

**ORDINANCE #4-2006
OF THE
BOARD OF COMMISSIONERS
OF THE
COUNTY OF DAUPHIN, PENNSYLVANIA**

APPROVING A CERTAIN PROJECT AND THE FINANCING THEREOF, BRIEFLY DESCRIBING THE SAME, DETERMINING THE REALISTIC ESTIMATED USEFUL LIFE OF THE PROJECT AND STATING ESTIMATED PROJECT COMPLETION DATE; STATING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS TO BE ISSUED BY THE HARRISBURG AUTHORITY TO BE SECURED BY A CERTAIN GUARANTY AGREEMENT DESCRIBED HEREIN AND STATING THAT THE DEBT IS TO BE INCURRED AS LEASE RENTAL DEBT AS DEFINED IN THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT, 53 PA. CONS. STAT. §8001 ET SEQ., AS AMENDED; AUTHORIZING AND DIRECTING OFFICERS OF THE COUNTY TO PREPARE AND VERIFY A DEBT STATEMENT REQUIRED BY SECTION 8110 OF THE DEBT ACT AND A BORROWING BASE CERTIFICATE; AUTHORIZING AND DIRECTING THE PREPARATION OF THE SELF LIQUIDATING DEBT REPORT AND THE FILING THEREOF, AND THE PREPARATION AND FILING OF ANY OTHER STATEMENTS AND REPORTS REQUIRED TO QUALIFY THE DEBT OR ANY PORTION THEREOF FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMIT AS SELF-LIQUIDATING AND AUTHORIZING AND DIRECTING THE CHIEF CLERK TO FILE A TRANSCRIPT OF PROCEEDINGS REQUIRED BY SECTION 8111 OF THE DEBT ACT, INCLUDING A CERTIFIED COPY OF THIS ORDINANCE AND PROOFS OF PUBLICATION, WITH THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT AND TO PAY ANY NECESSARY FILING FEES; APPROVING THE FORM, AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF THE GUARANTY AGREEMENT AMONG THE COUNTY, THE AUTHORITY AND THE TRUSTEE; STATING THE ANNUAL AMOUNTS TO BE PAID UNDER THE GUARANTY AGREEMENT, COVENANTING THE PAYMENT THEREOF AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE COUNTY THEREFOR; AUTHORIZING THE OFFICIALS OF THE COUNTY TO TAKE OTHER APPROPRIATE ACTION; REPEALING ALL ORDINANCES INCONSISTENT HERewith AND STATING THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, The Harrisburg Authority (the "Authority") is a body corporate and politic organized under provisions of the Pennsylvania Municipality Authorities Act (Ch. 56, 53 Pa. Cons. Stat. §§5601 – 5622), as amended (the "Act") and has determined to issue on behalf of The Harrisburg University of Science and Technology (the "University"), a nonprofit corporation organized under the laws of the Commonwealth of Pennsylvania (the "Commonwealth"), its University Revenue Bonds, Series of 2006 (Harrisburg University Project) in the maximum aggregate principal amount of \$100,000,000, comprised of its University Revenue Bonds, Series A of 2006 (Harrisburg University Project) in the maximum aggregate principal amount of \$30,000,000 (the "Series A Bonds") and its University Revenue Bonds, Series B of 2006 (Harrisburg University Project) in the maximum aggregate principal amount of \$70,000,000 (the "Series B Bonds," and together with the Series A Bonds, the "2006 Bonds"); and

WHEREAS, the University has requested the Authority to issue the 2006 Bonds to finance a project (the "2006 Project") consisting of: (i) the construction of an approximately sixteen-story building on a site located on approximately 0.82 acres of land in the City of Harrisburg, Pennsylvania, consisting of seven floors of academic and university office space (the "University Facility"), and further consisting of a nine-floor structured parking facility (the "Parking Garage") to allow parking on the site to accommodate approximately 392 cars (the "University Facility and the Parking Garage are collectively referred to herein as the "Project Facilities"); (ii) the refunding of a loan in the approximate outstanding principal amount of \$1,900,000 from Sovereign Bank and its participating lenders (the "Land Loan Lender") to the University, the proceeds of which were applied toward the acquisition of land upon which the Project Facilities will be constructed (the "Land Loan"); (iii) the refunding of loans in the approximate outstanding principal amount of \$9,000,000 from Sovereign Bank and its participating lenders (the "215 Market Street Lender") to the University, the proceeds of which were applied toward the construction, renovation and equipping of the University (the "215 Market Street Loan"); (iv) the provision of capitalized interest; (v) the funding of debt service reserve funds; and (vi) the payment of certain costs and expenses relating to the issuing the 2006 Bonds; and

WHEREAS, the 2006 Bonds will be issued under and secured by a trust indenture (the "Indenture") from the Authority to Commerce Bank, National Association, as trustee (the "Trustee"); and

WHEREAS, the Authority will lend the proceeds of the 2006 Bonds to the University, to be applied to the 2006 Project pursuant to a Loan Agreement (the "Loan Agreement") providing for, among other things, the repayment of such loan and the pledge of Unrestricted University Revenues, as such term is defined in the Indenture, as security thereof; and

WHEREAS, the Harrisburg Parking Authority (the "Parking Authority"), a public instrumentality of the Commonwealth and a body corporate and politic

organized and existing under the Pennsylvania Parking Authority Law, shall purchase the Parking Garage from the University pursuant to an Agreement of Sale; and

WHEREAS, the Authority and the Commonwealth, acting by and through the Office of the Budget, will enter into a Grant Agreement or Grant Agreements under the Redevelopment Capital Assistance Program the proceeds of which will be applied toward the payment of debt service on the Series A Bonds; and

WHEREAS, in order to secure payment of the 2006 Bonds, the Authority has assigned to the Trustee all of its right, title and interest in and to all funds and accounts established under the Indenture (other than the Rebate Fund established thereunder) and the Pledged Revenues (as such term is defined in the Indenture); and

WHEREAS, the performance of the obligations of the University under the Loan Agreement will be secured further by a Mortgage and Security Agreement of even date herewith (the "2006 Bonds Mortgage") from the University, as mortgagor, to the Trustee, as mortgagee, on the University Facility; and

WHEREAS, Commerce Bank Pennsylvania, Harrisburg, Pennsylvania intends to issue, as of the date of the Indenture, a Standby Letter of Credit (the "Standby Letter of Credit") to secure payment of the Series B Bonds, as more fully described in the Indenture and the Standby Letter of Credit; and

WHEREAS, the Standby Letter of Credit will be secured by a mortgage on the University Facility, subordinate to the 2006 Bonds Mortgage, and a first lien on the fixtures, furniture, machinery and equipment included in the University Facility, and all general intangibles related thereto (the "Standby Letter of Credit Mortgage"); and

WHEREAS, to further secure payment of the Series B Bonds, the County will enter into a limited guaranty agreement with the Authority and the Trustee (the "Guaranty Agreement") whereby the County will undertake for a ten-year period to guarantee payment of a portion of the debt service on the Series B Bonds in the maximum amount of \$1,500,000 each year over such ten-year period, for a total maximum aggregate amount of \$15,000,000 (sometimes referred to herein as the "Guaranty Amount"), as more fully described in the Guaranty Agreement, which undertaking is secured by the County's pledge of its full faith, credit and taxing power; and

WHEREAS, the execution of the Guaranty Agreement constitutes the incurrence of lease rental debt by the County within the meaning of Pennsylvania Local Government Unit Debt Act, 53 Pa. Cons. Stat. §8001 et seq., as amended (the "Debt Act"); and

WHEREAS, the appropriate consultants of the University (the "Consultant") will prepare and submit, on behalf of the Authority, a report (the "Self-Liquidating Debt Report") to the County in accordance with Section 8026(a) of the Debt

Act to qualify all the lease rental debt to be incurred by the County pursuant to the Guaranty Agreement as self-liquidating debt and to exclude such debt from the debt limit of the County; and

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COMMISSIONERS (the "GOVERNING BODY") OF THE COUNTY OF DAUPHIN, PENNSYLVANIA, AS FOLLOWS:

Section 1. Approval of 2006 Project and Financing Thereof; Realistic Estimated Useful Life of 2006 Project; Estimated Project Completion Dates. The County hereby approves the 2006 Project, as described above, and the financing thereof. The realistic estimated useful life of the 2006 Project is hereby determined to be in excess of 40 years. The estimated completion date for the 2006 Project is January 2009.

Section 2. Series B Bonds Secured by Guaranty Agreement; Incurrence of Lease Rental Debt. The maximum annual debt service amount of the Series B Bonds to be secured by the Guaranty Agreement for the maximum period of ten consecutive years is \$1,500,000, not to exceed the sum of \$15,000,000 in the aggregate. The maximum aggregate amount of debt service of the Series B Bonds to be secured by the Guaranty Agreement is \$15,000,000.

This Governing Body hereby authorizes and directs the incurring of lease rental debt of the County, pursuant to the Debt Act, in the maximum aggregate amount of \$15,000,000, to be evidenced by the Guaranty Agreement among the County, the Authority and the Trustee.

Section 3. Debt Statement and Borrowing Base Certificate; Authorization for Exclusion of Lease Rental Debt as Self-Liquidating Debt. The Chairman or Vice Chairman of the Governing Body and the Chief Clerk of the County (or other authorized officers or officials of the County) are hereby authorized and directed to prepare and verify the debt statement required by Section 8110 of the Debt Act and to prepare or cause to be prepared a borrowing base certificate and the Chief Clerk of the County is hereby authorized and directed to certify to the Pennsylvania Department of Community and Economic Development a transcript of the proceedings as required by Section 8111 of the Debt Act, and to pay any filing fees required under Section 8203 of the Debt Act. The Chairman or Vice Chairman of the Governing Body and the Chief Clerk of the County (or other authorized officers or officials of the County) are each further authorized and directed to prepare or cause the Consultant to prepare, and file the Self-Liquidating Debt Report and any statements required under Section 8026(a) of the Debt Act, which are necessary to qualify all or any portion of the lease rental indebtedness incurred hereby for exclusion as self-liquidating debt. The Chief Clerk is hereby authorized and directed to certify to the Pennsylvania Department of Community and Economic Development a transcript of the proceedings as required by Section 8111 of the Debt Act, and to pay any filing fees required under Section 8203 of the Debt Act.

Section 4. Guaranty Agreement. The form, terms and provisions of the Guaranty Agreement to be substantially in the form as presented to this meeting (copies of which shall be filed with the records of the County) are hereby approved. The Chairman or Vice Chairman of this Governing Body (or other authorized officers or officials of the County) is hereby authorized and directed, upon receipt of approval from the Pennsylvania Department of Community and Economic Development, to execute the Guaranty Agreement in such form, subject to such changes and modifications, if any, as may be approved by such officer or officers with the advice of counsel, the execution of the Guaranty Agreement to be conclusive evidence of such approval, and the Chief Clerk of the County is hereby authorized and directed to affix thereto the corporate seal of the County, to attest the same and to deliver the Guaranty Agreement to the Authority and the Trustee.

Section 5. Annual Amounts Payable Under Guaranty Agreement; Covenant to Pay Such Amounts. The Guaranty Amount covenanted to be paid by the County under the Guaranty Agreement is as set forth in Schedule I attached hereto and made a part hereof. It is covenanted with the registered owners of the Series B Bonds that the County shall (i) include the amounts payable in respect of its guaranty for each fiscal year in which such sums are payable in its budget for each such year, (ii) appropriate such amounts from its general revenues, for the payment of the amounts payable in respect of its guaranty, and (iii) duly and punctually pay, or cause to be paid from such revenues, to the extent of its obligations under the Guaranty Agreement, the amounts payable in respect of its guaranty, at the dates and places and in the manner stated in the Guaranty Agreement according to the true intent and meaning thereof. For such budgeting, appropriation and payment in respect of its guaranty of the Guaranty Amount, the County pledges its full faith, credit and taxing power. This covenant shall be specifically enforceable; subject, however, as to the enforceability of remedies, to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally. Nothing in this Section shall be construed to give the County any taxing power not granted by another provision of law.

Section 6. Advertising. The action of proper officers of the County in advertising, or causing to be advertised, a summary of this Ordinance, prior to enactment, as required by law, is ratified and confirmed. Proper officers of the County, or any of them, are authorized and directed to advertise, or cause to be advertised, 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 is hereby directed to make a copy of this Ordinance available for inspection by any citizen during normal office hours.

Section 7. Official Statements. Proper Officers of the County are hereby authorized to provide such information as may be appropriate and desirable for inclusion in any preliminary or final official statement related to offering and sale of the Bonds.

Section 8. Continuing Disclosure. The County covenants that it will execute and deliver and comply with a Continuing Disclosure Certificate (the "Disclosure Certificate") for the benefit of the owners of the Series B Bonds at or prior to the closing

for the issuance of the Series B Bonds. Pursuant to the Disclosure Certificate, the County will provide certain financial and operating information on an annual basis and notice of certain events to each Nationally Recognized Municipal Securities Information Repository, the appropriate state repository, if any, and the Municipal Securities Rulemaking Board, if applicable, in accordance with Securities and Exchange Commission Rule 15c2-12. Proper officers of the County are hereby authorized and directed to execute and deliver the Disclosure Certificate on behalf of the County with such changes as have been approved by the County Solicitor and Bond Counsel.

Section 9. Legislative Findings. The recitals to this Ordinance are hereby incorporated by reference as if fully set forth herein, and shall constitute the legislative findings of the County.

Section 10. Incidental Actions. The proper officers of the County are hereby authorized, directed and empowered on behalf of the County to execute any and all papers and documents, including a credit support agreement between the County and the University and any additional documents required in connection with the County's execution and delivery of the Guaranty Agreement, and to do or cause to be done any and all acts and things necessary or proper for the carrying out of the provisions of this Ordinance.

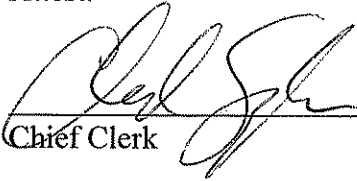
Section 11. Repealer. All ordinances or parts of ordinances inconsistent herewith be and the same hereby are repealed.

Section 12. Effective Date. This Ordinance will become effective on the earliest date permitted by the Debt Act.

Duly enacted by the Board of Commissioners of the County of Dauphin,
in lawful session assembled, on October ~~8th~~, 2006.


BOARD OF COMMISSIONERS

Attest:

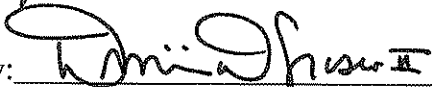


Chief Clerk

[SEAL]

By: 

Chairman

By: 

Member

By: 

Member

SCHEDULE I
Maximum Annual Amounts Payable Under Guaranty Agreement

<u>Year</u>	<u>Total Guaranty Amount</u>
2010	\$ 1,500,000
2011	1,500,000
2012	1,500,000
2013	1,500,000
2014	1,500,000
2015	1,500,000
2016	1,500,000
2017	1,500,000
2018	1,500,000
2019	1,500,000

CERTIFICATE

I, the undersigned, an authorized officer of the Board of Commissioners of the County of Dauphin, hereby certify that the foregoing and attached is a true copy of an Ordinance which was duly enacted by the affirmative vote of a majority of all the members of the Board of Commissioners thereof at a meeting held on the date of the execution thereof; that due notice of such meeting was given and the meeting was at all times open to the public; that such Ordinance was duly recorded; that this Ordinance is still in full force and effect as of the date hereof; that the vote upon said Ordinance was called and duly recorded upon the minutes of the Board of Commissioners.

WITNESS my hand and seal of the Board of Commissioners of the County of Dauphin this 18th day of October, 2006.

COUNTY OF DAUPHIN

[SEAL]

Chief Clerk