenced by the Note to be issued hereunder, as subsidized or self-liquidating debt; (c) to prepare, execute and to file the application with the Department, together with a complete and accurate transcript for the proceedings relating to the incurring of debt, of which debt the Note, upon issue, will be evidence, as required by Section 8111 of the Act; (d) to pay or to cause to be paid to the Department all proper filing fees required by the Act in connection with the foregoing; and (e) to take other required, necessary and/or appropriate action.

Section 16. It is declared that the debt to be incurred by the issuance of the Note hereby, together with any other indebtedness of the Borough, is not in excess of any limitation imposed by the Act upon the incurring of debt by the Borough.

Section 17. The Borough hereby covenants with the registered owner from time to time, of the Note that:

(a) No part of the proceeds of the Note or of any moneys on deposit with the Paying Agent and Sinking Fund Depository hereunder 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 Note, would have caused the Note to be an "arbitrage Note" within the meaning of Section 148 of the Code and the Regulations thereunder proposed or in effect at the time of such use and

applicable to the Note, and that it will comply with the requirements of that section and Regulations throughout the term of the Note.

(b) The Borough will not operate any of the Projects or cause the same to be operated in any manner which would cause the interest on the Note to be subject to Federal income tax in the hands of the owners of the Note or take or permit any action which will result in the Note becoming a Private Activity Bond as defined in Section 141 of the Code.

(c) The Borough shall take such action as shall be necessary to comply with provisions of the Code to the extent that such compliance is required to maintain the exclusion of interest on the Note from gross income for Federal income tax purposes.

(d) If the total tax-exempt borrowings of the Borough in the calendar year 2008 should exceed the applicable exemption limitation (not more than \$5,000,000), and if the gross proceeds of the Note are invested at a yield greater than the yield on the Note and are not expended within six months from the date of issuance, or within the applicable periods therefrom and in the applicable percentages if Section 1.148-7(d) or Section 1.148-7(e) of the United States Treasury Regulations shall be applicable, the Borough covenants that it will "Rebate" to the U.S. Treasury, at the times and in the manner required by the Code, all investment income derived from investing the proceeds of the Note in an amount which exceeds the amount which would have been derived from the investment of the proceeds of the Note at a yield not in excess of the yield on the Note. Provided however, that the President or Vice President of the Council is hereby authorized on behalf of the Borough to exercise an election to pay, in lieu of Rebate, a penalty pursuant to Section 148(f)(4)(C)(vii)(I), which election, if made in his discretion, shall be contained in the Borough's Non-Arbitrage Certificate with respect to the Note issued at closing thereon, and shall thereupon become binding upon the Borough, in which case the Borough shall pay the appropriate penalties, as applicable, as and when due, in lieu of Rebate.

Section 18. The Borough hereby designates the Note as a "Qualified Tax-Exemption Obligation" pursuant to Section 265(b)(3) of the Code, and represents and covenants that the total amount of its obligations so designated and to be designated during the calendar year does not and will not exceed \$10,000,000.

Section 19. The Borough does hereby covenant and agree, for the benefit of the holders of the Note from time to time, that it will comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission ("SEC") with respect to municipal securities disclosure, and will execute and comply with an appropriate Continuing Disclosure Certificate as approved by Note counsel as long as the Note is outstanding.

Section 20. Proper officers of this Borough are authorized and directed to deliver the Note, upon execution thereof as provided for herein, to the Bank, but only upon receipt of proper payment of the balance due or the amount then to be drawn thereon, and only after the Department has certified its approval pursuant to Section 8111 of the Act, and to pay or direct the payment of the costs of issuance and comply with the Loan Agreement requirements, including fees due and payable to the Bank.

Section 21. Proceeds from the sale of the Note are to be used for the costs of the Projects and not investment purposes. In the event investment is necessary on a short term basis, the proceeds of the sale of the Note, after payment of the costs of issuance, shall be invested, pending application to the payment of costs of the Projects, in investments (the "Investments"), which are legal investments for Borough under the laws and statutes of the Commonwealth of Pennsylvania, and further, to the extent not invested in direct obligations of the United States, such Investments shall be adequately collateralized by such obligations. The President, Vice President, Borough Treasury and Borough Secretary, individually and collectively, are hereby authorized and directed to make appropriate arrangements for the Investments.

Section 22. Upon the Borough's receipt of grant funds under the Grant, the Borough shall use such funds to pay down the outstanding principal amount of the Note, and not use the grant funds for investment purposes except for a limited temporary period not exceeding thirty (30) days.

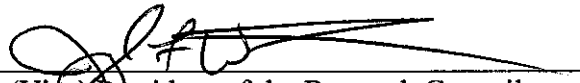
Section 23. In the event that any provision, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect.

Section 24. All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

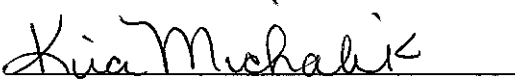
Section 25. This Ordinance shall be effective in accordance with Section 8003(c) of the Act.

DULY ENACTED this 25<sup>th</sup> day of November, 2008, by the Borough Council of the Borough of Summit Hill, Carbon County, Pennsylvania, in lawful session duly assembled.

BOROUGH COUNCIL OF THE BOROUGH  
OF SUMMIT HILL

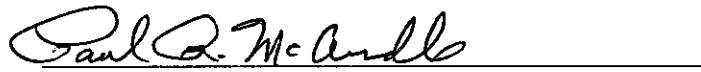
BY:   
(Vice) President of the Borough Council

ATTEST:

  
Borough Secretary

(SEAL)

EXAMINED AND APPROVED, on this 25 day of November, 2008.

  
MAYOR

SCHEDULE "A" TO ORDINANCE

\$650,000  
BOROUGH OF SUMMIT HILL  
GENERAL OBLIGATION NOTE, SERIES OF 2008

DEBT SERVICE SCHEDULE

Current Rate: PRIME = 4.00%				
	PRINCIPAL	\$650,000	12 MONTHS	
	INTEREST	3.500%		
DATE	PRINCIPAL	INTEREST	TOTAL	BALANCE
12/18/2008				650,000.00
3/18/2009		5,687.50	5,687.50	650,000.00
6/18/2009		5,813.89	5,813.89	650,000.00
9/18/2009		5,813.89	5,813.89	650,000.00
12/18/2009	650,000.00	5,750.69	655,750.69	0.00
<b>TOTAL</b>	<b>650,000.00</b>	<b>23,065.97</b>	<b>673,065.97</b>	

Rate Ceiling: 7.50%				
	PRINCIPAL	\$650,000	12 MONTHS	
	INTEREST	7.500%		
DATE	PRINCIPAL	INTEREST	TOTAL	BALANCE
12/18/2008				650,000.00
3/18/2009		12,187.50	12,187.50	650,000.00
6/18/2009		12,458.33	12,458.33	650,000.00
9/18/2009		12,458.33	12,458.33	650,000.00
12/18/2009	650,000.00	12,322.92	662,322.92	0.00
<b>TOTAL</b>	<b>650,000.00</b>	<b>49,427.08</b>	<b>699,427.08</b>	

Default Rate: 11.15%				
	PRINCIPAL	\$650,000	12 MONTHS	
	INTEREST	11.150%		
DATE	PRINCIPAL	INTEREST	TOTAL	BALANCE
12/18/2008				650,000.00
3/18/2009		18,118.75	18,118.75	650,000.00
6/18/2009		18,521.39	18,521.39	650,000.00
9/18/2009		18,521.39	18,521.39	650,000.00
12/18/2009	650,000.00	18,320.07	668,320.07	0.00
<b>TOTAL</b>	<b>650,000.00</b>	<b>73,481.60</b>	<b>723,481.60</b>	

\*Assuming December 18, 2008 settlement.

SCHEDULE "B" TO ORDINANCE

BOROUGH OF SUMMIT HILL

Carbon County, Pennsylvania

General Obligation Note, Series of 2008

BOROUGH OF SUMMIT HILL (the "Borough"), a local government unit under and pursuant to the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, as hereinafter defined, for value received, hereby promises to pay to Harleysville National Bank, a banking institution registered to do business within the Commonwealth of Pennsylvania with corporate offices in Harleysville, Pennsylvania (the "Bank"), or its successors or assigns, on or before the \_\_\_\_ day of December, 2009 (the "Maturity Date"), upon surrender hereof, the principal sum of Six Hundred and Fifty Thousand Dollars (\$650,000), or so much advanced.

Absent default, the interest rate (the "Tax Free Rate") on the Note shall be variable at the "Base Rate". The "Base Rate" shall be 65% times the sum of an "Index" plus 100 basis points, plus an additional 25 basis points. The "Index" shall be the interest rate equivalent of the prime rate as published in the Money Rates section of the Wall Street Journal. Such interest rate shall be on a tax free fully bank qualified basis. In the event the interest rate of the Note ceases to be exempt from federal and state income taxation and/or the Note ceases to be a "qualified obligation" as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, then (i) the interest rate on the Note shall convert to an "Upset Rate" (defined below) as of the effective date of taxability, and (ii) the Borough will indemnify and reimburse the Bank for all costs, expenses and liabilities (including without limitation legal fees and costs of litigation) incurred by the Bank as a result thereof. The Upset Rate shall be the then variable prime rate (floating) as published in the Money Rates section of the Wall Street Journal at the time the Note effectively has been determined to no longer be "tax free fully bank qualified" plus 100 basis points. In the event of a default, the interest rate of the Note shall be 3.00% over the Upset Rate (the "Default Rate"), until such default is cured in accordance with the cure provisions contained in the loan documents. At no time during the term of the Loan shall the Tax Free Rate be more than 7.50% nor less than 3.50%. At no time shall the Default Rate or the Upset Rate be more than 11.15%.

The Borough will pay regular quarterly payments of accrued interest beginning the end of the first quarter after the date of the Note, for a period of one year, and all subsequent interest payments are due on the same day of each quarter end after that in accordance with the Debt Service Schedule attached hereto. The Borough will pay this loan in one payment of all outstanding principal plus all accrued unpaid interest at the Maturity Date of the Note.

Interest shall be calculated on an "Actual/360 day" basis.



This Note is issued on a drawn down, revolving line of credit basis. The Borough may borrow, repay and reborrow up to the maximum face amount of the Note until its Maturity Date; provided, however, that the total amount of advances and/or re-advances under the Note shall be limited to an aggregate of \$1,250,000. Interest shall only be payable on the principal amount actually outstanding. In the event that less than the full principal amount of the Note is outstanding, the debt service schedule shall be adjusted accordingly.

The principal of and interest on this Note shall be payable at the principal office of the Bank, or any successor or assignee, in any coin or currency of the United States of America which, at time of payment, is legal tender for payment of public and private debts, to the registered owner on the fifth (5<sup>th</sup>) day prior to each payment date.

The Note has been authorized for issuance in accordance with provisions of the Local Government Unit Debt Act (the "Act") of the Commonwealth and by virtue of a Ordinance of the Borough duly enacted \_\_\_\_\_, 2008 (the "Ordinance"). 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 registered owner, from time to time, of the Note.

The Note constitutes a general obligation of the Borough payable from its general revenues. The Note is issued for the purpose of providing monies, in addition to those available, to fund the costs of certain capital projects (the Projects as defined in the Ordinance), as such costs are defined in Section 8007 of the Act.

The Borough has covenanted, in the Ordinance, to and with registered owners, from time to time, of the Note that shall be outstanding, that the Borough: (i) shall include the amount of the debt service for the Note, for each fiscal year of the Borough in which such sums are payable, in its budget for that fiscal year, (ii) shall appropriate such amounts from its general revenues for the payment of such debt service, and (iii) shall duly and punctually pay or cause to be paid from the sinking fund established under the Ordinance or any other of its revenues or funds, the principal of the Note and the interest thereon on the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, the Borough has pledged and does pledge, irrevocably, its full faith, credit and taxing power.

The Note shall be prepayable at any time, in whole or in part, prior to maturity at the option of the Borough, without premium or penalty.

If the Bank shall merge or change its identity or assign this Note, the Bank shall give written notice of such action to the Borough, which notice shall direct the Borough to make payments hereunder henceforth to the appropriate successor or assignee. Such notice shall be effective if given not less than fifteen (15) days prior to any date for the payment of principal and interest thereunder, or for the prepayment of principal, if notice of prepayment shall have been given to the Bank.

Reference is hereby made to the Ordinance and to the Loan Agreement between the

Borough and the Bank for a statement of the nature, extent and manner of enforcement of the security, the terms and conditions under which the Ordinance may be amended or modified, the rights of the holder of the Note in respect to such security, and the terms and conditions under which the Note is issued. The Borough has established with the Bank a sinking fund for the Note and has made provision for the deposit therein from its general revenues, of amounts sufficient to pay, and from which the Bank, as paying agent and sinking fund depository, is required to pay, the principal of and interest on the Note as the same shall become due and payable.

It is hereby certified that: (i) All acts, conditions and things required to be done, to happen or to be performed as conditions precedent to and in issuance of this Note or in creation of the debt of which this Note is evidence have been done, have happened or have been performed in due and regular form and manner, as required by law; and (ii) the debt represented by this Note, together with any other indebtedness of the Borough, is not in excess of any limitation imposed by the Act upon the incurring of debt by the Borough.

The Borough has designated the Note as a "qualified tax-exempt obligation" with the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

IN WITNESS WHEREOF, the Borough has caused this Note to be executed in its name by the signature of the President or Vice President of the Council of the Borough, and its seal to be affixed hereto, attested by the Borough Secretary or Assistant Secretary, all as of December \_\_\_, 2008.

BOROUGH OF SUMMIT HILL

BY: \_\_\_\_\_  
(Vice) President  
Council of the Borough

ATTEST:

\_\_\_\_\_  
Borough (Assistant) Secretary

(SEAL)

CERTIFICATE OF REGISTRATION NOTICE.  
NO WRITING HEREON EXCEPT  
BY PAYING AGENT ON BEHALF OF THE MAKER

It is hereby certified that the foregoing Note is registered as to principal and interest as follows:

<u>Name of Registered Owner</u>	<u>Address of Registered Owner</u>	<u>Date of</u>	<u>Paying Agent's Registration</u>	<u>Authorized signature</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note, and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer said Note on the books of the within named Maker, with full power of substitution in the premises.

Tax Identification No.

\_\_\_\_\_

Dated: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name as it appears upon the fact of the within Note in every particular, without alteration or any change whatsoever.