

**BOROUGH OF BADEN
BEAVER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 965

AN ORDINANCE OF THE BOROUGH OF BADEN, BEAVER COUNTY, PENNSYLVANIA, AUTHORIZING THE INCURRING OF NONELECTORAL DEBT FOR THE PURPOSE OF FUNDING WATER SYSTEM IMPROVEMENTS, BY THE ISSUANCE OF A GUARANTEED WATER REVENUE BOND IN THE PRINCIPAL AMOUNT OF \$1,887,200; FINDING SALE BY NEGOTIATION TO BE IN THE BEST INTERESTS OF THE BOROUGH; ACCEPTING A REQUEST FOR OBLIGATION OF FUNDS COMMITMENT LETTER; PROVIDING FOR THE FORM, MATURITIES, INTEREST RATE AND REDEMPTION FEATURES OF THE BOND; COVENANTING FOR THE PAYMENT OF THE DEBT SERVICE; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE BOROUGH; AUTHORIZING THE APPLICATION TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO HAVE THE DEBT APPROVED; AUTHORIZING THE EXECUTION, AUTHENTICATION AND DELIVERY OF THE BOND; APPROPRIATING THE DEBT PROCEEDS; AUTHORIZING PAYMENT OF EXPENSES; APPOINTING BOND COUNSEL; APPOINTING A SINKING FUND DEPOSITORY; ESTABLISHING A SINKING FUND; RATIFYING PRIOR ADVERTISING AND DIRECTING FURTHER ADVERTISING; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Borough of Baden, Beaver County, Pennsylvania (the "Borough") is a borough, organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Borough intends to fund a certain water system improvement project (the "2020 Water System Improvement Project") and has received preliminary realistic cost estimates that the total sum of \$1,887,200 is needed to complete the 2020 Water System Improvement Project and that the

estimated realistic useful lives of the improvements, constructions and rehabilitations included therein, are at least forty-five (45) years; and

WHEREAS, the Borough intends to fund the cost of the 2020 Water System Improvement Project, with the proceeds of the bond authorized by this Ordinance (the "2020 Project"); and

WHEREAS, it is necessary that the indebtedness of the Borough be increased for the purpose of funding the 2020 Project; and

WHEREAS, the Borough intends to issue the aforementioned bond, in accordance with the terms of this Ordinance and Title 53, Part VII, Subpart B, of the Pennsylvania Consolidated Statutes (53 Pa.C.S. Sections 8001, et seq.) known as the Local Government Unit Debt Act (the "Debt Act"), to pay the costs of the 2020 Project; and

WHEREAS, in order to provide the funds necessary to finance the 2020 Project, the Borough has decided to issue a guaranteed water revenue bond in the principal amount of \$1,877,200, being the "Borough of Baden, County of Beaver, Pennsylvania, Guaranteed Water Revenue Bond, Series of 2020" (the "2020 Bond" or the "Bond"); and

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

WHEREAS, the Borough will apply to the Pennsylvania Department of Community and Economic Development to have the proposed increase of indebtedness approved; and

WHEREAS, the Rural Utilities Service (RUS), United States Department of Agriculture (the "Purchaser"), has submitted, to the Borough, a Request for Obligation of Funds Commitment Letter, dated September ____, 2020, for the purchase of the 2020 Bond, which as accepted by this Ordinance and executed by the President of the Borough Council shall be the Purchase Contract (the "Purchase Contract").

NOW THEREFORE, BE IT ENACTED and ORDAINED by the Borough Council of the Borough of Baden, Beaver County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the same, as follows:

SECTION 1. The description of the 2020 Project, contained in the recitals to this Ordinance, is hereby incorporated into this Section by reference, as if set forth herein at length, and the Borough hereby undertakes the 2020 Project.

SECTION 2. The Borough Council of the Borough of Baden (the "Borough Council") hereby determines to incur and authorizes the incurrence of nonelectoral debt, in accordance with the provisions of the Debt Act, in the amount of \$1,877,200, to fund the 2020 Project. Such debt shall be evidenced by the issuance of the 2020 Bond. The proceeds of the sale of the 2020 Bond will provide for the funding of the 2020 Project.

SECTION 3. After considering the advantages and disadvantages of a public sale of the 2020 Bond, the Borough Council hereby determines that a private sale by negotiation is in the best financial interests of the Borough.

SECTION 4. The Request for Obligation of Funds Commitment Letter, dated September ____, 2020, submitted to the Borough Council by the Purchaser, for the purchase of the 2020 Bond, is hereby accepted. The 2020 Bond is hereby sold to the Purchaser, by a negotiated private sale, at the purchase price stated on Schedule "A", which is attached hereto and incorporated herein by reference, as if set forth here at length. The President of the Borough Council (the "President") is authorized and directed to execute the Purchase Contract, in the name of and on behalf of the Borough. The Secretary of the Borough (the "Secretary") is authorized and directed to affix the seal of the Borough to the Purchase Contract when so executed; to attest the same; and to deliver an executed counterpart of the Purchase Contract to the Purchaser.

SECTION 5. The 2020 Bond shall bear interest, mature and be redeemable as set forth on Schedule "A", attached hereto.

SECTION 6. WesBanco Bank is hereby appointed Sinking Fund Depository (the "Sinking Fund Depository") for the sinking fund created hereinafter. The appropriate officers of the Borough are hereby authorized and directed to contract with WesBanco Bank, for its services as Sinking Fund Depository, at such initial and annual charges as shall be appropriate and reasonable for such services. The Borough may, by resolution, from time to time, appoint a successor Sinking Fund Depository to fill a vacancy or for any other reason.

SECTION 7. The 2020 Bond shall be issued in fully registered form (without coupons) and shall be numbered, in such manner as may be satisfactory to the Borough and the Purchaser. The 2020 Bond shall be initially dated as of the date of delivery. The 2020 Bond shall bear interest on the unpaid principal balance from the date of delivery payable initially on or before the first day of the month following the first anniversary of the Bond proceeds disbursement and on the first day of the month six months thereafter and semiannually thereafter (each, a "Payment Date"). Principal and interest shall be payable on each Payment Date, as set forth on Schedule "B".

SECTION 8. The Borough shall cause to be kept, at the Borough office, a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Borough shall provide for the registration of the 2020 Bond

and the registration of transfers and exchanges of the 2020 Bond. No transfer or exchange of the 2020 Bond shall be valid unless made at such office and registered in the Register.

SECTION 9. The 2020 Bond shall be executed on behalf of the Borough by the President and shall have the corporate seal of the Borough affixed thereto, duly attested by the Secretary, and said officers are hereby authorized and directed to execute the 2020 Bond. The President is hereby authorized and directed to deliver the 2020 Bond to the Purchaser and receive payment therefor on behalf of the Borough after sale of the same in the manner required by law and this Ordinance.

SECTION 10. (a) In consideration of the purchase and acceptance of the 2020 Bond authorized to be issued hereunder by those who shall purchase the same, from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Borough and the registered owners from time to time of the 2020 Bond. The covenants and agreements herein set forth to be performed by the Borough shall be for the benefit, protection and security of each holder of the 2020 Bond.

(b) The 2020 Bond is hereby declared to be a general obligation of the Borough. The Borough hereby covenants with each holder, from time to time, of the 2020 Bond outstanding pursuant to this Ordinance, that it will include the amount of the debt service as specified in this Section for each fiscal year in which such sums are payable, in its budget for that year; will appropriate such amounts for such payments; and will duly and punctually pay or cause to be paid the principal of the 2020 Bond and the interest thereon on the dates, at the places and in the manner stated therein, according to the true intent and meaning thereof. For such budgeting, appropriation and payment, the Borough does hereby pledge the receipts and revenues of its water system and its full faith, credit and taxing power. The amount of the debt service which the Borough hereby covenants to pay on the 2020 Bond in each year is shown on Schedule "B", which is attached hereto and incorporated herein by reference, as if set out here at length, provided however, that no debt service payment shall exceed the remaining outstanding principal of the 2020 Bond plus interest thereon.

(c) As provided in the Debt Act, the foregoing covenants are specifically enforceable.

SECTION 11. (a) The 2020 Bond shall be subject to full or partial redemption and prepayment prior to maturity, at par, at the option of the Borough, without any prepayment penalty.

(b) The 2020 Bond shall be subject to mandatory redemption prior to maturity, in part, on the dates and in the principal amounts set forth for the 2020 Bond, in Schedule "A" attached hereto and made a part hereof, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest thereon to the date fixed for the redemption. Upon any such redemption of a

portion of the 2020 Bond, the outstanding principal amount of the 2020 Bond shall be reduced by the principal amount thereof so redeemed. In the event of any partial optional redemption of the 2020 Bond, such mandatory redemptions shall be increased so that on each subsequent payment date the principal and interest due on such date shall equal the total scheduled payment for such date in Schedule "B", hereto.

SECTION 12. (a) There is hereby established, with the Sinking Fund Depository, a sinking fund to be known as the "Borough of Baden 2020 Bond Sinking Fund" (the "2020 Bond Sinking Fund"), into which the Borough covenants to deposit and into which the Treasurer of the Borough (the "Treasurer") is hereby authorized and directed to deposit on or before each Payment Date, while the 2020 Bond remains outstanding, the interest due on the 2020 Bond on such date and the principal thereof then due (whether by maturity or mandatory redemption). Should the amounts covenanted to be paid into the 2020 Bond Sinking Fund be, at any time, in excess of the net amounts required at such time for the payment of interest and principal, whether by reason of funds already on deposit in the 2020 Bond Sinking Fund or by reason of the purchase or redemption of part of the 2020 Bond or for some similar reason, the amounts covenanted to be paid may be reduced to the extent of the excess.

(b) All sums in the 2020 Bond Sinking Fund shall be applied, exclusively, to the payment of principal and interest covenanted to be paid by Section 10., above, as the same, from time to time, become due and payable. The balance of said moneys, over and above the sum so required, shall remain in the 2020 Bond Sinking Fund, to be applied to the reduction of future required deposits; subject, however, to investment or deposit at interest, as authorized by law and as permitted by Section 18., below. The 2020 Bond Sinking Fund shall be kept as a separate account at the principal corporate office of the Sinking Fund Depository. The Sinking Fund Depository, without further authorization other than as herein contained, shall pay, from the moneys in the 2020 Bond Sinking Fund, the principal of and interest on the 2020 Bond, as and when due, to the holder or holders thereof.

(c) Notwithstanding the foregoing, in the case of optional redemption of any part or all of the 2020 Bond as permitted by Section 11., above, the Treasurer is hereby authorized and directed to deposit, from time to time, on or before an optional redemption date, moneys which shall be sufficient when they, either alone or together with the interest to be earned thereon, if any, will equal the principal of the 2020 Bond so called for redemption.

SECTION 13. There is hereby established, with the WesBanco Bank, a special fund to be known as the "Borough of Baden 2020 Water System Improvement Project Construction Fund" (the "Construction Fund"), into which the proceeds of the 2020 Bond shall be deposited, and used solely for the payment of the costs and expenses of the 2020 Water System Improvement Project.

SECTION 14. (a) The Borough hereby covenants with the holder or holders, from time to time, of the 2020 Bond that no part of the proceeds of the 2020

Bond 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 2020 Bond, would have caused the 2020 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986 (the "Code") and the Regulations thereunder proposed or in effect at the time of such use and applicable to the 2020 Bond, and that it will comply with the requirements of that Section and the Regulations throughout the term of the 2020 Bond.

(b) If the principal amount of the 2020 Bond plus the aggregate principal amount of all other tax-exempt obligations issued and to be issued by the Borough during calendar year 2020 exceeds \$5,000,000, and if the gross proceeds of the 2020 Bond are invested at a yield greater than the yield on the 2020 Bond and are not expended within six (6) months from the date of issuance, 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 2020 Bond in an amount which exceeds the amount which would have been derived from the investment of the proceeds of the 2020 Bond at a yield not in excess of the yield on the 2020 Bond.

(c) The Borough will file IRS Form 8038-G and any other forms or information required by the Code to be filed in order to permit the interest on the 2020 Bond to be excluded from gross income for federal income tax purposes.

SECTION 14. The action of the officers of the Borough in advertising a pre-enactment notice of summary of this Ordinance, as required by law, is ratified and confirmed. The officers of the Borough are authorized and directed to advertise a notice of enactment of this Ordinance in a newspaper of general circulation in the Borough within fifteen (15) days after final enactment. The Secretary is hereby directed to make a copy of this Ordinance available for inspection by any citizen during normal office hours.

SECTION 15. The President and/or Secretary are hereby authorized and directed to prepare, verify and file and take other necessary action with the Department of Community and Economic Development, in accordance with the Debt Act, a transcript of the proceedings relating to the issuance of the 2020 Bond, including the Debt Statement and Borrowing Base Certificate required by Section 8029 of the Debt Act, to have the debt approved.

SECTION 16. The Borough hereby appoints John F. Salopek, Esquire, as Bond Counsel (the "Bond Counsel"), for the purpose of rendering any and all necessary opinions with respect to the 2020 Bond.

SECTION 17. The officers and officials of the Borough are hereby authorized and directed to execute and deliver the 2020 Bond and such other documents and to take such other action as may be necessary or appropriate in order to effect the execution, issuance, sale and delivery of the 2020 Bond, all in accordance with this Ordinance. Any authorization granted to, power conferred on or direction given to the President or Secretary shall be deemed to run to the Vice-

President or Acting or Assistant Secretary, respectively, as if such latter titles had been expressly included in the text hereof which grants such authorization, confers such power or gives such direction.

SECTION 18. Any moneys in the 2020 Bond Sinking Fund not required for prompt expenditure may, at the direction of the Borough, be invested in bonds or obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States of America or may be deposited at interest in time deposit accounts or certificates of deposit or other interest bearing accounts of any bank or bank and trust company, savings and loan association or building and loan association. To the extent that such deposits are insured by the Federal Deposit Insurance Corporation or similar federal agency, they need not be secured. Otherwise, such deposits shall be secured as public deposits or as trust funds. Any such investments or deposits shall mature or be subject to redemption at the option of the holder, or be subject to withdrawal at the option of the depositor, not later than the date upon which such moneys are required to be paid to the holder or holders of the 2020 Bond.

SECTION 19. The 2020 Bond shall be substantially in the form attached hereto as Exhibit "A".

SECTION 20. Reasonable cost estimates have been obtained for the 2020 Project with the assistance of persons qualified by experience. The useful lives of the 2020 Project is at least forty-five (45) years from the date of issuance of the 2020 Bond. All proceeds of the 2020 Bond are hereby allocated to the 2020 Project. The maturities of the 2020 Bond are in accordance with Sections 8142(a)(2) of the Debt Act. In addition, in accordance with Section 8142 of the Debt Act, the maturities of the 2020 Bond shall be fixed so that the debt service on outstanding debt of the same classification, and for this purpose lease rental debt shall be considered as the same classification as general obligation debt, will be brought more nearly into an overall level annual debt service plan.

SECTION 21. The Borough hereby designates that the 2020 Bond shall have the status of "qualified tax-exempt obligation", pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and represents that the total amount of obligations issued and to be issued by or on behalf of the Borough during the calendar year in which the 2020 Bond is issued does not and is not expected to exceed \$10,000,000.

SECTION 22. Pursuant to federal requirements set forth at 26 C.F.R. § 1.150-2, the Borough officially intends to reimburse its general funds for the 2020 Project costs incurred by the Borough with the proceeds of the 2020 Bond up to the maximum principal amount of \$1,800,000.

SECTION 23. All Borough ordinances and resolutions or parts thereof not in accordance with this Ordinance are hereby repealed insofar as they conflict with this Ordinance.

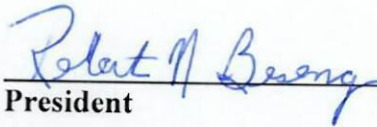
ORDAINED and ENACTED by the Borough Council of the Borough of Baden, Beaver County, Pennsylvania, this 2 day of December 2020.

ATTEST:


Secretary

(SEAL)

BOROUGH OF BADEN

By: 
President

APPROVED this 2 day of December, 2020.


Mayor

SCHEDULE "A"

**BOROUGH OF BADEN
COUNTY OF BEAVER, PENNSYLVANIA**

The Purchase Price of the 2020 Bond is \$1,877,200.

Interest accrues from: Date of Delivery

Due: As shown below

**GUARANTEED WATER REVENUE BOND,
SERIES OF 2020**

Maturity Schedule

<u>Principal Amount</u>	<u>Date of Maturity</u>	<u>Annual Rate of Interest*</u>
\$1,877,200	_____, 2060	_____ %

**(MATURITY DATE AND INTEREST RATE WILL BE COMPLETED UPON
CONFIRMATION OF THE INTEREST RATE & THE CLOSING DATE)**

Mandatory Redemption Schedule

See Principal payment column of the 2020 Bond Amortization Schedule in Schedule "B".

SCHEDULE "B"

**BOROUGH OF BADEN
COUNTY OF BEAVER, PENNSYLVANIA**

\$1,877,200 Guaranteed Water Revenue Bond, Series of 2020

Payment Date	Scheduled Payment	Principal	Total Annual Maturity	Interest
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**(DEBT SERVICE SCHEDULE TO BE COMPLETED UPON CONFIRMATION OF
INTEREST RATE AND CLOSING DATE)**

EXHIBIT "A"

FORM OF GUARANTEED WATER REVENUE BOND, SERIES OF 2020

See attached.

(FINAL FORM OF BOND WILL BE INSERTED AFTER REVIEW BY OGC.)