

COUNTY OF DAUPHIN
Commonwealth of Pennsylvania

ORDINANCE NO. #1-2007

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA DETERMINING TO INCUR DEBT IN THE AMOUNT NOT TO EXCEED \$420,000; DETERMINING THAT SUCH DEBT SHALL BE INCURRED AS LEASE RENTAL DEBT TO BE EVIDENCED BY A GUARANTEED LEASE REVENUE NOTE, SERIES OF 2007, TO BE AUTHORIZED AND TO BE ISSUED BY DAUPHIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY; BRIEFLY DESCRIBING THE PROJECT FOR WHICH SAID DEBT IS TO BE INCURRED AND SPECIFYING THE REALISTIC USEFUL LIFE OF SAID PROJECT; AUTHORIZING AND DIRECTING PROPER OFFICERS OF THE COUNTY TO EXECUTE, ATTEST, SEAL AND DELIVER, AS APPROPRIATE, (I) AN AGREEMENT OF LEASE, BETWEEN SAID AUTHORITY, AS LESSOR, AND THE COUNTY, AS LESSEE, AND (II) A GUARANTY AGREEMENT WITH RESPECT TO AFORESAID GUARANTEED LEASE REVENUE NOTE; APPROVING THE FORMS OF SAID AGREEMENT OF LEASE AND SAID GUARANTY AGREEMENT; 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.]; SPECIFYING THE MAXIMUM LEASE RENTALS TO BE PAID BY THE COUNTY PURSUANT TO SAID AGREEMENT OF LEASE; GUARANTEEING PAYMENT OF THE PRINCIPAL OF AND INTEREST ON AFORESAID GUARANTEED LEASE REVENUE NOTE AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO; SPECIFYING THE MAXIMUM AMOUNT OF THE GUARANTY OBLIGATIONS OF THE COUNTY PURSUANT TO SUCH GUARANTY AGREEMENT; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE COUNTY WITH RESPECT TO THE GUARANTY AGREEMENT; AUTHORIZING PROPER OFFICERS OF THE COUNTY TO EXECUTE ALL REQUIRED, NECESSARY OR DESIRABLE CERTIFICATES AND DOCUMENTS IN CONNECTION WITH SAID LEASE RENTAL DEBT AND THE PROJECT; AUTHORIZING PROPER OFFICERS OF THE COUNTY TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE ACTION IN CONNECTION WITH SUCH PROJECT AND THE EXECUTION, DELIVERY OR ACCEPTANCE OF SAID AGREEMENT OF LEASE AND SAID GUARANTY AGREEMENT; 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 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 Authority, with the consent of the County, heretofore agreed to undertake a project (the "Project") consisting of the acquisition of a building situated at 2125 Paxton Church Road in the Township of Susquehanna, Dauphin County, Pennsylvania, to be used as an office for a district justice; and

WHEREAS, the County and the Authority have estimated that the costs and expenses of undertaking the Project is not more than \$420,000 and that upon completion the Project will have a useful life of at least thirty-five (35) years; and

WHEREAS, the County and the Authority are willing to enter into an Agreement of Lease (the "Lease") whereunder the Authority, as lessor, shall lease the Project to the County, as lessee, and whereunder the County agrees, *inter alia*, to operate and maintain the Project and to pay certain rentals to the Authority or its assigns; and

WHEREAS, in order to finance the Project, the Authority is willing to enter into a credit facility, in the principal sum not to exceed \$420,000, with Commerce Bank/Harrisburg, N.A. (the "Bank") pursuant to which the Bank has agreed, upon certain terms and conditions, to loan said sum to the Authority to be applied for and toward payment of costs of the Project; and

WHEREAS, the Authority's obligation to repay said loan will be evidenced by its Guaranteed Lease Revenue Note, Series of 2007 (2125 Paxton Church Road Project), to be dated as of the date of delivery thereof (the "Note"), to be issued and delivered under and pursuant to a loan agreement by and between the Bank and the Authority; and

WHEREAS, the Board of Commissioners of the County has determined that the Project is in the best interests of the County and its residents; and

WHEREAS, the County desires the Authority to undertake the Project, and as inducement to the Authority to undertake the Project and to issue its Note, the County is willing to guarantee the full payment of the principal of and the interest on the Note, when due, pursuant to the authority set forth in the Debt Act.

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

1. The Board of Commissioners of the County hereby approves the Project as described in the recitals hereof and requests and authorizes the Authority to proceed to undertake the Project, the financing thereof and the payment of all "costs" related thereto.

2. The Board of Commissioners of the County authorizes and approves the Authority's issuance of the Note and its undertakings with respect to the loan, as aforesaid, in accordance with a proposal submitted to the Authority by the Bank; and

3. 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 Project.

4. The debt to be incurred, as lease rental debt, as set forth in Section 3 hereof, shall be evidenced by the Note, in the maximum principal amount of \$420,000. The Note shall be issued under and pursuant to a loan agreement by and between the Authority and the Bank, and secured by, *inter alia*, lease rentals payable by the County to the Authority or its assigns under the Lease. The term of the Note does not exceed the estimated useful life of the Project, which the County determines to be not less than thirty-five (35) years.

5. The County, as lessee, shall enter into the Lease with the Authority, as lessor, substantially in the form referred to in Paragraph 7 hereof, with respect to the Project and the Note. The Lease, *inter alia*, sets forth terms and provisions to be observed by the County and the Authority with respect to the Project and the Note.

6. The County shall enter into a Guaranty Agreement, substantially in the form referred to in Paragraph 8 hereof (the "**Guaranty Agreement**"), with respect to the Note to be issued by the Authority.

7. The Lease shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Lease, 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 Lease is attached hereto as Exhibit A.

8. The Guaranty Agreement shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Guaranty Agreement, 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 Guaranty Agreement is attached hereto as Exhibit B.

9. 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, acknowledge and deliver, as applicable, the Lease, in behalf of the County, with such insertions, deletions and amendments as the officers of the County executing the Lease and the Solicitor to the County shall approve. The execution, attestation and delivery of the Lease by appropriate officers of the County shall constitute conclusive evidence of such approval; Provided, however, that such execution and delivery of the Lease 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 Project and with the execution and delivery of the Lease.

The County consents to the assignment by the Authority of all its right, title and interest in the Lease and all rentals payable by the County thereunder as set forth in an Assignment, attached to the Lease.

10. 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 Guaranty

Agreement, with such insertions, deletions and amendments as the officers of the County executing the Guaranty Agreement and the Solicitor to the County shall deem necessary. The execution, attestation and delivery of the Guaranty Agreement by appropriate officers of the County shall constitute conclusive evidence of such approval; Provided, however, that such execution and delivery of the Guaranty Agreement 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 Project and with the execution and delivery of the Guaranty Agreement.

The County authorizes delivery of the Guaranty Agreement to the Bank for the purposes set forth in the Guaranty Agreement.

11. 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 Note, upon issue, and the Guaranty, 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.

12. 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 Authority with respect to the Note.

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

The County agrees and hereby covenants with the holders of the Note that the County shall include the amount of debt service on the Note, including interest thereon, for each fiscal year of the County in which such sums are payable in its budget for that fiscal year, shall appropriate and shall duly and punctually pay or cause to be paid the full amount of such principal of and interest on the dates and at the places and in the manner stated in the Note. For such budgeting, appropriation and payment the County hereby does pledge its full faith, credit and taxing power and hereby does agree that this covenant shall be specifically enforceable in accordance with the Debt Act.

The County agrees that maximum debt service in each of its fiscal years with respect to the Note to which the foregoing guaranty shall apply is as set forth in Exhibit C attached hereto.

14. 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 Guaranty.

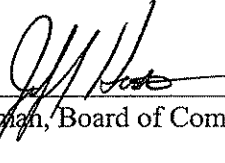
15. This Ordinance shall become effective in accordance with the provisions of the Debt Act.

16. 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.

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

DULY ENACTED AND ORDAINED this 18th day of July, 2007, 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:

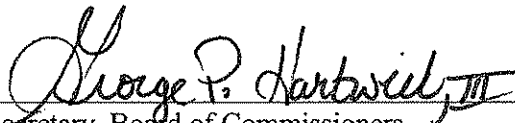


Chief Clerk

(SEAL)



Vice Chairman, Board of Commissioners



Secretary, Board of Commissioners