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COUNTY OF DAUPHIN, PENNSYLVANIA

ORDINANCE NO. 2 - 2007

OF THE BOARD OF COUNTY COMMISSIONERS OF THIS COUNTY AUTHORIZING AND APPROVING QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS (INTEREST RATE SWAPS) WITH RESPECT TO THE CERTAIN SPECIFIED OUTSTANDING INDEBTEDNESS OF THIS COUNTY; SETTING FORTH THE SUBSTANTIAL FORMS OF THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS; SETTING FORTH AND ADOPTING AN INTEREST RATE MANAGEMENT PLAN; DETERMINING THAT AN AWARD OF SAID AGREEMENTS TO A QUALIFIED COUNTERPARTY AT PRIVATE SALE BY NEGOTIATION IS IN THE BEST FINANCIAL INTEREST OF THIS COUNTY; AWARDING SAID AGREEMENTS (TO A QUALIFIED PROVIDER SELECTED IN ACCORDANCE WITH THE APPROVED INTEREST RATE MANAGEMENT PLAN); AUTHORIZING SPECIFIED OFFICERS OF THIS COUNTY TO EXECUTE, TO ATTEST AND TO DELIVER SAID AGREEMENTS; MAKING CERTAIN COVENANTS OF THIS COUNTY WHICH ARE INTENDED TO SECURE THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS; AND AUTHORIZING APPROPRIATE OFFICERS OF THIS COUNTY TO TAKE RELATED ACTIONS.

WHEREAS, The County of Dauphin, Pennsylvania (the "County") is a political subdivision (a county of the third class) of the Commonwealth of Pennsylvania (the "Commonwealth"), is governed by its Board of County Commissioners (the "Board"), and is a

“Local Government Unit,” within the meaning of the Local Government Unit Debt Act of the Commonwealth, 53 Pa. C.S. Chs. 80-82 (the “Debt Act”); and

WHEREAS, This County, to finance authorized projects, heretofore has authorized, issued, and delivered a series of bonds designated as its “General Obligation Bonds, Series A of 2002,” in the original aggregate principal amount of \$16,500,000, of which bonds in the aggregate principal amount of \$16,485,000 presently are outstanding (the “2002A Bonds”), which were authorized and secured by an ordinance of this County enacted by the Board on September 10, 2002 (the “2002A Bonds Enabling Ordinance”); and

WHEREAS, The proceedings for the incurrence of nonelectoral indebtedness of this County represented by the 2002A Bonds were approved by the Department of Community and Economic Development (the “Department”) under Approval No. GOB-14752, dated October 7, 2002; and

WHEREAS, The 2002A Bonds bear interest at fixed rates, and with annual payments, set forth in the 2002A Bonds Enabling Ordinance; and

WHEREAS, This County, to finance authorized projects, heretofore has authorized, issued, and delivered a series of bonds designated as its “General Obligation Bonds, Series B of 2005,” in the original aggregate principal amount of \$12,895,000, of which bonds in the aggregate principal amount of \$6,600,000 presently are outstanding (the “2005B Bonds”), and a series of bonds designated as its “General Obligation Bonds, Series C of 2005,” in the original aggregate principal amount of \$16,975,000, which were authorized and secured by an ordinance of this County enacted by the Board on June 29, 2005 (the “2005 Bonds Enabling Ordinance”); and

WHEREAS, The proceedings for the incurrence of nonelectoral indebtedness of this County represented by the 2005B Bonds and the 2005C Bonds were approved by the Department of Community and Economic Development (the "Department") under Approval No. GOB-16008, dated July 29, 2005; and

WHEREAS, The 2005B Bonds and the 2005C Bonds bear interest at fixed rates, and with annual payments, set forth in the 2005 Bonds Enabling Ordinance; and

WHEREAS, Access Financial Markets (the "Swap Advisor") has presented to the Board of the County a proposal (the "Proposal") under which this County would enter into three (3) interest rate swap agreements (fixed receiver) (the "Swap Agreements"); one (the "2002A Swap Agreement") with respect to \$16,485,000 aggregate principal amount of the outstanding 2002A Bonds stated to mature on November 15 of the years 2007, to and including 2024 (the "Swapped 2002A Bonds"); one (the "2005B Swap Agreement") with respect to the \$6,600,000 aggregate principal amount of outstanding 2005B Bonds stated to mature on November 15, of the years 2014 (subject to mandatory redemption in the years 2011, 2012, and 2013), through 2022 (the "Swapped 2005B Bonds"); and one (the "2005C Swap Agreement") with respect to the \$16,975,000 aggregate principal amount of outstanding 2005C Bonds stated to mature on November 15, of the years 2012, through 2024 (the "Swapped 2005C Bonds," and together with the 2002A Swapped Bonds and the 2005B Swapped Bonds, referred to herein collectively as the "Swapped Bonds"); and

WHEREAS, The Debt Act, including the amendments made by Act No. 2003-23, effective September 24, 2003, contemplates that the County may become obligated for all or a portion of the costs incurred under the terms of an interest rate swap agreement meeting the

requirements for a “qualified interest rate management agreement,” as defined in the Debt Act, with respect to bonds of the County; and

WHEREAS, This County has received an “interest rate management plan,” as contemplated by the Debt Act, prepared by the Swap Advisor (the “Interest Rate Management Plan”), which addresses certain financial aspects and risks of an interest rate swap agreement (fixed receiver), with respect to the Swapped Bonds, as contemplated by the Proposal and this County has retained Susquehanna Group Advisors, Inc. (the “Financial Advisor”), as an “independent financial advisor” to this County as contemplated by the Debt Act to provide the required fairness opinion as required by the Debt Act, ; and

WHEREAS, The Board of this County duly has read and considered the Proposal, the Interest Rate Management Plan, and the proposed terms and conditions of the proposed Swap Agreements; and

WHEREAS, The Swap Agreements are consistent with the Interest Rate Management Plan; and

WHEREAS, This County proposes to award the proposed Swap Agreements to Depfa Bank Plc. (the “Swap Provider”), at private sale by negotiation, and to enter into the Swap Agreements; and

WHEREAS, The Swap Provider possesses qualifications (including a credit rating) satisfying the criteria established by the Interest Rate Management Plan; and

WHEREAS, Under Section 8284 of the Debt Act, if the maximum net payments by fiscal year for periodic scheduled payments of this County, not including any termination payments,

and interest on the Swapped Bonds, exceed the amount of interest approved in the proceedings of this County with respect to the Bonds filed with and approved by the Department, this County shall adopt an amendment to the 2002A Bonds Enabling Ordinance, and the 2005 Bonds Enabling Ordinance reflecting such increase; and

WHEREAS, The Board of this County desires to amend the 2002A Bonds Enabling Ordinance, and the 2005 Bonds Enabling Ordinance to increase the maximum net annual payments on the Swapped 2005 Bonds, as approved by the Department, and the Swap Agreements, to reflect a maximum interest rate of 25%, all as contemplated by Section 8284 of the Debt Act; and

WHEREAS, The Board of this County desires to take all action necessary to adopt the Interest Rate Management Plan, authorize and approve the execution and delivery of the Swap Agreements and related instruments by this County, and to execute and deliver such other documents as may be necessary to implement the Proposal.

NOW, THEREFORE, BE IT RESOLVED, by the Board of the County, as follows:

SECTION 1. The Board of this County does hereby retain the Financial Advisor to serve in the capacity and perform the functions required under the Debt Act with respect to the Swap Agreements. The Board of this County approves the Interest Rate Management Plan, a copy of which is attached hereto as Appendix A and, without limiting the generality of the foregoing, approves, ratifies, and confirms the qualifications established by this County in the Interest Rate Management Plan for the selection of the provider of the Swap

Agreements, which qualifications include, among other things, a rating for the provider of the Swap Agreements that is in one of the three highest rating categories of a nationally recognized credit rating agency.

SECTION 2. The Board of this County determines that the Swap Agreements are in the best financial interest of this County, that the Swap Provider possesses the qualifications required by law and the Interest Rate Management Plan for a provider of a qualified interest rate management agreement, and that the Swap Agreements shall be awarded at private sale by negotiation to the Swap Provider, as recommended by this County, consistent with the advice and counsel of the Financial Advisor.

SECTION 3. The Board hereby finds and declares the following:

(1) A. the notional amount of the 2002A Swap Agreement at all times shall not exceed the outstanding principal amount of the Swapped 2002A Bonds (*i.e.*, \$16,485,000);

B. the notional amount of the 2005B Swap Agreement at all times shall not exceed the outstanding principal amount of the Swapped 2005B Bonds (*i.e.*, \$6,600,000);

C. the notional amount of the 2005C Swap Agreement at all times shall not exceed the outstanding principal amount of the Swapped 2005C Bonds (*i.e.*, \$16,975,000);

(2) A. the term of the 2002A Swap Agreement shall not exceed the latest maturity date of the Swapped 2002A Bonds;

B. the term of the 2005B Swap Agreement shall not exceed the latest maturity date of the Swapped 2005B Bonds;

C. the term of the 2005C Swap Agreement shall not exceed the latest maturity date of the Swapped 2005C Bonds;

(3) each of the Swap Agreements shall contain a provision requiring the termination thereof if the respective Swapped Bonds are no longer outstanding;

(4) the maximum annual interest rate which shall be required to be paid by this County or this County under each of the Swap Agreements shall be twenty-five percent (25%) per annum;

(5) A. the maximum net payments by fiscal year due and payable by this County with respect to the Swapped 2002A Bonds (excluding principal of the Swapped 2002A Bonds), shall not exceed the aforesaid maximum interest rate for (i) periodic scheduled payments, not including any termination payments, due under the Swap Agreement and (ii) the interest on the Swapped 2002A Bonds;

B. the maximum net payments by fiscal year due and payable by this County with respect to the Swapped 2005B Bonds (excluding principal of the Swapped 2005B Bonds), shall not exceed the aforesaid maximum interest rate for (i) periodic scheduled payments, not including any termination payments, due under the Swap Agreement and (ii) the interest on the Swapped 2005B Bonds;

C. the maximum net payments by fiscal year due and payable by this County with respect to the Swapped 2005C Bonds (excluding principal of the Swapped 2005C

Bonds), shall not exceed the aforesaid maximum interest rate for (i) periodic scheduled payments, not including any termination payments, due under the Swap Agreement and (ii) the interest on the Swapped 2005C Bonds;

(6) the source of payment of this County's obligations with respect to the Swap Agreements shall be general revenues;

(7) the Swap Agreements, in the form herein authorized and approved, contains provisions addressing the actions to be taken if the credit rating of the Swap Provider changes; and

(8) the periodic scheduled payments due under the Swap Agreements and any payments due in respect of principal of and interest on the Swapped Bonds shall be senior in right and priority of payment to any termination payments due under the Swap Agreements.

SECTION 4. The Board of this County does authorize and approve the Swap Agreements, each of which shall be substantially in the form (including an ISDA Master Agreement, related Schedule, and Confirmation) attached hereto as **Appendix B**.

SECTION 5. A. The maximum payment obligations in the 2002A Bonds Enabling Ordinance is hereby amended to insert a maximum rate on net payments (excluding principal) due on the Swapped 2002A Bonds, plus periodic scheduled payments (which exclude termination payments), of 23.0% per annum. Schedules following **Appendix C** hereto illustrate the maximum payments on the Swapped 2002A Bonds and the Swap Agreement, based on a

maximum net interest rate of 23.0%, which supercede the schedules attached to or filed with the 2002A Bonds Enabling Ordinance;

B. The maximum payment obligations in the 2005 Bonds Enabling Ordinance is hereby amended to insert a maximum rate on net payments (excluding principal) due on the Swapped 2005B Bonds, plus periodic scheduled payments (which exclude termination payments), of 23.0% per annum. Schedules following Appendix C hereto illustrate the maximum payments on the Swapped 2005B Bonds, and the Swap Agreement, based on a maximum net interest rate of 23.0%, which supercede the schedules attached to or filed with the 2005 Bonds Enabling Ordinance;

C. The maximum payment obligations in the 2005 Bonds Enabling Ordinance is hereby amended to insert a maximum rate on net payments (excluding principal) due on the Swapped 2005C Bonds, plus periodic scheduled payments (which exclude termination payments), of 23.0% per annum. Schedules following Appendix C hereto illustrate the maximum payments on the Swapped 2005B Bonds and the Swap Agreement, based on a maximum net interest rate of 23.0%, which supercede the schedules attached to or filed with the 2005 Bonds Enabling Ordinance.

SECTION 6. Promptly following the filing of appropriate proceedings regarding the Swap Agreements with the Department, as required by Section 8284 of the Act and authorized by this Ordinance, and subject to the receipt of a final, written finding from the Financial Advisor that the financial terms and conditions of the Swap Agreements, including the proposed final Confirmation, are fair and reasonable to this County and this County, such finding

to be in form and substance satisfactory to the Budget Director of this County and legal counsel to this County, and the Chairman or Vice Chairman of the Board of this County shall execute on behalf of this County such instruments and documents as may be necessary or appropriate to enter into and secure the Swap Agreements under the terms hereof, his or her execution thereof to constitute conclusive evidence of such approval, provided, however, that the fixed interest rate used to calculate the sums payable by the Swap Provider under the 2002A Swap Agreement shall not be less than Four Percent (3.50%) *per annum*; the fixed interest rate used to calculate the sums payable by the Swap Provider under the 2005B Swap Agreement shall not be less than Four Percent (3.50%) *per annum*; and the fixed interest rate used to calculate the sums payable by the Swap Provider under the 2005C Swap Agreement shall not be less than Four Percent (3.50%) *per annum*.

SECTION 7. This County hereby covenants to do the following:

(a) To include the periodic scheduled amounts payable under each of the Swap Agreements for each fiscal year of this County in the budget of this County for that fiscal year; and

(b) To appropriate those amounts from the general revenues of this County for the payment of amounts due under each of the Swap Agreements.

SECTION 8. This County does hereby pledge its full faith, credit and taxing power for the budgeting, appropriation and payment of periodic scheduled payments due under and payable by it with respect to the Swap Agreements.

SECTION 9. This County does hereby covenant that the periodic scheduled payments due under the Swap Agreements, and the payments in respect of principal of and interest on the Swapped Bonds, shall be equally and ratably payable and secured.

SECTION 10. This County hereby covenants to include any termination payment or similar payment under the Swap Agreements that may become due and payable by this County in this County's then current budget at any time during a fiscal year or in a budget adopted in a future fiscal year.

SECTION 11. This County covenants to include in its annual financial statements information with respect to the Swap Agreements, including any information required pursuant to any Statement issued by the Governmental Accounting Standards Board.

SECTION 12. The prior advertisement of a public notice of intent to adopt this Ordinance in one or more newspapers of general circulation in this County is hereby ratified and confirmed, and the advertisement of a public notice of the adoption of this Ordinance within 15 days following its adoption, as required by the Act, is hereby authorized and directed. Proper officers of this County are hereby authorized and directed to arrange for the advertisement of such notices.

SECTION 13. The Chairman or Vice Chairman and the Secretary or an Assistant Secretary, respectively, of the Board of this County are authorized and directed, as required, necessary or appropriate: (a) to file with the Department a certified copy of this Ordinance, including its appendices, and a copy of the proofs of publication of the required public notices of this Ordinance, (b) to pay or to cause to be paid to the Department any filing

fees required in connection with the foregoing, and (c) to pay, or to authorize payment of, all other fees and expenses of this County incurred or to be incurred in connection with undertaking the Swap Agreements and implementing the Proposal, including fees and expenses of preparing, advertising and adopting this Ordinance.

SECTION 14. If applicable, as determined from the final terms of the Proposal and the Swap Agreements, this County authorizes and directs the purchase of guaranty insurance with respect to sums payable by this County under the Swap Agreements. Proper officers of this County are authorized and directed to take all required, necessary or appropriate action with respect to such insurance, as contemplated in the Proposal and the Swap Agreements, including the payment of a premium for such insurance.

SECTION 15. Proper officers of this County are authorized and requested to take all other required, necessary or appropriate action, or to authorize all other required necessary or appropriate action to be taken, by or on behalf of this County, to implement the Swap Agreements, the Proposal and the approved Interest Rate Management Plan.

SECTION 16. Any reference in this Ordinance to an officer of this County or a member or officer of the Board of this County shall be deemed to refer to his or her duly qualified successor in office, if applicable.

SECTION 17. This Ordinance shall be effective for all purposes immediately upon its adoption, as permitted by the Act.

SECTION 18. 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 this County that such remainder shall be and shall remain in full force and effect.

SECTION 19. All Ordinances or parts of Ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

DULY ENACTED, by the Board of this County, in lawful session duly assembled, this 12th day of September, 2007.

COUNTY OF DAUPHIN, PENNSYLVANIA

By: 
County Commissioner

By: 
County Commissioner

By: 
County Commissioner

ATTEST:


Chief Clerk

(SEAL)

CERTIFICATE

I, the undersigned officer of the County of Dauphin, Pennsylvania (the "County"), hereby certify that: (a) attached to this Certificate is a true, correct and complete copy of a Ordinance (the "Ordinance") which was duly enacted at a meeting of the Board of Commissioners of the County on September 12, 2007, 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 Ordinance Book of the County Commissioners, 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. Ch. 7, as amended, 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	<u>X</u>	_____	_____	_____
Dominic D. DiFrancesco, II	<u>X</u>	_____	_____	_____
George P. Hartwick, III	<u>X</u>	_____	_____	_____

WITNESS my hand and seal of the County this 12th day of September, 2007.


Chief Clerk

(SEAL)