

LM 11/2/2022  
RAM

ORDINANCE  
OF THE  
COUNTY OF DAUPHIN  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 6-2022  
Enacted: November 2, 2022

TO AUTHORIZE AND DIRECT THE INCURRING OF NON-ELECTORAL DEBT THROUGH THE ISSUANCE OF A GENERAL OBLIGATION NOTE, SERIES A OF 2022 (THE "NOTE") IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,600,000 OF THE COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA (THE "COUNTY") FOR THE PURPOSE OF (1) PROVIDING FUNDS TO UNDERTAKE A CAPITAL PROJECT TO EXPAND HIGH-SPEED INTERNET ACCESS TO UNSERVED/UNDERSERVED LOCATIONS IN THE COUNTY (THE "CAPITAL PROJECT") AND (2) PAYING THE COSTS OF ISSUING THE NOTE OR ANY OR ALL OF THE SAME; STATING THAT REALISTIC COST ESTIMATES HAVE BEEN MADE FOR THE CAPITAL PROJECT AND STATING THE ESTIMATED PROJECT COMPLETION DATE; STATING THE REALISTIC ESTIMATED USEFUL LIVES OF THE PROJECT FOR WHICH THE NOTE IS ISSUED; DIRECTING THE PROPER OFFICERS OF THE COUNTY TO PREPARE, CERTIFY AND FILE THE REQUIRED DEBT STATEMENT AND BORROWING BASE CERTIFICATE; COVENANTING THAT THE COUNTY SHALL INCLUDE THE AMOUNT OF ANNUAL DEBT SERVICE IN ITS BUDGET FOR EACH FISCAL YEAR; SETTING FORM THE SUBSTANTIAL FORM OF THE NOTE; AUTHORIZING THE PROPER OFFICERS OF THE COUNTY TO CONTRACT WITH A BANK OR BANK AND TRUST COMPANY FOR ITS SERVICES AS SINKING FUND DEPOSITORY, PAYING AGENT AND REGISTRAR AND STATING A COVENANT AS TO PAYMENT OF PRINCIPAL AND INTEREST WITHOUT DEDUCTION FOR CERTAIN TAXES; PROVIDING FOR THE REGISTRATION, TRANSFER AND EXCHANGE OF THE NOTE; PROVIDING FOR THE EXECUTION, DELIVERY AND AUTHENTICATION OF THE NOTE AND THE DISPOSITION OF THE PROCEEDS THEREOF; APPROVING THE FORM OF THE NOTE, PAYING AGENT'S AUTHENTICATION CERTIFICATE AND ASSIGNMENT; AWARDED SUCH NOTE AT A PRIVATE SALE UPON INVITATION AND STATING THAT SUCH SALE IS IN THE BEST FINANCIAL INTEREST OF THE COUNTY; CREATING A SINKING FUND AND APPROPRIATING ANNUAL AMOUNTS FOR THE

PAYMENT OF DEBT SERVICE ON THE NOTE; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE COUNTY TO CERTIFY AND TO FILE WITH THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT CERTIFIED COPIES OF THE NECESSARY PROCEEDINGS; UNDERTAKING CERTAIN TAX COVENANTS WITH REGARD TO THE NOTE; APPROVING FILING OF CERTAIN DOCUMENTS IN CONNECTION WITH THE COUNTY'S CONTINUING DISCLOSURE OBLIGATIONS, IF NECESSARY; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE COUNTY TO DO ALL THINGS NECESSARY TO CARRY OUT THIS ORDINANCE; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE COUNTY TO PAY ISSUANCE COSTS; AUTHORIZING INCIDENTAL ACTIONS; RESCINDING INCONSISTENT ORDINANCES; AND STATING THE EFFECTIVE DATE.

The Board of Commissioners (the "Governing Body") of the County of Dauphin, Pennsylvania (the "County"), pursuant to the Pennsylvania Local Government Unit Debt Act, 53 Pa. Cons. Stat. §8001 *et seq.*, as amended (the "Act") hereby ENACTS as follows:

**Section 1. Incurrence of Debt; Amount and Purpose of Note; Realistic Cost Estimates; Estimated Project Completion Date.** The Governing Body of the County hereby authorizes and directs the incurring of non-electoral debt through the issuance of its General Obligation Note, Series A of 2022 (the "Note") of the County in the maximum principal amount of Two Million Six Hundred Thousand Dollars (\$2,600,000) to provide funds to (i) undertake a capital project to expand high-speed internet access to unserved/underserved locations in the County (the "Capital Project") and (ii) pay the costs of issuing the Note (the "Project"). Realistic cost estimates have been obtained for the Capital Project through estimates made by qualified persons, as required by Section 8006 of the Act.

The County hereby reserves the right to undertake components of the Project in such order and at such time or times as it shall determine and to allocate the proceeds of the Note and other available moneys to the final costs of the Project in such amounts and order of priority as it shall determine; but the proceeds of the Note shall be used solely to pay the "costs," as defined in the Act, of the Project described herein or, upon appropriate amendment hereto, to pay the costs of other projects for which the County is authorized to incur indebtedness.

The estimated completion date of the Capital Project is May 31, 2024.

The first stated principal installment of the Note shall be made within the later of two years from the date of issue or one year following such estimated completion date of the Capital Project in compliance with Section 8142(c) of the Act.

**Section 2. Realistic Estimated Useful Life.** The realistic estimated useful life of the Capital Project is estimated to be in excess of fifteen (15) years and the principal amount of

the Note equal to the separate costs of the Capital Project having a shorter useful life than the period during which the Note will be outstanding has been scheduled to mature prior to the end of such useful life, and the balance prior to the end of the longest useful life.

**Section 3. Debt Statement and Borrowing Base Certificate.** The Chairman or Vice Chairman of the Governing Body, or any one of them, and/or any other duly authorized or appointed officer of the County ("Proper Officers"), are hereby authorized and directed to prepare and certify a debt statement required by Section 8110 of the Act and a Borrowing Base Certificate.

**Section 4. Covenant to Pay the Note.** It is covenanted with the holder of the Note that the County shall: (i) include the amount of the debt service for the Note for each fiscal year in which the sums are payable in its budget for that year; (ii) appropriate those amounts from its general revenues for the payment of the debt service; and (iii) duly and punctually pay, or cause to be paid, from its sinking fund or any other of its revenues or funds the principal of, and the interest on, the Note at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof. For such budgeting, appropriation and payment, the County pledges its full faith, credit and taxing power. The covenant contained in this **Section 4** shall be specifically enforceable.

**Section 5. Form of Note; Description of Note.** The Note is substantially in the form set forth in **Exhibit A**, attached hereto. The Note shall be in registered form, without coupons, and shall be numbered in such manner as may be satisfactory to the County and Manufacturers and Traders Trust Company, Harrisburg, Pennsylvania (the "Purchaser"). So long as the Note is held by the Purchaser and its participating bank or banks, if any, the Note shall not require numbering as recommended by the Committee on Uniform Security Identification Procedures ("CUSIP").

The Note shall be issued in the maximum principal amount of \$2,600,000, shall be dated the date of its issuance, and shall bear interest, until maturity or prior prepayment, at the rate or rates per annum, and shall mature in the amounts and in certain years, all as set forth as **Exhibit B** attached hereto and made a part hereof. The Note shall be issued in certificated form in the form of a single certificate for the entire principal amount of the Note with one maturity date and annual principal payments. The full principal amount of the Note shall be advanced by the Purchaser on the date of issuance hereof.

If the date for payment of the principal of, or interest on, the Note is not a business day, then the date of such payment shall be the next succeeding day which is a business day. Payment on such subsequent business day shall have the same force and effect as if made on the nominal date of payment. A business day shall be any day in which the Paying Agent is not authorized by law or under lawful authority to be closed.

The principal of and interest on the Note shall be payable in lawful money of the United States of America at the offices of the Paying Agent.

The County shall have the right to prepay all principal and interest on the Note pursuant to the terms set forth in the Note.

**Section 6. Execution, Delivery and Authentication of Note; Disposition of Proceeds.** The Note shall be executed by the manual or facsimile signature of a Proper Officer and shall have the corporate seal of the County or a facsimile thereof impressed thereon, duly attested by the manual or facsimile signature of the Chief Clerk of the County and such officers are hereby authorized and directed to execute the Note in such manner. In case any official of the County whose manual or facsimile signature shall appear on the Note shall cease to be such official before the authentication of the Note, such signature or the facsimile signature thereof shall nevertheless be valid and sufficient for all purposes the same as if such official had remained in office until authentication; and the Note may be signed on behalf of the County, even though at the date of authentication of such Note such person was not an official. The Proper Officers are authorized and directed to deliver, or cause to be delivered, the Note to the Purchaser as purchaser thereof against the full balance of the purchase price therefor.

**Section 7. Manner of Sale; Award of Note.** The Governing Body of the County after due deliberation and investigation has found that a sale by invitation is in the best financial interest of the County and based upon such finding the Governing Body of the County hereby has determined that the Note: (a) shall be awarded to the Purchaser, for its own account, upon the parameters and terms set forth in its proposal for purchase of the Note (the "Purchase Contract"), a copy of which is attached hereto as **Exhibit D** and made a part hereof; and (b) shall be offered for sale at a purchase price of 100% of the principal amount of the Note and at a maximum interest rate of four and fifty one-hundredths percent (4.50%) per annum (the "Note Parameters"). Such Purchase Contract and Note Parameters are hereby approved.

The Purchase Contract will be supplemented by one or more addenda to such Purchase Contract containing the final terms and conditions of the sale and issuance of the Note, consistent with the Note Parameters. Such details are hereby approved. Any one of the Proper Officers is hereby authorized to approve the final terms and conditions of the Note, to be presented by the Purchaser, within the Note Parameters. The addendum to the Purchase Contract so approved shall be executed and delivered by one or more of the Proper Officers and included as a part of such Purchase Contract.

**Section 8. Appointment of Sinking Fund Depository; Sinking Fund; Appropriation of Annual Amounts for Payment of Debt Service.** The Proper Officers of the County are hereby authorized and directed to contract with the Purchaser, having an office in Harrisburg, Pennsylvania, as paying agent (in such capacity, the "Paying Agent") for its services as sinking fund depository, paying agent and registrar with respect to the Note. There is hereby established a separate sinking fund for the County designated as "Sinking Fund – County of Dauphin – Series A of 2022" (the "Sinking Fund") and into the Sinking Fund there shall be paid, when and as required, all moneys necessary to pay the debt service on the Note, and the Sinking Fund shall be applied exclusively to the payment of the interest covenanted to be paid upon the Note and to the principal thereof at maturity or prior redemption and to no other purpose whatsoever, except as may be authorized by law, until the same shall have been fully paid. The Paying Agent as sinking fund depository shall, as and when said payments are due, without further action by the County, withdraw available monies in the Sinking Fund and apply said monies to the payment of the principal of and interest on the Note.

The amounts set forth in **Exhibit C** attached hereto and made a part hereof shall be pledged in each of the fiscal years shown in **Exhibit C** to pay the maximum debt service on the Note, and such amounts are annually hereby appropriated to the Sinking Fund for the payment thereof.

**Section 9. Debt Proceedings.** The Chief Clerk of the County is hereby authorized and directed to certify to and file with the Pennsylvania Department of Community and Economic Development, in accordance with the Act, a complete and accurate copy of the proceedings taken in connection with the increase of debt authorized hereunder, including the debt statement and borrowing base certificate referred to hereinabove, as well as any certificate excluding such debt as subsidized or self-liquidating debt of the County (which may be filed simultaneously with the proceedings taken in connection with the increase of debt or at such other time as determined by the County), and to pay the filing fees necessary in connection therewith.

**Section 10. Tax Covenants, Representations and Designations.** So long as the Note is outstanding, the County hereby represents and covenants that:

(a) The County will make no use of the proceeds of the Note during the term thereof which would cause such Note to be "arbitrage bonds" within the meaning of section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and shall comply with the requirements of all Code sections necessary to ensure that the Note is described in Code section 103(a) and not described in Code section 103(b) throughout the term of the Note.

(b) If and to the extent the County is required to remit any amounts to the United States pursuant to Code section 148(f) (the "Rebate Amounts") in order to cause the Note not to be arbitrage bonds, the County will remit the Rebate Amounts at such times and in the manner required by Code section 148(f) and the regulations thereunder. The obligation to remit the Rebate Amounts and to comply with all other requirements of this **Section 10** shall survive the defeasance and payment in full of the Note.

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

**Section 11. Note Register, Registrations and Transfer.** The County shall cause to be kept at the office of the Paying Agent a register for the Note (the "Note Register") in which, subject to such reasonable regulations as it may prescribe, the County shall provide for the registration of the Note and the registration of transfers thereof. No transfer or exchange of the Note shall be valid unless made at such office and registered in the Note Register. A Note Register shall be attached to the Note as part of the Note.

The Note, upon any registration of transfer, shall be a valid obligation of the County, evidencing the same debt and entitled to the same benefits under this Ordinance as the Note surrendered for such registration of transfer.

The Note, if presented or surrendered for registration of transfer, shall be duly endorsed, or be accompanied by a written instrument of transfer, in form and with guaranty of

signature satisfactory to the County and the Note Register, duly executed by the registered owner thereof or his duly authorized agent or legal representative.

No service charge shall be made for any transfer of the Note, but the County may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer of the Note.

The County shall not be required to: (a) issue, or register the transfer of, the Note during a period of fifteen (15) business days before any payment of principal or interest under the Note or any date of selection for prepayment of the Note, if applicable; or (b) register the transfer of the Note after it has been selected for prepayment, in whole or in part.

**Section 12. Settlement Account and Project Fund.** The County hereby creates with the Paying Agent a special account to be known as the "County of Dauphin, Series A of 2022 Note Settlement Account" (the "Settlement Account"). The Settlement Account shall be held in trust for the benefit of the County until disbursed in accordance with the provisions hereof. The County shall deliver the net proceeds (including accrued interest, if any) derived from the sale of the Note to the Paying Agent for deposit in the Settlement Account. The Paying Agent shall disburse, transfer or deposit such proceeds as directed in the Closing Receipt.

The County hereby creates with the Paying Agent a special fund to be known as the "County of Dauphin, General Obligation Note, Series A of 2022 Capital Project Fund" (the "Capital Project Fund"). The Capital Project Fund shall be held in trust for the benefit of the County until disbursed in accordance with the provisions hereof. The proceeds of the Note on deposit in the Capital Project Fund shall be used, upon written requisition by any one of the Proper Officers of the Note, to pay the costs of the Capital Project or other eligible Capital Project costs. Proceeds of the Note remaining on deposit in the Capital Project Fund upon completion of the Capital Project shall, upon the advice of and as directed by Bond Counsel, be either (i) transferred to the Sinking Fund and used by the Note to pay debt service on the Note, or (ii) used by the County to optionally redeem the Note, as appropriate, pursuant to the redemption provisions of this Ordinance

**Section 13. Continuing Disclosure.** If required under an existing continuing disclosure obligation, the County covenants to provide notice of the incurrence of indebtedness evidence by the Note in the form attached hereto as **Exhibit E** within ten (10) business days of closing for the Note. Any continuing disclosure filing required under this Ordinance shall be made solely by transmitting such filing through the EMMA System of the Municipal Securities Rulemaking Board, at [www.emma.msrb.org](http://www.emma.msrb.org).

**Section 14. Ratification of Appointment of Bond Counsel.** The County hereby ratifies and affirms the appointment of McNeese Wallace & Nurick LLC, Harrisburg, Pennsylvania, as Bond Counsel for the Note.

**Section 15. Incidental Actions.** The Proper Officers are hereby authorized, directed and empowered on behalf of the County to execute any and all papers and documents and to do or cause to be done any and all acts and things necessary or proper for the carrying out of the provisions of this Ordinance, and the issuance and delivery of the Note.

**Section 16. Payment of Issuance Costs.** The Proper Officers are hereby authorized and directed to pay the costs of issuing the Note at the time of delivery of the Note to the Purchaser, such costs being estimated in the proposal attached hereto.

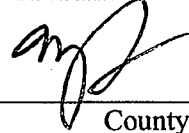
**Section 17. Rescinding Inconsistent Ordinances.** All ordinances or parts of ordinances inconsistent herewith are rescinded, cancelled and annulled.

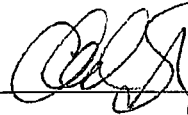
**Section 18. Severability.** In the case any one or more of the provisions of this Ordinance shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance and this Ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

**Section 19. Effective Date.** This Ordinance shall become effective on the earliest date permitted by the Act.

DULY ENACTED, by the Board of Commissioners, in lawful session duly assembled, this 2nd day of November, 2022.

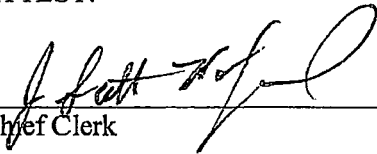
COUNTY OF DAUPHIN, PENNSYLVANIA

By:   
County Commissioner

By:   
County Commissioner

By:   
County Commissioner

ATTEST:

  
Chief Clerk

(SEAL)