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COUNTY OF DAUPHIN
Commonwealth of Pennsylvania

ORDINANCE NO. 4-2018

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA DETERMINING TO INCUR DEBT IN THE AMOUNT NOT TO EXCEED \$3,110,000; DETERMINING THAT SUCH DEBT SHALL BE INCURRED AS LEASE RENTAL DEBT TO BE EVIDENCED BY CERTAIN GUARANTEED REVENUE NOTES TO BE AUTHORIZED AND TO BE ISSUED BY DAUPHIN COUNTY ECONOMIC DEVELOPMENT CORPORATION, A PENNSYLVANIA NONPROFIT CORPORATION AND INDUSTRIAL DEVELOPMENT AGENCY (“DCEDC”); BRIEFLY DESCRIBING THE PROJECTS FOR WHICH SAID DEBT WAS INCURRED AND SPECIFYING THE REMAINING USEFUL LIVES OF SAID PROJECTS; AUTHORIZING AND DIRECTING PROPER OFFICERS OF THE COUNTY TO EXECUTE, ATTEST, SEAL AND DELIVER, AS APPROPRIATE, ONE OR MORE GUARANTY AGREEMENTS WITH RESPECT TO THE AFORESAID GUARANTEED REVENUE NOTES; APPROVING THE FORM OF SAID GUARANTY AGREEMENTS; AUTHORIZING AND DIRECTING THE CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF COMMISSIONERS AND THE CHIEF CLERK OF THE COUNTY TO PREPARE, VERIFY AND FILE, AS APPLICABLE, THE DEBT STATEMENT, THE BORROWING BASE CERTIFICATE TO BE APPENDED TO THE DEBT STATEMENT, AND OTHER APPROPRIATE DOCUMENTS REQUIRED BY THE LOCAL GOVERNMENT UNIT DEBT ACT, 53 Pa. C.S. § 8001 ET SEQ.; GUARANTEEING PAYMENT OF THE PRINCIPAL OF AND INTEREST ON AFORESAID GUARANTEED REVENUE NOTES AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO; SPECIFYING THE MAXIMUM AMOUNT OF THE GUARANTY OBLIGATIONS OF THE COUNTY PURSUANT TO SUCH GUARANTY AGREEMENTS; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE COUNTY WITH RESPECT TO THE GUARANTY AGREEMENTS; AUTHORIZING PROPER OFFICERS OF THE COUNTY TO EXECUTE ALL REQUIRED, NECESSARY OR DESIRABLE CERTIFICATES AND DOCUMENTS IN CONNECTION WITH SAID LEASE RENTAL DEBT AND SAID PROJECTS; AUTHORIZING PROPER OFFICERS OF THE COUNTY TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE ACTION IN CONNECTION WITH SAID PROJECT AND THE EXECUTION, DELIVERY OR ACCEPTANCE OF SAID GUARANTY AGREEMENTS; PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL INCONSISTENT ORDINANCES OR RESOLUTIONS OR PARTS OF ORDINANCES OR RESOLUTIONS.

WHEREAS, the County of Dauphin, Pennsylvania (the “**County**”) exists under laws of the Commonwealth of Pennsylvania (the “**Commonwealth**”) and is a “local government unit,” as such term is defined under the Local Government Unit Debt Act, 53 Pa. C.S. § 8001 *et seq.* (the “**Debt Act**”); and

WHEREAS, Dauphin County Economic Development Corporation (the “**Corporation**”) is a nonprofit corporation organized on behalf of the County and incorporated under the Nonprofit Corporation Law of 1988, as amended and supplemented, of the Commonwealth for the purpose of, *inter*

alia, assisting and encouraging the stabilization, expansion and/or retention of jobs and businesses in the County; and

WHEREAS, Dauphin County Industrial Development Authority (the “**Authority**”) is a public instrumentality and a body politic and corporate organized and existing under the laws of the Commonwealth of Pennsylvania, having been duly organized by the County pursuant to the provisions of the Act of August 23, 1967, P.L. 251, of the Commonwealth of Pennsylvania, as amended and supplemented, known as the Economic Development Financing Law (the “**Act**”); and

WHEREAS, the Corporation heretofore issued its Guaranteed Parking Revenue Note, Series of 2004 (Federally Taxable), in the principal amount of \$2,200,000 (the “**2004 Note**”) to Manufacturers and Traders Trust Company (the “**2004 Noteholder**”), in order to finance the acquisition of two floors of a new parking garage with 88+ parking spaces located at 17 North Second Street in the City of Harrisburg, Dauphin County, Pennsylvania (the “**Parking Project**”); and

WHEREAS, the Authority heretofore issued its Guaranteed Mortgage Revenue Note (Veterans Building Project), Series of 2010 (Federally Taxable), in the principal amount of \$1,900,000 (the “**2010 Note**”) to (i) refinance prior debt of the Authority issued in connection with the acquisition and renovation of an eight (8) story building located at 112 Market Street in the City of Harrisburg and known generally as the “Veterans Building” (the “**Building**”), and (ii) finance certain renovations, additions and improvements to the Building, consisting primarily of additional replacement and improvements to the heating, ventilation and air conditioning system (the “**2010 Project**”); and

WHEREAS, the Authority heretofore issued its Guaranteed Mortgage Revenue Note (Veterans Building Project), Series of 2012 (Federally Taxable), in the principal amount of \$305,000 (the “**2012 Note**”) to finance the acquisition and construction of certain renovations, additions and improvements to the Building, consisting primarily of replacement and upgrades of the existing elevators and related improvements (the “**2012 Project**”); and

WHEREAS, Branch Banking and Trust Company, as successor to Greystone Bank and Susquehanna Bank, is the holder of the 2010 Note (the “**2010 Noteholder**”) and the 2012 Note (the “**2012 Noteholder**”); and

WHEREAS, the Authority, with the assistance of the Corporation, desires to refinance the 2010 Note and the 2012 Note to reduce the total debt service over the life of the 2010 Note and the 2012 Note, respectively (the “**Series A Refunding Project**”); and

WHEREAS, the Corporation desires to refinance the 2004 Note to reduce the total debt service over the life of the 2004 Note (the “**Series B Refunding Project**”, and together with the Series A Refunding Project, collectively, the “**Refunding Projects**”); and

WHEREAS, in order to finance the Refunding Projects, the Corporation, acting on its own behalf and on behalf of the Authority, is willing to enter into a credit facility, in the principal sum not to exceed \$3,110,000, with a financial institution (the “**Bank**”) pursuant to which the Bank will agree, upon certain terms and conditions, to loan said sum to the Corporation to be applied for and toward payment of costs of the Refunding Projects; and

WHEREAS, the Corporation’s obligation to repay said loan will be evidenced by its (i) Guaranteed Note (Veterans Building), Series A of 2018 (Federally Taxable), in the principal amount not to exceed \$1,630,000 (the “**2018A Note**”), and (ii) Guaranteed Parking Revenue Note, Series B of 2018 (Federally Taxable), in the principal amount not to exceed \$1,480,000 (the “**2018B Note**”, and together

with the 2018A Note, collectively, the “Notes”), each to be issued and delivered under and pursuant to a loan agreement by and between the Bank and the Corporation; and

WHEREAS, the County desires the Corporation, acting on its own behalf and on behalf of the Authority, to undertake the Refunding Projects, and as inducement to the Corporation to undertake the Refunding Projects and to issue its Notes, the County is willing to guarantee the full payment of the principal of and the interest on (i) the 2018A Note, when due, pursuant to a guaranty agreement (the “Series A Guaranty”), and (ii) the 2018B Note, when due, pursuant to a guaranty agreement (the “Series B Guaranty”, and together with the Series A Guaranty, collectively, the “Guaranties”), and the authority set forth in the Debt Act; and

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

1. The Refunding Projects and Recitals. The Board of Commissioners of the County hereby combines the Series A Refunding Project and the Series B Refunding Project for financing purposes, and hereby requests and authorizes the Corporation, acting on its own behalf and on behalf of the Authority, to proceed to undertake the Refunding Projects, the financing thereof and the payment of all “costs” related thereto. The description of the Refunding Projects contained in the recitals to this Ordinance hereby are incorporated into this Section by reference as if set out at length. The foregoing recitals and all terms defined therein are incorporated herein, and such defined terms may hereafter be used as if set out at length.

2. Cost and Realistic Useful Life. Reasonable cost estimates have been obtained for each component of the Refunding Projects with the assistance of financial advisors and other persons qualified by experience. The total cost of the Refunding Projects is at least \$3,110,000, with \$1,630,000 allocable to the Series A Refunding Project and \$1,480,000 allocable to the Series B Refunding Project.

3.

4. The Board of Commissioners of the County hereby determines that the remaining useful lives of (a) the 2010 Project, originally financed with the 2010 Note, now being refinanced with a portion of the proceeds of the 2018A Note, is at least seventeen (17) years, (b) the 2012 Project, originally financed with the 2012 Note, now being refinanced with a portion of the proceeds of the 2018A Note, is at least fourteen (14) years, and (c) the Parking Project, originally financed with the 2004 Note, now being refinanced with proceeds of the 2018B Note, is at least sixteen (16) years. The term of the 2018A Note does not exceed the estimated remaining useful lives of 2010 Project and the 2012 Project as set forth in clauses (a) and (b) above. The term of the 2018B Note does not exceed the estimated remaining useful life of the Parking Project as set forth in clause (c) above.

5. Incurrence of Lease Rental Debt. The Board of Commissioners of the County hereby determines to incur “debt,” as such term is defined in the Debt Act, as “lease rental debt,” as such term is defined in the Debt Act, for the purpose of assisting in the financing of the Refunding Projects.

6. Amount of Lease Rental Debt. The debt to be incurred, as lease rental debt, as set forth in Section 3 hereof, shall be in the maximum principal amount of \$3,110,000, and shall consist of and be evidenced by the County's execution and delivery of (a) the Series A Guaranty, in the principal amount not to exceed \$1,630,000, and (b) the Series B Guaranty in the principal amount not to exceed \$1,480,000, pursuant to which the County agrees to guarantee the payment of principal of and interest on the 2018A Note and the 2018B Note, when due, respectively. The Notes shall be issued under and pursuant to a loan agreement by and between the Corporation and the Bank, and secured by, *inter alia*, the Series A Guaranty and the Series B Guaranty executed by the County, substantially in the forms referred to in subsection 5(a) and (b) hereof.

7. The Guaranties.

(a) *Authorization and Approval of Series A Guaranty.* The County shall enter into the Series A Guaranty, substantially in the form referred to in this subsection (a), with respect to the 2018A Note to be issued by the Corporation. The Series A Guaranty shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Series A Guaranty, in the form so presented to this meeting and so approved, shall be filed with the Chief Clerk of the County for inspection, at reasonable times, by interested persons requesting such inspection. A copy of the form of the Series A Guaranty is attached hereto as Exhibit A.

(b) *Authorization and Approval of Series B Guaranty.* The County shall enter into the Series B Guaranty, substantially in the form referred to in this subsection (b), with respect to the 2018B Note to be issued by the Corporation. The Series B Guaranty shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Series B Guaranty, in the form so presented to this meeting and so approved, shall be filed with the Chief Clerk of the County for inspection, at reasonable times, by interested persons requesting such inspection. A copy of the form of the Series B Guaranty is attached hereto as Exhibit B.

(c) *Execution by Proper Officers.* The Chairman or Vice Chairman of the Board of Commissioners and the Chief Clerk of the County are hereby authorized and directed to execute, attest, seal and deliver the Series A Guaranty and the Series B Guaranty, with such insertions, deletions and amendments as the officers of the County executing the Series A Guaranty and the Series B Guaranty and the Solicitor to the County shall deem necessary. The execution, attestation and delivery of the Series A Guaranty and the Series B Guaranty by appropriate officers of the County shall constitute conclusive evidence of such approval; Provided, however, that such execution and delivery of the Series A Guaranty and the Series B Guaranty shall be subject to compliance by the County with applicable provisions of the Debt Act. Said officers of the County are authorized to take all other required, necessary or desirable action in connection with the Series A Refunding Project and the Series B Refunding Project and with the execution and delivery of the Series A Guaranty and the Series B Guaranty.

(d) *Delivery to the Bank.* The County authorizes delivery of the Guaranties to the Bank for the purposes set forth therein.

8. Filing with Department of Community and Economic Development. The Chairman or Vice Chairman of the Board of Commissioners and the Chief Clerk of the County are authorized and directed to make application to the Pennsylvania Department of Community and Economic Development (the “**Department**”) for approval with respect to said lease rental debt, as required by the Debt Act, and to pay or cause to be paid to the Department all proper filing fees required by the Debt Act and to take all other required and appropriate action.

Accordingly, the Chairman or Vice Chairman of the Board of Commissioners and Chief Clerk of the County are authorized and directed: (a) to prepare, verify and file with the Department, a debt statement as required by the Debt Act; (b) to prepare, execute and file with the Department the borrowing base certificate to be appended to the debt statement referred to in subparagraph (a) of this Section; (c) to prepare, execute and file the application with the Department, together with a complete and accurate

transcript of the proceedings relating to the incurring of debt, of which debt the Notes, upon issue, and the Guaranties, upon execution and delivery, will be evidence, as required by the Debt Act; (d) to pay or to cause to be paid to the Department all filing fees required by the Debt Act in connection with the foregoing; and (e) to take other required, necessary and/or appropriate action, and further, the same proper officers are authorized, at their discretion, hereafter to prepare and file, as required, with the Department, appropriate statements required by the Debt Act which are necessary to qualify all or a portion of lease rental debt of the County, if any shall be subject to exclusion as self liquidating debt, for exclusion from the appropriate debt limit of the County as such self liquidating debt.

9. Execution of Documents. Proper officers and officials of the County are hereby authorized and directed to execute, attest and deliver any and all necessary or appropriate certificates, instruments, agreements or documents and to do any and all necessary or appropriate things in connection with the transactions hereby contemplated, including, without limitation, fulfilling the requirements of the terms and conditions approved by the Corporation with respect to the Notes.

10. Guaranty Covenant. The County hereby guarantees the full payment of the principal of and interest on the 2018A Note and the 2018B Note and in furtherance thereof covenants and agrees with the holders from time to time of the Notes that if the Corporation shall fail to pay the full amount of the principal of and interest on the Notes when the same becomes due and payable, at the times and places, under the terms and conditions, and in the manner prescribed in the Notes, the County will pay the full amount of such principal and interest to the holders of the Notes.

The County covenants to and with the holders of the Notes, from time to time, that, subject to the terms and conditions of and as set forth more fully in the respective Guaranties, the County (a) shall include the amounts payable in respect of each of the Guaranties for each fiscal year in which such sums are payable in its budget for that year, (b) shall appropriate such amounts from its general revenues for the payment of such payment, and (c) shall duly and punctually pay or cause to be paid from any of its revenues or funds the amount payable in respect of each of the Guaranties, at the dates and place and in the manner stated in such Guaranty, according to the true intent and meaning thereof. The County pledges its full faith, credit and taxing power for such budgeting, appropriation and payment in respect of each of the Guaranties. For the purpose of complying with the covenants of this Section, the County shall, subject to the terms and conditions hereof and of each of the Guaranties, budget the amounts set forth in Exhibit C hereto for the fiscal year in which such amounts are payable and shall appropriate and shall pay, in the manner provided in the respective Guaranties, such amounts. This covenant shall be specifically enforceable in accordance with the Debt Act.

In the event that the County is obligated to make payments under the Guaranties, the maximum amounts required to be paid thereunder, if and as necessary on an annual basis, from the general revenues of the County, shall be as set forth on Exhibit C hereto. Exhibit C is incorporated herein by reference with the same force and effect as if fully set forth in the text hereof. If at any time the County is required to make any payment under the Guaranties, the proper officers of the County are hereby authorized and directed to do so.

11. General Authorization. Proper officers of the County are authorized and directed to execute all documents and to take such other action as may be necessary to carry out the intent and purposes of this Ordinance and the undertakings of the County under the Series A Guaranty and the Series B Guaranty, as applicable.

12. Effective Date. This Ordinance shall become effective in accordance with the provisions of the Debt Act.

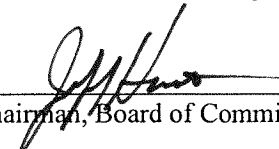
13. Severability. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the County that the remainder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

14. Repealer. All ordinances and resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

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DULY ENACTED AND ORDAINED this 26th day of September, 2018, by the Board of Commissioners of the County of Dauphin, Pennsylvania, in lawful session duly assembled.

COUNTY OF DAUPHIN
Commonwealth of Pennsylvania



Chairman, Board of Commissioners

ATTEST:



Chief Clerk

(SEAL)



Vice Chairman, Board of Commissioners



Secretary, Board of Commissioners