

ORDINANCE  
OF THE  
TOWNSHIP OF DERRY,  
DAUPHIN COUNTY, PENNSYLVANIA

ORDINANCE NO. #2023-07  
Enacted: October 24, 2023

APPROVING A CERTAIN PROJECT BEING UNDERTAKEN BY THE DERRY TOWNSHIP MUNICIPAL AUTHORITY (THE "AUTHORITY"), CONSISTING, *INTER ALIA*, OF THE FINANCING OF A CAPITAL PROJECT OF THE AUTHORITY SERVING THE RESIDENTS OF TOWNSHIP OF DERRY, COUNTY OF DAUPHIN, PENNSYLVANIA (THE "MUNICIPALITY"); STATING THE REALISTIC ESTIMATED USEFUL LIFE OF THE CAPITAL PROJECT FOR WHICH SUCH GUARANTEED REVENUE NOTE IS ISSUED, STATING THAT REALISTIC COST ESTIMATES HAVE BEEN MADE FOR THE CAPITAL PROJECT AND SETTING FORTH THE ESTIMATED COMPLETION DATE FOR THE CAPITAL PROJECT; AUTHORIZING THE INCURRENCE OF LEASE RENTAL DEBT BY THE MUNICIPALITY EVIDENCED BY THE GUARANTY AGREEMENT, AS SUCH TERM IS DEFINED HEREIN, IN CONNECTION WITH SUCH GUARANTEED REVENUE NOTE BEING ISSUED BY THE AUTHORITY; DIRECTING THE PROPER OFFICERS OF THE MUNICIPALITY TO PREPARE, CERTIFY AND FILE THE REQUIRED DEBT STATEMENT AND BORROWING BASE CERTIFICATE; AUTHORIZING AND DIRECTING PROPER OFFICERS OF THE MUNICIPALITY TO CERTIFY AND TO FILE WITH THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT CERTIFIED COPIES OF THE NECESSARY PROCEEDINGS; AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF THE GUARANTY AGREEMENT; STATING THE MAXIMUM ANNUAL AMOUNTS OF PRINCIPAL AND INTEREST TO BE PAID UNDER THE GUARANTY AGREEMENT, COVENANTING THE PAYMENT THEREOF AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE MUNICIPALITY THEREFOR; AUTHORIZING AND DIRECTING THE PREPARATION OF A SELF-LIQUIDATING DEBT REPORT AND THE FILING THEREOF AND THE PREPARATION AND FILING OF ANY OTHER STATEMENTS AND REPORTS REQUIRED TO QUALIFY THE LEASE RENTAL DEBT INCURRED HEREBY FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMIT

OF THE MUNICIPALITY AS SELF-LIQUIDATING; APPROVING FILING CERTAIN DOCUMENTS IN CONNECTION WITH THE MUNICIPALITY'S CONTINUING DISCLOSURE OBLIGATIONS, IF NECESSARY; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE MUNICIPALITY TO DO ALL THINGS NECESSARY TO CARRY OUT THE ORDINANCE; AUTHORIZING INCIDENTAL ACTIONS; RESCINDING INCONSISTENT ORDINANCES AND RESOLUTIONS; AND STATING THE EFFECTIVE DATE.

**WHEREAS**, the Township of Derry, Dauphin County, Pennsylvania (the "Municipality") is a Township existing under the laws of the Commonwealth of Pennsylvania (the "Commonwealth") and is a Local Government Unit, as defined in the Local Government Unit Debt Act, 53 Pa.C.S. §8001 *et seq.*, as amended and supplemented (the "Debt Act"); and

**WHEREAS**, the Board of Supervisors (the "Governing Body") of the Municipality has heretofore organized the Derry Township Municipal Authority (the "Authority"), a body corporate and politic, as a municipal authority under the Pennsylvania Municipality Authorities Act, 53 Pa. Cons. Stat. §§5601 – 5622, as amended; and

**WHEREAS**, the Board of the Authority desires to undertake a capital project consisting of (1) the design, planning and construction of a new stormwater system on Ridge Road from West Caracas Avenue through the Chocolate Avenue intersection to safely convey storm flows away from the areas experiencing wet weather flooding and ponding in the area, and (2) related design, planning and construction including, but not limited to, traffic control, excavation, concrete and HDPE storm sewer installation, inlet installations, headwall/endwall installation and pavement restoration (collectively, the "Capital Project"); and

**WHEREAS**, the Authority has determined to issue its Guaranteed Revenue Note, Series of 2023, in the maximum principal amount of \$4,000,000 (the "Note") to provide funds (1) for and toward the costs of the Capital Project; and (2) to pay the costs incidental to the Capital Project and of issuing the Note ((1) and (2) collectively, the "Project"); and

**WHEREAS**, the Authority has obtained realistic cost estimates for the Capital Project through actual bids, option agreements or professional estimates from registered architects, professional engineers or other persons qualified by experience, as required by Section 8006 of the Act, and has determined that the costs of the Capital Project, as such costs are defined in Section 8007 of the Act, together with issuance costs of the Note, will be equal to or in excess of the amount proposed by the Authority to be borrowed hereunder; and

**WHEREAS**, the County of Dauphin, Pennsylvania (the "County" or the "Purchaser") has established the Dauphin County Infrastructure Bank-General Program (the "DCIB-G Program") in order to assist municipalities located in the County in financing water, wastewater, stormwater and transportation infrastructure improvement projects that support economic development, public health and safety; and

**WHEREAS**, the County has authorized the DCIB-G Program to provide reduced interest rate loans to municipal entities in the County for eligible projects; and

**WHEREAS**, to finance the DCIB-G Program, the Board of Commissioners of the County enacted an ordinance authorizing the issuance of a tax-exempt general obligation note (the "DCIB-G Note"), in the maximum principal amount of \$13,050,000; and

**WHEREAS**, the County will lend the proceeds of the DCIB-G Note to the municipal entities whose projects have been approved for financing through the DCIB-G Program by the County; and

**WHEREAS**, on August 30, 2023, the Board of County Commissioners approved the projects for inclusion in the DCIB-G Program, one of which was the Project to be undertaken by the Authority; and

**WHEREAS**, the County has presented to the Authority a Purchase Proposal to use proceeds of the DCIB-G Note to purchase the Note; and

**WHEREAS**, the Authority will enter into a loan agreement with the County (the "Loan Agreement") pursuant to which, *inter alia*, the County will agree to loan a portion of the proceeds of the DCIB-G Note to the Authority to finance the cost of the Project and the Authority will agree to repay the loan of DCIB-G Note proceeds; and

**WHEREAS**, in order to further secure the payment of the principal of, and interest on, the Note, the Municipality will enter into a Guaranty Agreement (the "Guaranty Agreement") with the Authority and the County, as authorized by the Debt Act, providing for the unconditional guarantee by the Municipality of the timely payment of the principal of, and interest on, the Note and the pledge by the Municipality of its full faith, credit and taxing power to discharge all of its obligations under the Guaranty Agreement;

**WHEREAS**, the Authority will cause to be prepared and submitted to the Municipality a report (the "Self-Liquidating Debt Report") in accordance with Section 8026(a) of the Pennsylvania Local Government Unit Debt Act, 53 Pa. Cons. Stat. §8001 et seq., as amended (the "Debt Act") to qualify all of the debt of the Municipality incurred pursuant to the Guaranty Agreement as self-liquidating debt under the Debt Act and to exclude such debt from the debt limit of this Municipality; and

**WHEREAS**, the execution of the Guaranty Agreement constitutes the incurrence of lease rental debt by the Municipality within the meaning of the Debt Act.

**NOW, THEREFORE, BE AND IT HEREBY IS ENACTED AND ORDAINED**, by the Governing Body of the Municipality, as follows:

**Section 1.** Approval of Project and Financing Thereof; Stating the Useful Life Thereof; and Estimated Project Completion Date. The Municipality hereby approves the Project, as described above, and the financing thereof. The realistic estimated useful life of the Capital Project is estimated to be in excess of forty (40) years, and the principal amount of the Note equal to the separate costs of the Capital Project having a shorter useful life than the period

during which the Note will be outstanding has been scheduled to mature prior to the end of such useful life, and the balance prior to the end of the longest useful life.

The estimated completion date for the Capital Project is December 31, 2024.

**Section 2.** Amount of Note Secured by Guaranty Agreement; Incurrence of Lease Rental Debt. The maximum principal amount of the Note to be issued by the Authority and secured by the Guaranty Agreement is \$4,000,000.

The Municipality hereby authorizes and directs the incurring of lease rental debt of the Municipality, pursuant to the Debt Act, in the maximum principal amount of \$4,000,000 to be evidenced by the Guaranty Agreement by and among the Municipality, the Authority and the County.

**Section 3.** Debt Statement and Borrowing Base Certificate; Debt Proceedings. The Chairman or Vice Chairman of the Municipality or any one of them, and/or any other duly authorized or appointed officer of the Municipality, are hereby authorized and directed to prepare and certify a debt statement required by Section 8110 of the Debt Act and a borrowing base certificate.

**Section 4.** Approval of Guaranty Agreement. The Chairman or Vice Chairman of the Governing Body of the Municipality are hereby authorized and directed, upon receipt of approval from the Pennsylvania Department of Community and Economic Development, to execute and deliver the Guaranty Agreement in such form, subject to such changes and modifications, if any, as may be approved by such officer or officers, the execution of the Guaranty Agreement to be conclusive evidence of such approval, and the Secretary of the Municipality is hereby authorized and directed to affix thereto the corporate seal of the Municipality, to attest the same and to deliver the Guaranty Agreement to the County and the Authority.

**Section 5.** Covenant to Pay Guaranty. The maximum annual amounts of principal and interest covenanted to be paid by the Municipality under the Guaranty Agreement are as set forth in Schedule I attached hereto and made a part hereof. It is covenanted with the registered owner or owners of the Note that the Municipality 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 that year; (ii) appropriate such amounts from its general fund 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 Note, the Municipality 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 Municipality any taxing power not granted by another provision of law.

**Section 6.** Debt Proceedings; Authorization for Exclusion of Lease Rental Debt as Self-Liquidating Debt. The Secretary of the Municipality is hereby authorized and directed to certify to and file with the Pennsylvania Department of Community and Economic Development, in accordance with the Debt Act, a complete and accurate copy of the proceedings taken in connection with the increase of debt authorized hereunder, including the debt statement and borrowing base certificate referred to hereinabove and to pay the filing fees necessary in connection therewith.

The Chairman or Vice Chairman of the Governing Body and the Secretary of the Municipality (or other authorized officers or officials of the Municipality) are each further authorized and directed to cause to be prepared, 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 and described herein for exclusion as self-liquidating debt

**Section 7.** Continuing Disclosure. If required under an existing continuing disclosure obligation, the Municipality covenants to provide notice of the incurrence of indebtedness evidence by the Guaranty Agreement in the form attached hereto as Exhibit A within ten (10) business days of closing for the Note and execution of the Guaranty Agreement. Any continuing disclosure filing under this Ordinance may be made solely by transmitting such filing through the EMMA System of the Municipal Securities Rulemaking Board, at [www.emma.msrb.org](http://www.emma.msrb.org).

**Section 8.** Incidental Actions. The proper officers of the Municipality are hereby authorized, directed and empowered on behalf of the Municipality to execute any and all papers and documents, 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 9.** Repealer. All ordinances or parts of ordinances and resolutions or parts of resolutions inconsistent herewith be and the same hereby are repealed.

**Section 10.** Severability. In case any one or more of the provisions of this Ordinance shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance and this Ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

**Section 11.** Effective Date. This Ordinance shall become effective on the earliest date permitted by the Debt Act.

[Signature Page Follows]

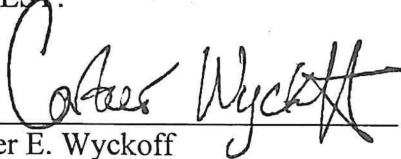
**DULY ENACTED**, by the Board of Supervisors, in lawful session duly assembled, this 24<sup>th</sup> day of October, 2023.

TOWNSHIP OF DERRY,  
Dauphin County, Pennsylvania



By: \_\_\_\_\_  
E. Christopher Abruzzo  
Chairman of the Board of Supervisors

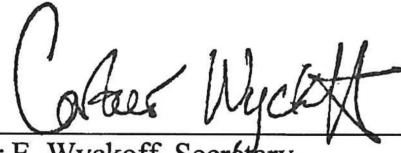
ATTEST:



\_\_\_\_\_  
Carter E. Wyckoff  
Secretary of the Township of Derry

I HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance duly enacted by the affirmative vote of a majority of the members of Board of Supervisors (the "Governing Body") of the Township of Derry, Dauphin County, Pennsylvania, at a public meeting held the 24<sup>th</sup> day of October, 2023; that proper notice of such meeting was duly given as required by law; and that said Ordinance has been spread upon the Minutes of said Governing Body, showing how each member voted thereon, and has been duly advertised as required by law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Municipality this 24<sup>th</sup> day of October, 2023.



Carter E. Wyckoff, Secretary

(SEAL)

SCHEDULE I  
TO ORDINANCE OF THE  
TOWNSHIP OF DERRY, COUNTY OF DAUPHIN, PENNSYLVANIA

Maximum Annual Amounts Payable Under Guaranty Agreement

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Maximum Annual Debt Service</u>
2024	\$151,000	\$120,253.33	\$271,253.33
2025	\$152,000	\$119,703.90	\$271,703.90
2026	\$156,000	\$114,976.70	\$270,976.70
2027	\$161,000	\$110,125.10	\$271,125.10
2028	\$166,000	\$105,118.00	\$271,118.00
2029	\$171,000	\$99,955.40	\$270,955.40
2030	\$177,000	\$94,637.30	\$271,637.30
2031	\$182,000	\$89,132.60	\$271,132.60
2032	\$188,000	\$83,472.40	\$271,472.40
2033	\$194,000	\$77,625.60	\$271,625.60
2034	\$200,000	\$71,592.20	\$271,592.20
2035	\$206,000	\$65,372.20	\$271,372.20
2036	\$212,000	\$58,965.60	\$270,965.60
2037	\$219,000	\$52,372.40	\$271,372.40
2038	\$226,000	\$45,561.50	\$271,561.50
2039	\$233,000	\$38,532.90	\$271,532.90
2040	\$240,000	\$31,286.60	\$271,286.60
2041	\$248,000	\$23,822.60	\$271,822.60
2042	\$255,000	\$16,109.80	\$271,109.80
2043	\$263,000	\$8,179.30	\$271,179.30
<b>TOTALS</b>	<b>\$4,000,000</b>	<b>\$1,426,795.43</b>	<b>\$5,426,795.43</b>



Exhibit A

Form of EMMA Notice

**NOTICE OF FINANCIAL OBLIGATION  
TOWNSHIP OF DERRY  
Dauphin County, Pennsylvania  
CUSIP Base No. \_\_\_\_\_**

Township of Derry, Dauphin County, Pennsylvania (the "Municipality"), as an obligated person with respect to outstanding obligations hereby provides notice of the incurrence of a financial obligation pursuant to Rule 15c2-12 of the Securities and Exchange Commission, as described below.

The Municipality has entered into a Guaranty Agreement, dated December \_\_, 2023 (the "Guaranty Agreement") with Derry Township Municipal Authority and the County of Dauphin, Pennsylvania (the "County"). Under the terms of the Guaranty Agreement, the Municipality has agreed to guaranty the payment of debt service on the Authority's Guaranteed Revenue Note, Series of 2023 (the "Note"), dated December \_\_, 2023, issued to the County, in the principal amount of \$\_\_\_\_\_. The Note bears interest at a fixed rate through December 1, 2043, the maturity date of the Note.

The Note is being issued to finance the certain capital projects of the Authority.

**TOWNSHIP OF DERRY  
Dauphin County, Pennsylvania**

Dated: \_\_\_\_\_, 2023

