

LM 10/27/10  
RAM

COUNTY OF DAUPHIN,

Pennsylvania

Resolution No. 40-2010

**WITNESSETH:**

**WHEREAS**, this County (the "County") is a third class county and is a "local government unit" under provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania (the "Commonwealth"), as reenacted, amended and supplemented, from time to time, known as the Local Government Unit Debt Act (the "Debt Act"); and

**WHEREAS**, The Harrisburg Authority (the "Authority") is a body politic and corporate organized and existing under the Municipality Authorities Act, as amended and supplemented, 53 Pa. C.S. §5601 et seq., of the Commonwealth (the "Authorities Act"); and

**WHEREAS**, the City of Harrisburg (the "City") is a municipal corporation of the Commonwealth and is also a "local government unit" under provisions of the Debt Act; and

**WHEREAS**, the Authority owns and operates the Resource Recovery and Cogeneration Facility ("Facility") and has issued various series of bonds and notes (collectively, "Bonds") to fund costs of acquisition, maintenance and improvement thereof, including the retrofit and modernization thereof ("Retrofit"); and

**WHEREAS** the Authority undertook a project (the "Retrofit Completion Project") consisting of, among other things, financing the costs of completing the Retrofit, funding payments due under an Interim Agreement, funding other working capital needs and reserves during the undertaking of the Retrofit Completion Project, funding the acquisition of certain capital equipment and construction associated with the Facility and the restructuring of certain indebtedness and other obligations previously incurred with respect to the Facility; and

**WHEREAS**, the Authority financed the Retrofit Completion Project, in part, by issuing its Guaranteed Resource Recovery Facility Limited Obligation Notes, Series C of 2007, in the aggregate original principal amount of \$20,964,000 (the "2007 C Notes") and its Guaranteed Federally Taxable Resource Recovery Facility Limited Obligation Notes, Series D of 2007, in the aggregate original principal amount \$9,036,000 (the "2007D Notes", and collectively with the 2007 C Notes, the "2007 Notes"), under and pursuant to a Trust Indenture, dated as of December 15, 2007 (the "Indenture") between the Authority and Commerce Bank, National Association, as trustee, now by succession TD BANK, NATIONAL ASSOCIATION (the "Trustee") for the benefit of the purchaser of the 2007 Notes; and

**WHEREAS**, the City, as security for the benefit of the purchasers of the 2007 Notes provided its primary guarantee of an amount sufficient to make payment of the Stated Value at Maturity of the 2007 Notes by the incurrence of lease rental debt under the Debt Act by entering into a Guaranty Agreement, dated as of December 15, 2007 (the "City Guaranty Agreement") among the City, the Authority and the Trustee for the benefit of the purchasers of the 2007 Notes; and

**WHEREAS**, the County, provided its secondary guarantee of an amount sufficient to make payment of the Stated Value at Maturity of the 2007 Notes, by the incurrence of lease rental debt under the Debt Act by entering into a Guaranty Agreement dated as of December 15, 2007 (the "County Guaranty") among the County, the Authority and the Trustee for the benefit of the purchasers of the 2007 Notes; and

**WHEREAS**, the Authority has failed and is unable to provide adequate revenues from the Facility to pay to the Trustee an amount sufficient to permit the Trustee to make payment of the Stated Value at Maturity of the 2007 Notes on December 15, 2010; and

**WHEREAS**, the City has failed to honor its obligations under the City Guaranty Agreement to provide to the Trustee on August 15, 2010 an amount sufficient to make payment of the Stated Value at Maturity of the 2007 Notes upon maturity, December 15, 2010; and

**WHEREAS**, this County intends to honor its obligations and urges both the Authority and the City, to honor their respective obligations under the Indenture and the City Guaranty Agreement respectively; and

**WHEREAS**, this County is willing to participate in the refinancing of the 2007 Notes by providing a secondary guarantee of such refunding debt conditioned upon the Authority's issuing such refunding debt and upon the City providing a primary guarantee of such refunding debt; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Dauphin County, Pennsylvania, and it is hereby adopted by the authority of the same, as follows:

1. This County agrees to participate in the retirement of the Guaranteed Resource Recovery Facility Limited Obligation Notes, Series C of 2007, in the aggregate original principal amount of \$20,964,000 and its Guaranteed Federally Taxable Resource Recovery Facility Limited Obligation Notes, Series D of 2007, in the aggregate original principal amount \$9,036,000 both maturing on December 15 2010 (the "2007 Notes") by providing a secondary guaranty of refunding debt for the 2007 Notes but only upon the incurrence of such refunding debt by The Harrisburg Authority and upon the City of Harrisburg providing a primary guaranty of such refunding debt on such terms and conditions satisfactory to the County.

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

3. All resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

CERTIFICATE

I, the undersigned Chief Clerk of the County of Dauphin County, Pennsylvania (the "County"), certify that: the foregoing is a true and correct copy of a Resolution that duly was adopted by affirmative vote of a majority of all members of the Council of the County at a meeting duly held on the 27<sup>th</sup> day of October, 2010; said Resolution duly has been recorded in the minute book of the Board of Commissioners of the County; and said Resolution has not been amended, altered, modified or repealed as of the date of this Certificate.

I further certify that the Board of Commissioners of the County met the advance notice requirements of the Sunshine Act, Act No. 1998-93 of the General Assembly of the Commonwealth of Pennsylvania, approved October 15, 1998, as amended, by advertising the time and place of said meeting and by posting prominently a notice of said meeting at the principal office of the County or at the public building in which said meeting was held.

I further certify that: the total number of members of the Council of the County is three (3); the vote of members of the Board of Commissioners of the County upon said Ordinance was called and duly was recorded upon the minutes of said meeting; and members of the Board of Commissioners of the County voted upon said Ordinance in the following manner:

Vote

Hon. Jeffrey T. Haste  
Chairman

*Yes*

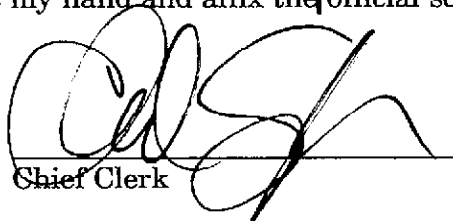
Hon. George P. Hartwick, III

*Yes*

Hon. Michael Pries

*Yes*

IN WITNESS WHEREOF, I set my hand and affix the official seal of the County, this 27 day of October, 2010.

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

(SEAL)