

*Comm Workshop 2004*

*12/08/04/jc*

COUNTY OF DAUPHIN  
Pennsylvania

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ORDINANCE NO. 8 2004

AN ORDINANCE

OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA (THE "COUNTY") DETERMINING TO INCUR LEASE RENTAL DEBT IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$11,115,000 IN CONNECTION WITH THE REFUNDING BY THE DAUPHIN COUNTY GENERAL AUTHORITY (THE "AUTHORITY") OF CERTAIN LEASE RENTAL DEBT HERETOFORE LAWFULLY INCURRED BY SAID AUTHORITY AND EVIDENCED BY CERTAIN OUTSTANDING COUNTY GUARANTEED REVENUE BONDS OF SAID AUTHORITY (THE "REFUNDING PROJECT"); DETERMINING THAT SUCH DEBT SHALL BE INCURRED IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$11,115,000 AS LEASE RENTAL DEBT TO BE ISSUED AND EVIDENCED BY TWO SERIES OF THE AUTHORITY'S PROPOSED COUNTY GUARANTEED REVENUE REFUNDING BONDS, SERIES OF 2004, TO BE AUTHORIZED AND TO BE ISSUED BY SAID AUTHORITY; BRIEFLY DESCRIBING THE REFUNDING PROJECT; AUTHORIZING AND DIRECTING THE CHAIR OR VICE CHAIRMAN OF THE BOARD OF COMMISSIONERS AND THE CHIEF CLERK OF THIS 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, PA.C.S.A. SECTION 8001 ET SEQ.; ISSUING, UPON RECEIPT OF APPROVAL OF THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, A GUARANTY, DATED AS OF DECEMBER 15, 2004, WITH RESPECT TO THE AFORESAID COUNTY GUARANTEED REVENUE REFUNDING BONDS, SERIES OF 2004 OF SAID

AUTHORITY; APPROVING THE FORM OF SAID GUARANTY; AUTHORIZING DELIVERY OF SAID GUARANTY TO J.P. MORGAN TRUST COMPANY, NATIONAL ASSOCIATION, PHILADELPHIA, PENNSYLVANIA, AS TRUSTEE UNDER A TRUST INDENTURE, DATED AS OF MAY 26, 1993, AS AMENDED AND SUPPLEMENTED BY A FIRST SUPPLEMENTAL INDENTURE, DATED AS OF MARCH 15, 1998, AS AMENDED AND SUPPLEMENTED BY A SECOND SUPPLEMENTAL INDENTURE, DATED AS OF MAY 15, 2003, AND AS FURTHER AMENDED AND SUPPLEMENTED BY A THIRD SUPPLEMENTAL INDENTURE, DATED AS OF DECEMBER 15, 2004; GUARANTEEING PAYMENT OF THE PRINCIPAL OF AND INTEREST ON AFORESAID COUNTY GUARANTEED REVENUE REFUNDING BONDS, SERIES OF 2004 TO BE ISSUED BY THE AFORESAID AUTHORITY AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO; AND PROVIDING FOR PROPER OFFICERS OF THIS COUNTY TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SAID REFUNDING PROJECT.

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.A., Section 8001 et seq., as amended and supplemented (the "Act"); and

WHEREAS, Dauphin County General Authority (the "Authority") is a municipality authority organized under the Pennsylvania Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented; and

WHEREAS, The Authority, pursuant to the authority vested in it by law and at the request of the County, heretofore acquired and constructed an eighteen (18) hole municipal golf course together with certain appurtenant facilities, all of which is located on a 231 acre site located within the County of Dauphin, Pennsylvania (the "Facility"), which Facility is publicly owned and operated for public use; and

WHEREAS, The Authority, heretofore issued a series of County Guaranteed Revenue Bonds-Series of 1993 consisting of Current Interest Bonds (the "1993 Current Interest Bonds") and Capital Appreciation Bonds (the "1993 Capital Appreciation Bonds"), in the aggregate principal amount of \$8,296,140.70 (the "1993 Bonds") pursuant to a Trust Indenture, dated May 26, 1993 (the "Original Indenture") by and between the Authority and CCNB Bank, N.A., as trustee; and

WHEREAS, The Authority and the County undertook a refunding of a portion of the outstanding debt of the Authority issued under the Original Indenture and evidenced by the 1993 Current Interest Bonds, consisting of the Series of 1993 Current Interest Bonds maturing on October 1 in each of the years 1998 through 2008, inclusive, under and pursuant to a First Supplemental Indenture, dated as of March 15, 1998 (the "First Supplemental Indenture") by and between the Authority and PNC Bank, National Association, as trustee (successor by merger to CCNB Bank, N.A.) securing the Authority's County Guaranteed Revenue Bonds, Series of 1998, dated as of March 15, 1998 ( the "1998 Bonds");

WHEREAS, The Authority and the County undertook a refunding project by providing of the retirement prior to maturity of the Authority's 1998 Bonds, consisting of the 1998 Bonds maturing on October 1 in each of the years 2003 through 2008, inclusive, under and pursuant to a Second Supplemental Indenture, dated as of April 15, 2003 (the "Second Supplemental Indenture") by and between the Authority and J.P. Morgan Trust Company, National Association (as successor to PNC Bank, National Association) (the "Trustee"), securing the Authority's County Guaranteed Revenue Bonds, Series of 2003 (the "2003 Bonds"); and

WHEREAS, The Authority, upon certain terms and conditions, has indicated its willingness to issue two series of guaranteed revenue refunding bonds, to be sold at

negotiated sale, the first to be designated as the Tax-Exempt County Guaranteed Revenue Refunding Bonds, Series of 2004, to provide for the payment to maturity of the Authority's 2003 Bonds and the second its Taxable County Guaranteed Revenue Refunding Bonds, Series of 2004 (collectively the "Bonds") to provide for the payment to maturity of all of its 1993 Capital Appreciation Bonds (collectively the "Refunding Program"), under and pursuant to a Third Supplemental Indenture, dated as of December 15, 2004 (the "Third Supplemental Indenture") by and between the Authority and the Trustee, with the proceeds from the sale of the Bonds to be applied for and toward paying costs and expenses of the Refunding Program and of paying costs and expenses of issuance of the Bonds; and

WHEREAS, The County is willing to guarantee the full payment of the principal of and the interest on the Bonds, pursuant to the authority set forth in the 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 requests the Authority to proceed to undertake the Refunding Program, the financing thereof and the payment of all "Costs" related thereto as permitted under the Indenture (collectively the "Refunding Project").
2. The Board of Commissioners of the County authorizes and directs the Authority to undertake the Refunding Project in accordance with a proposal to be submitted to the Authority by the investment banking firm of Arthurs, LeStrange & Company, Inc., Pittsburgh, Pennsylvania.
3. The Board of Commissioners of the County hereby determines to incur "debt," as such term is defined in the Act, as "lease rental debt", as such term is

defined in the Act, in connection with the financing of the Refunding Project by the Authority.

4. The debt to be incurred, as lease rental debt, as set forth in Section 3 hereof, in the aggregate principal amount not to exceed \$11,115,000 shall be evidenced by the Authority's Tax-Exempt County Guaranteed Revenue Refunding Bonds, Series of 2004, and by its Taxable County Guaranteed Revenue Bonds, Series of 2004. The Bonds shall be secured, in part, by, inter alia, a guaranty executed by the County, substantially in the form referred to in Section 6 hereof.

5. The County shall issue its guaranty, dated for convenience as of December 15, 2004, but effective as of the date of delivery of the Bonds (the "Guaranty"), substantially in the form referred to in Section 6 hereof, with respect to the Bonds to be issued by the Authority.

6. The Guaranty shall be substantially in the form presented to this meeting, which form is approved; and a copy of the 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.

7. The Chair 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 the Guaranty, as required by the Act, and to pay or cause to be paid to the Department all proper filing fees required by the Act and to take all other required and appropriate action.

Accordingly, the Chair 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 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 Bonds, upon issue, will be evidence, as required by the Act; (d) to prepare and file originally and thereafter, as required, with the Department, appropriate statements required by the Act which are necessary to qualify all or a portion of lease rental debt of the County, which is subject to exclusion as self-liquidating debt, for exclusion from the appropriate debt limit of the County as self-liquidating debt; (e) to pay or to cause to be paid to the Department all filing fees required by the Act in connection with the foregoing; and (f) to take other required, necessary and/or appropriate action.

9. The Chair or Vice Chairman, or in the alternative, each member, of the Board of Commissioners and Chief Clerk of the County are authorized and directed to execute, attest and deliver, as applicable, on behalf of the County, the Guaranty, the application and proceedings for filing with the Department, and any other document deemed necessary and proper, in substantially the form approved by this Ordinance, or with such changes as such officers shall approve, their execution to constitute conclusive evidence of such approval; Provided, however, that such execution and delivery of the Guaranty shall be subject to compliance by the County with applicable provisions of the Act.

The County authorizes delivery of the Guaranty to the Trustee, for the purposes set forth in the Guaranty.

9. The County hereby guarantees the full payment of the principal of and interest on the Bonds, to be issued pursuant to the Indenture, and in furtherance thereof covenants and agrees with the holders from time to time of the Bonds from time to

time outstanding under the Indenture that if the Authority or the Trustee, as paying agent of the Authority, shall fail to pay the full amount of the principal of and interest on the Bonds when the same becomes due and payable, at the times and places, under the terms and conditions, and in the manner prescribed in said Bonds and in the Indenture, the County will pay the full amount of such principal and interest to the holders of such Bonds.

The County agrees and hereby covenants with the holders of such Bonds issued and from time to time outstanding under the Indenture, that the County shall include the amount of debt service on such Bonds, including interest thereon, for each fiscal year of the County in which such sums are payable in its budget for that fiscal year, that the County, in the event the Authority or the Trustee shall fail to pay the full amount or the principal of and interest on such Bonds when due and payable, at the times and places, under terms and conditions and in the manner prescribed in said Bonds, shall appropriate and 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 such Bonds. 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.

The County agrees that maximum debt service in each of its fiscal years with respect to Bonds outstanding under the Indenture to which the foregoing guarantee shall apply as set forth in Exhibits "A" and "B" incorporated by reference herein.

10. There is created two sinking funds of the County for the guarantee of the County related to the Bonds to be known as "Sinking Fund - Dauphin County General Authority Tax-Exempt County Guaranteed Revenue Refunding Bonds, Series of 2004" and the second to be known as "Sinking Fund - Dauphin County General Authority County Federally Taxable Guaranteed Revenue Refund Bonds". Said sinking funds shall

be administered in the manner provided by the Act for administration of sinking funds created pursuant to the Act.

The County covenants and agrees to pay into the aforesaid sinking funds all moneys, if any, required to be paid to holders of the Bonds and coupons for interest thereunto appertaining pursuant to provisions of the Guaranty on or before the dates required for such payment pursuant to terms of the Guaranty. Moneys so deposited shall be paid to applicable holders of the Bonds and coupons thereunto appertaining by the sinking fund depository appointed in Section 11 hereof, in behalf of the County, pursuant to terms of the Guaranty, on the dates and in the manner required by terms of the Guaranty.

11. The County appoints J.P. Morgan Trust Company, National Association, having a corporate trust office in Philadelphia, Pennsylvania, as the sinking fund depository with respect to the sinking funds created pursuant to Section 12 hereof.

12. In accordance with Rule 15c2-12 (the "Rule") promulgated under the Securities Exchange Act of 1934, as amended, the County hereby covenants, with and for the benefit of the holders and beneficial owners (which shall include any person or entity that has a pecuniary interest in any of the Bonds) from time to time of the Bonds, to provide to each nationally recognized municipal securities information repository (within the meaning of the Rule) (herein a "NRMSIR") and to the appropriate state information depository (within the meaning of the Rule) in Pennsylvania, if any (herein a "SID"), on an annual basis, the information set forth in that certain continuing disclosure agreement entered into by and among the County, the Authority and the Trustee (the "Continuing Disclosure Agreement").

The County's covenants in the immediately preceding paragraph shall terminate upon legal defeasance, or other arrangement whereby the County is released



from any further obligations with respect to the Bonds, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the County shall give prompt notice of such termination to each NRMSIR, or to the MSRB, and to the SID.

The County authorizes and approves the Continuing Disclosure Agreement in substantially the form submitted to the County concurrent with action upon this Resolution. Proper Officers of the County are authorized to execute, attest and deliver the Continuing Disclosure Agreement with such changes and additions as they shall hereafter approve.

13. 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.

CERTIFICATE

I, the undersigned officer of the County of Dauphin, Commonwealth of Pennsylvania ("County"), hereby certify that: (a) attached to this Certificate is a true, correct and complete copy of an Ordinance (the "Ordinance") which was duly enacted at a meeting of the Board of Commissioners of the County on December 8, 2004, 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 County's Ordinance Book, 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 Act No. 1986-84, 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, Chairman	_____	_____	_____	_____
Dominic DiFrancesco, II	_____	_____	_____	_____
George P. Hartwick, III	_____	_____	_____	_____

WITNESS my hand and seal of the County on December 8, 2004.

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

(SEAL)

DULY ENACTED AND ORDAINED this 8<sup>th</sup> day of December, 2004,  
by the Board of Commissioners of the County of Dauphin, Commonwealth of  
Pennsylvania, in lawful session duly assembled.

COUNTY OF DAUPHIN  
Commonwealth of Pennsylvania

  
\_\_\_\_\_  
Chair, Board Commissioners

  
\_\_\_\_\_  
Member, Board of Commissioners

  
\_\_\_\_\_  
Member, Board of Commissioners

ATTEST:

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

(SEAL)