

ORDINANCE
OF THE
COUNTY OF DAUPHIN
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 4-2022
Enacted: September 7, 2022

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA (THE "COUNTY") AUTHORIZING AND DIRECTING THE INCURRING OF NON-ELECTORAL DEBT THROUGH THE ISSUANCE OF A TAX-EXEMPT GENERAL OBLIGATION NOTE, SERIES OF 2022 (DAUPHIN COUNTY INFRASTRUCTURE BANK - GENERAL) (THE "NOTE") IN THE PRINCIPAL AMOUNT OF \$11,416,000 FOR THE PURPOSE OF PROVIDING FUNDS TO (A) FINANCE A LOAN FINANCING PROGRAM OFFERING SUBSIDIZED INTEREST RATE LOANS TO MUNICIPAL ENTITIES IN THE COUNTY FOR QUALIFIED MUNICIPAL INFRASTRUCTURE PROJECTS DESIGNATED AS THE "DAUPHIN COUNTY INFRASTRUCTURE BANK PROGRAM - GENERAL"; AND (B) PAY THE COST 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 PROJECTS 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 EXECUTION, DELIVERY AND AUTHENTICATION OF THE NOTE AND THE DISPOSITION OF THE PROCEEDS THEREOF; 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; SETTING FORTH CERTAIN COVENANTS AND REPRESENTATIONS RELATING TO THE FEDERAL INCOME TAX STATUS OF THE INTEREST TO BE PAID ON THE NOTE; APPROVING FILING CERTAIN DOCUMENTS IN CONNECTION WITH THE COUNTY'S CONTINUING DISCLOSURE OBLIGATIONS, IF NECESSARY; APPOINTING BOND COUNSEL FOR THE

NOTE; AUTHORIZING THE COUNTY TO PURCHASE A MUNICIPAL NOTE FROM EACH MUNICIPAL ENTITY SET FORTH IN EXHIBIT A HERETO AND AUTHORIZING THE COUNTY TO ENTER INTO A PURCHASE PROPOSAL, LOAN AGREEMENT, AND SUCH OTHER DOCUMENTS WITH EACH MUNICIPAL ENTITY IN CONNECTION WITH THE PURCHASE OF EACH MUNICIPAL NOTE; AUTHORIZING APPROPRIATE OFFICERS OF THE COUNTY TO TAKE CERTAIN ACTIONS AND TO EXECUTE CERTAIN DOCUMENTS IN CONNECTION WITH ISSUANCE OF THE NOTE; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE COUNTY TO PAY ISSUANCE COSTS; AUTHORIZING INCIDENTAL ACTIONS; RESCINDING INCONSISTENT RESOLUTIONS; AND STATING THE EFFECTIVE DATE.

WHEREAS, the County of Dauphin (the "County"), a county of the third class existing under the laws of the Commonwealth of Pennsylvania (the "Commonwealth"), is a "local government unit," as defined in the Local Government Unit Debt Act, 53 Pa.C.S. §8001 *et seq.*, as amended and supplemented (the "Debt Act") and is governed by its Board of Commissioners (the "Governing Body"); and

WHEREAS, the County desires to assist municipal entities located in the County in financing water, wastewater, and stormwater infrastructure improvement projects that support economic development, public health and safety through the Dauphin County Infrastructure Bank-General Program (the "DCIB-G Program"); and

WHEREAS, the municipal entities listed on **Exhibit A** hereto (the "Municipal Entities") heretofore submitted an application for a loan from the County, through the DCIB-G Program, in order to finance certain water, wastewater, and stormwater infrastructure improvement projects (the "Municipal Projects"), which applications included realistic cost estimates for the Municipal Projects; and

WHEREAS, the Governing Body of the County heretofore approved the applications of the Municipal Entities for financing through the DCIB-G Program; and

WHEREAS, the Governing Body of the County has determined to issue its tax-exempt General Obligation Note, Series of 2022 (Dauphin County Infrastructure Bank – General) (the "Note"), in the principal amount of \$11,416,000, the proceeds of which will be applied for and toward: (i) the financing of the Municipal Projects through the DCIB-G Program (the "Capital Project"), and (ii) the financing of all or a portion of the costs of issuance of the Note ((i) and (ii) collectively, the "Project"); and

WHEREAS, the County will make the proceeds of the Note available to the Municipal Entities pursuant to a loan agreement between each Municipal Entity and the County (each a "Loan Agreement"), the form of which is attached hereto as **Exhibit E**; and

WHEREAS, each of the Municipal Entities will issue a note (the "Municipal Note") to the County, together with certain other collateral including a municipal guaranty (the

“Guaranty”), if applicable, in order to secure the debt service payments on the Note, the forms of which are attached hereto as **Exhibit E** and **Exhibit F**, respectively; and

WHEREAS, Webster Public Finance Corporation (the “Purchaser”) has presented to the County a written contract as its proposal for the purchase of the Note, dated as of August 16, 2022 (the “Purchase Contract”); and

WHEREAS, the Governing Body of the County has determined to appoint Webster Bank, N.A., with an office located in Conshohocken, Pennsylvania (the “Paying Agent”), as paying agent and sinking fund depository with respect to the Note, and has determined to provide that the principal of and interest on the Note shall be payable, when due, at such office of the Paying Agent; and

WHEREAS, the County desires to approve the form of the Note, the form of Loan Agreement (including the form of the Municipal Note), and the form of Guaranty, to authorize and approve the execution and delivery of the Purchase Contract, and related instruments, and to execute and deliver such other documents as may be necessary to implement the Purchase Contract and to authorize such further action by its officers consistent with this Ordinance, the Debt Act, and all other applicable law.

NOW, THEREFORE, BE AND IT HEREBY IS ENACTED AND ORDAINED by the Board of Commissioners of the County of Dauphin, Pennsylvania:

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 the Note, in the principal amount of Eleven Million Four Hundred Sixteen Thousand Dollars (\$11,416,000) to provide funds for and toward the Project.

Realistic cost estimates have been provided by the Municipal Entities for the Municipal Projects constituting the Capital Project through estimates made by qualified persons, as required by Section 8006 of the Debt 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 Debt Act, of the Project described herein or, upon appropriate amendment hereto, to pay the costs of other capital projects for which the County is authorized to incur indebtedness.

The estimated completion date of the Capital Project is October 1, 2025.

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 Lives. The realistic estimated useful lives of the Municipal Projects constituting the Capital Project to be financed by the Note range from five (5) years to at least twenty-five (25) years. It is hereby certified that the principal amount of the Note at least equal to the realistic estimated cost of each such capital project shall mature prior to the end of the useful life of such project.

Section 3. Debt Statement and Borrowing Base Certificate. The Chairman or Vice Chairman of the County or any one of them, and/or any other duly authorized or appointed officer of the County (the "Proper Officers"), are hereby authorized and directed to prepare and certify a debt statement required by Section 8110 of the Debt Act and to prepare or cause to be prepared a borrowing base certificate, and the Chief Clerk of the Governing Body is hereby authorized and directed to certify to and file with DCED, in accordance with the Debt 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, and to pay the filing fees necessary in connection therewith.

Section 4. Covenant to Pay the Note. It is covenanted with the holder or holders 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 B, 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 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 stated principal amount of \$11,416,000, 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 C 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. Loan Documents. The County shall enter into a Loan Agreement, with each of the Municipal Entities, to be dated the date of issuance and delivery of each Municipal Note, respectively. The Loan Agreement shall be substantially in the form presented to this meeting and attached hereto as **Exhibit E**, which form is approved, together with such changes therein as shall be approved by the solicitor to the County and Bond Counsel for the County, and the Proper Officers of the County executing the same, their execution and delivery thereof to constitute conclusive evidence of such acceptance.

The County shall also enter into guaranty agreements, if applicable, to secure the payment of the Municipal Notes. The Guaranty Agreement shall be substantially in the form presented to this meeting and attached hereto as **Exhibit F**, which form is approved, together with such changes therein as shall be approved by the solicitor to the County and Bond Counsel for the County, and the Proper Officers of the County executing the same, their execution and delivery thereof to constitute conclusive evidence of such acceptance.

Section 8. 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 awards the Note to the Purchaser, for its own account, upon the terms set forth in its Purchase Contract, a copy of which is attached hereto as **Exhibit G** and made a part hereof. Such details are hereby approved. The purchase price of the Note shall be \$11,416,000, and the fixed interest rate on the Note shall be 3.49%.

Section 9. Appointment of Paying Agent, Sinking Fund Depository and Registrar; Payment of Principal and Interest without Deduction for Taxes. The proper officers of the County are hereby authorized and directed to contract with the Paying Agent for its services as sinking fund depository, paying agent and registrar with respect to the Note, and the Paying Agent is hereby appointed to act in such capacities with respect to the Note.

There is hereby established a separate sinking fund for the County designated as "Sinking Fund – County of Dauphin, Series 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 D** attached hereto and made a part hereof shall be pledged in each of the fiscal years shown in **Exhibit D** to pay the debt service on the Note, and such amounts are annually hereby appropriated to the Sinking Fund for the payment thereof.

Section 10. Debt Proceedings. The Chief Clerk of the Governing Body is hereby authorized and directed to certify to and file with the Pennsylvania Department of Community and Economic Development, in accordance with the Debt 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, and to pay the filing fees necessary in connection therewith.

Section 11. Tax Covenants and Representations. To the extent that the Note is issued as a tax-exempt obligation, and so long such the Note is outstanding, each of the following covenants shall apply:

a. The County shall make no use of the proceeds of such Note during the term thereof which would cause such Note to be an "arbitrage bond" 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 an arbitrage bond, 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 11** 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 12. 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 13. Settlement Account. The County hereby establishes with the Paying Agent a special fund to be known as the "County of Dauphin – 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, including disbursements to the Municipal Entities.

Section 14. 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 H** 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.

Section 15. Appointment of Bond Counsel. The County hereby appoints McNees Wallace & Nurick LLC, Harrisburg, Pennsylvania, as Bond Counsel for the Note.

Section 16. Incidental Actions. The proper officers of the County 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 17. Payment of Issuance Costs. The proper officers of the County 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 Purchase Contract.

Section 18. Rescinding Inconsistent Ordinances and Resolutions. All ordinances and resolutions or parts of ordinances and resolutions inconsistent herewith be and the same hereby are rescinded, cancelled and annulled.

Section 19. Severability. In the case any one or more of the provisions of this Ordinance or in the Note issued pursuant hereto shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance or of said Note, and this Ordinance or said Note shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

Section 20. Effective Date. This Ordinance shall become effective on the earliest date permitted by the Debt Act.

DULY ENACTED, by the Board of Commissioners, in lawful session duly assembled, this 7th day of September, 2022.

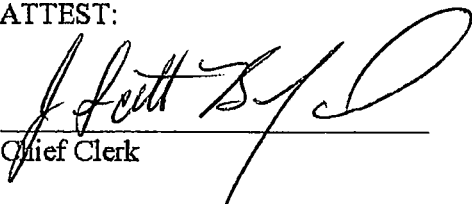
COUNTY OF DAUPHIN, PENNSYLVANIA

By: 
County Commissioner

By: 
County Commissioner

By: 
County Commissioner

ATTEST:


Chief Clerk

(SEAL)