

Lm 6/13/18  
ram

COUNTY OF DAUPHIN  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 2-2018

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA (THE “**COUNTY**”) AMENDING, PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT, CERTAIN ORDINANCES DULY ENACTED BY THE BOARD OF COMMISSIONERS OF THE COUNTY WITH RESPECT TO THE INCURRENCE OF DEBT; DESCRIBING THE PROJECTS FOR WHICH SAID DEBT OF THE COUNTY WAS ORIGINALLY INCURRED, DESCRIBING THE AMENDMENT TO THE PROJECTS AND SPECIFYING THE REALISTIC ESTIMATED USEFUL LIFE OF SAID PROJECTS, AS SO AMENDED; AUTHORIZING AND DIRECTING THE OFFICERS AND OFFICIALS OF THE COUNTY TO EXECUTE AND DELIVER DOCUMENTS AND TO TAKE ACTION AS MAY BE NECESSARY RELATING THERETO; AUTHORIZING THE PAYMENT OF EXPENSES; REPEALING INCONSISTENT ORDINANCES; CONFIRMING THE PRIOR ORDINANCES AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

ENACTED JUNE 13, 2018

WHEREAS, the County of Dauphin, Commonwealth of Pennsylvania (the “**County**”), is a County of the third class existing under the laws of the Commonwealth of Pennsylvania (the “**Commonwealth**”) and 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

WHEREAS, the County has established the Dauphin County Infrastructure Bank (the “**Infrastructure Bank**”), in order to assist municipalities located in the County in financing the costs of construction, reconstruction, maintenance and repair of public roads, streets or bridges as well as other permitted projects under the Liquid Fuels and Fuels Tax Act, 75 Pa. C.S.A. § 9001 *et seq.*, as amended and supplemented, through the issuance from time to time, by the County of its general obligation bonds or notes, in one or more series; and

WHEREAS, the Township of Lower Swatara, Dauphin County, Pennsylvania (the “**Township**”) heretofore applied for and received loans through the Infrastructure Bank in 2015 and 2017; and

WHEREAS, pursuant to an Ordinance enacted on October 22, 2014 (the “**2014 Ordinance**”), the Board of Commissioners of the County heretofore incurred nonelectoral debt in order to finance, among other things, the planning, design, purchase, acquisition, construction, installation and equipping of certain transportation related improvements, including, but not limited to the removal and replacement of Richardson Road Bridge, including the relocation of the existing eight-inch sanitary sewer line, and ancilliary improvements which may include pavement and guiderail, located in the Township (the “**2015 Lower Swatara Project**”), and the costs of issuance of the Liquid Fuels Revenue Note, Series of 2014-1 (Dauphin County Infrastructure Bank), in the principal amount of \$7,034,518.00 (the “**2014 Note**”), to the Commonwealth of Pennsylvania, Department of Transportation; and

WHEREAS, the nonelectoral debt of the County, evidenced by the 2014 Note, was approved by the Pennsylvania Department of Community and Economic Development (“**DCED**”) on November 17, 2014 pursuant to approval number GRN-141117-01, and presently remains outstanding; and

WHEREAS, pursuant to the 2014 Ordinance, the County heretofore determined, with the assistance of the Township, that estimated cost of the 2015 Lower Swatara Project was at least \$500,000, and that upon completion thereof the 2015 Lower Swatara Project would have an estimated useful life of at least fifteen (15) years, which exceeded the final maturity of the 2014 Note; and

WHEREAS, proceeds of the 2014 Note allocable to the 2015 Lower Swatara Project are disbursed to the Township pursuant to a Loan and Security Agreement dated May 15, 2015 (the “**2015 Loan Agreement**”), between the County and the Township; and

WHEREAS, the Township has completed the 2015 Lower Swatara Project and approximately \$56,220.53 of the proceeds of the 2014 Note allocable to the 2015 Lower Swatara Project remain unspent under the 2015 Loan Agreement; and

WHEREAS, pursuant to an Ordinance enacted on November 15, 2017 (the “**2017 Ordinance**”), the Board of Commissioners of the County heretofore incurred nonelectoral debt in order to finance, among other things, the planning, design, permitting, purchase, acquisition, construction, inspection, installation and equipping of the replacement of both the Highland Street Bridge and the Summit Ridge Bridge (the “**Summit Ridge Bridge**”) located in the Township (the “**2017 Lower Swatara Project**”), and the payment of the costs and expenses of issuing the County’s General Obligations Bonds, Series A of 2017 (Dauphin County Infrastructure Bank), which debt is evidenced by the County’s Guaranteed Revenue Note, Series of 2017 (Dauphin County Infrastructure Bank), in the principal amount of \$4,355,000 (the “**2017 Bonds**”); and

WHEREAS, the nonelectoral debt of the County, evidenced by the 2017 Bonds, was approved by DCED on December 6, 2017 pursuant to approval number GOB-171206-06, and presently remains outstanding; and

WHEREAS, pursuant to the 2017 Ordinance, the County, with the assistance of the Township heretofore determined that estimated cost of the 2017 Lower Swatara Project was at least \$1,203,801.11, and that upon completion thereof the 2017 Lower Swatara Project would have an estimated useful life of at least thirty (30) years; and

WHEREAS, proceeds of the 2017 Bonds allocable to the 2017 Lower Swatara Project are disbursed to the Township pursuant to a Loan Agreement dated December 19, 2017 (the “**2017 Loan Agreement**”), between the County and the Township; and

WHEREAS, as a result of a major rain storm event which passed through the Township in 2017 that produced approximately 4.7 inches of rainfall in an hour causing major flooding, the existing culvert bridge located at the intersection of Greenwood Drive and Lumber Street in the County (the “**Greenwood Drive/Lumber Street Bridge**”) has become a higher priority for replacement by the Township than the replacement of Summit Ridge Bridge; and

WHEREAS, the Township desires pursuant to a letter dated April 25, 2018, to provide for the funding of the of all or a portion of the planning, design, permitting, purchase, acquisition, construction, inspection, installation and equipping of the replacement of the Greenwood Drive/Lumber Street Bridge (the “**Greenwood Drive/Lumber Street Bridge Project**”); and

WHEREAS, the County, with assistance of the Township, has obtained cost estimates for the Greenwood Drive/Lumber Street Project and has determined that the estimated cost of the project is not more than \$695,225, and upon completion thereof will have an estimated useful life of at least thirty (30) years; and

WHEREAS, the Township has requested that the Board of Commissioners of the County amend and expand the 2015 Lower Swatara Project as defined in the 2014 Ordinance and the 2017 Lower Swatara Project as defined in the 2017 Ordinance to include the financing of all or a portion of the Greenwood Drive/Lumber Street Bridge Project in the sum of \$695,225.00, all in accordance with the terms of this Ordinance and the provisions of the Debt Act; and

WHEREAS, upon compliance by the County with the requirements of the Debt Act relating to such amendment of the 2015 Lower Swatara Project and the 2017 Lower Swatara Project to include the Greenwood Drive/Lumber Street Bridge Project, the County desires to amend the 2015 Loan Agreement to apply all of the unspent proceeds of the 2014 Note for and toward payment of costs and expenses of the Greenwood Drive/Lumber Street Bridge Project and to amend the 2017 Loan Agreement to apply a portion of the unspent proceeds of the 2017 Bonds for and toward payment of costs and expenses of the Greenwood Drive/Lumber Street Bridge Project.

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

SECTION 1. Amendment of the 2015 Lower Swatara Project and the 2017 Lower Swatara Project.

The County hereby amends the 2014 Ordinance by expanding the 2015 Lower Swatara Project to include the Greenwood Drive/Lumber Street Bridge Project and amends the 2017 Ordinance by substituting the Summit Ridge Bridge with the Greenwood Drive/Lumber Street Bridge Project. The descriptions of the 2015 Lower Swatara Project, the 2017 Lower Swatara Project and the Greenwood Drive/Lumber Street Bridge Project contained in the recitals to this Ordinance are hereby incorporated into this Section by reference as if set out at length.

SECTION 2. Cost and Realistic Useful Life; Other Capital Projects; Debt Service.

Realistic cost estimates have been obtained by the County, with the assistance of the Township, for the Greenwood Drive/Lumber Street Bridge Project, as required by Section 8006 of the Debt Act. The cost of the Greenwood Drive/Lumber Street Bridge Project is estimated not to exceed \$695,225.00.

The County hereby determines that the useful life of the Greenwood Drive/Lumber Street Bridge Project is at least 30 years from the date hereof, which exceeds the final maturity of both the 2014 Note and the 2017 Bonds. Nothing in this Section shall be construed to limit the County's authority hereafter to fix a useful life for the Greenwood Drive/Lumber Street Bridge Project for a number of years greater than the number of years set forth in this Section so long as any future determination is not greater than the useful life of such project.

The remaining proceeds of the 2014 Note allocable to the 2015 Lower Swatara Project and a portion of the proceeds of the 2017 Bonds allocable to the 2017 Lower Swatara Project shall be used solely to pay the "costs", as defined in the Debt Act, of the Greenwood Drive/Lumber Street Bridge 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.

In accordance with Section 8142(b)(1) of the Debt Act, the annual mandatory sinking fund installments of the principal amount of the 2014 Note and 2017 Bonds have been fixed so that the principal of the 2014 Note and the 2017 Bonds are amortized on at least an approximately level annual debt service plan.

SECTION 3. Advertising.

The action of the officers of the County in advertising a summary of this Ordinance, as required by law, is ratified and confirmed. The proper officers of the County or any of them, are authorized and directed to advertise a notice of enactment of this Ordinance in a newspaper of general circulation in the County within 15 days after final enactment. The Chief Clerk of the County is hereby directed to make a copy of this Ordinance available for inspection by any citizen during normal office hours.

SECTION 4. Filing with Department of Community and Economic Development .

The Chief Clerk or Assistant Chief Clerk of the County is hereby authorized and directed to prepare and file with DCED, in accordance with the Debt Act, a transcript of the proceedings relating to the amendment of the 2015 Lower Swatara Project and the 2017 Lower Swatara Project, in accordance with Section 8103 of the Debt Act, and to take other necessary action, and to prepare and file all necessary documents with the DCED.

SECTION 5. Amendment to 2015 Loan Agreement and 2017 Loan Agreement.

(a) *Amendment to 2015 Loan Agreement.* The Chairman, Vice Chairman, Secretary and Chief Clerk or Assistant Chief Clerk of the County are authorized and directed to execute, attest and deliver, on behalf of the County, a First Amendment to the 2015 Loan Agreement, between the County and the Township (the “**2015 Amendment**”), in the form hereinafter approved, providing for, *inter alia*, expanding the 2015 Lower Swatara Project to include the Greenwood Drive/Lumber Street Bridge Project in accordance with this Ordinance. The 2015 Amendment shall contain such provisions as shall be in substance and form satisfactory to the County Solicitor and the proper officers of the County executing the same and such form is hereby approved.

(a) *Amendment to 2017 Loan Agreement.* The Chairman, Vice Chairman, Secretary and Chief Clerk or Assistant Chief Clerk of the County are authorized and directed to execute, attest and deliver, on behalf of the County, a First Amendment to the 2017 Loan Agreement, between the County and the Township (the “**2017 Amendment**”), in the form hereinafter approved, providing for, *inter alia*, amending the 2017 Lower Swatara Project to substitute the Greenwood Drive/Lumber Street Bridge Project for the Summit Ridge Bridge in accordance with this Ordinance. The 2017 Amendment shall contain such provisions as shall be in substance and form satisfactory to the County Solicitor and the proper officers of the County executing the same and such form is hereby approved.

SECTION 6. Incidental Actions.

The proper officers of the County are hereby authorized, directed and empowered on behalf of the County to execute any and all agreements, 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 purposes of this Ordinance.

SECTION 7. Payment of Expenses.

All expenses incurred in connection with the amendment of the 2015 Lower Swatara Project and the 2017 Lower Swatara Project shall be paid out of the unspent proceeds of the 2014 Note and the 2017 Bonds and the proper officers and officials are authorized to sign and deliver requests for payment of such expenses.

SECTION 8. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent herewith be and the same hereby are rescinded, cancelled and annulled.

SECTION 9. Confirmation of Prior Ordinances.

Except to the extent amended hereby, the provisions of the County’s 2014 Ordinance authorizing the undertaking of the 2015 Lower Swatara Project, as applicable, and the issuance of the 2014 Note are hereby ratified and confirmed and the provisions of the County’s 2017 Ordinance authorizing the undertaking of the

2017 Lower Swatara Project, as applicable, and the issuance of the 2017 Bonds are hereby ratified and confirmed.

SECTION 10. Effective Date.

This Ordinance shall take effect on the earliest date permitted by the Debt Act.


[The Remainder of this Page Intentionally Left Blank]

ENACTED by the Board of Commissioners of the County of Dauphin, Pennsylvania, in lawful session assembled, on the 13 day of June, 2018.

COUNTY OF DAUPHIN

ATTEST:

  
\_\_\_\_\_  
Chief Clerk

  
\_\_\_\_\_  
Chairman, Board of Commissioners

  
\_\_\_\_\_  
Vice Chairman, Board of Commissioners

[SEAL]

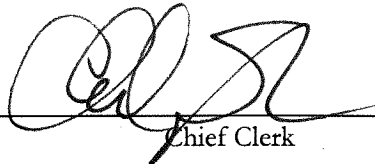
  
\_\_\_\_\_  
Member, Board of Commissioners

CERTIFICATE

I, the undersigned officer the County of Dauphin, Commonwealth of Pennsylvania ("**County**"), hereby certify that: (a) attached to this Certificate is a true, correct and complete copy of an ordinance (the "**Ordinance**") which was duly enacted at a meeting of the Board of Commissioners of the County on June \_\_, 2018, at which a quorum was present and acting throughout, and which was at all times open to the public; (b) the Ordinance was duly recorded in the County's Ordinance Book, and a summary of the Ordinance was published as required by law in a newspaper of general circulation in the County; (c) the County met the advance notice requirements of the Sunshine Act, 65 Pa.C.S. §701 *et seq.* by advertising the date of the meeting and posting a notice of the meeting at the public meeting place of the Board of Commissioners; (d) the total number of members of the Board of Commissioners is three; and (e) the vote upon the Ordinance was called and duly recorded upon the minutes and that the members voted in the following manner:

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Jeffrey T. Haste	_____	_____	_____	_____ ✓
Michael H.W. Pries	_____ ✓	_____	_____	_____
George P. Hartwick, III	_____ ✓	_____	_____	_____

WITNESS my hand and seal of the County this 13 day of June, 2018.

  
\_\_\_\_\_  
Chief Clerk

(SEAL)