

COUNTY OF DAUPHIN

Pennsylvania

Ordinance No. 6-2013

October 23, 2013

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA. (THE "COUNTY"), AUTHORIZING AND APPROVING A CERTAIN PROJECT (THE "PROJECT") OF THE LANCASTER COUNTY SOLID WASTE MANAGEMENT AUTHORITY (THE "AUTHORITY") CONSISTING OF FINANCING A PORTION OF THE COSTS OF ACQUISITION BY THE AUTHORITY OF A RESOURCE RECOVERY FACILITY AND RELATED ASSETS (THE "FACILITY"), AND DETERMINING THE REALISTIC ESTIMATED USEFUL LIFE OF THE PROJECT; STATING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE DEBT TO BE INCURRED BY THE AUTHORITY TO BE SECURED BY A COUNTY GUARANTY DESCRIBED HEREIN; STATING THAT THE DEBT IS TO BE INCURRED AS LEASE RENTAL DEBT IN THE MAXIMUM PRINCIPAL AMOUNT OF TWENTY FOUR MILLION DOLLARS (\$24,000,000) BY THE AUTHORITY BY ISSUANCE OF ITS \$24,000,000 AGGREGATE PRINCIPAL AMOUNT, GUARANTEED AUTHORITY BONDS, SERIES B OF 2013 (THE "2013B BONDS") PURSUANT TO THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT, 53 PA. CONS. STAT. § 8001 *ET SEQ.*, AS AMENDED (THE "DEBT ACT"); AUTHORIZING AND DIRECTING OFFICERS AND OFFICIALS OF THE COUNTY TO PREPARE AND VERIFY A DEBT STATEMENT REQUIRED BY SECTION 8110 OF THE DEBT ACT AND A BORROWING BASE CERTIFICATE; 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 CAUSE TO BE PAID ANY NECESSARY FILING FEES; APPROVING THE FORM, AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF THE GUARANTY AGREEMENT BETWEEN THE COUNTY AND THE AUTHORITY; STATING THE MAXIMUM ANNUAL AMOUNTS TO BE PAID UNDER THE COUNTY GUARANTY, COVENANTING THE PAYMENT THEREOF AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE COUNTY THEREFOR; APPROVING THE EXECUTION AND DELIVERY OF THE REIMBURSEMENT AGREEMENT BETWEEN THE COUNTY AND THE AUTHORITY; AUTHORIZING THE OFFICIALS OF THE COUNTY TO TAKE OTHER APPROPRIATE ACTION; REPEALING ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND STATING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, The Lancaster County Solid Waste Management 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

WHEREAS, the County of Dauphin, Pennsylvania (the "County") is a third class county of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under provisions of the Act of the General Assembly of the Commonwealth, as reenacted; amended and supplemented, from time to time, known as the Local Government Unit Debt Act (the "Debt Act"); and

WHEREAS, the Authority pursuant to authority vested in it by law has determined to acquire from The Harrisburg Authority, located in Harrisburg, Dauphin County, Pennsylvania (the "THA") a certain mass burn solid waste disposal, resource recovery, steam generation facility, including ash disposal facilities (the "Facility") pursuant to an Asset Purchase Agreement dated September 17, 2013 between THA and the Authority (the Purchase Agreement); and

WHEREAS, pursuant to the Purchase Agreement, the Authority is obligated to issue obligations in the amount of Twenty Four Million Dollars (\$24,000,000) to be used as part of the purchase price for the acquisition by the Authority of the Facility (the "Incinerator Project"), said obligations to be designated as the Guaranteed Authority Bonds, Series B of 2013 (the "2013B Bonds") ; and

WHEREAS, the Authority and the County have received realistic cost estimates of the Incinerator Project from persons qualified by experience; and

WHEREAS, the Board of Commissioners of the County have determined that the Authority's undertaking of the Incinerator Project is in the best interests of the County and of the health and welfare of its residents and desires to approve the Incinerator Project; and

WHEREAS, the County, as an inducement to the Authority to issue the 2013B Bonds, desires to enter into a Guaranty Agreement (the "Guaranty"), to be given by the County to the Authority and Fulton Bank, National Association, as the paying agent of the Authority for the 2013B Bonds, with respect to the full and prompt payment of the principal of and interest on the 2013B Bonds when and as such shall be due and payable, all as permitted by and in accordance with the terms and conditions of the Debt Act, and

WHEREAS, In consideration of the Guaranty of the County, the Authority has agreed to contemporaneously enter into a Reimbursement Agreement with the County (the "Reimbursement Agreement") pursuant to which the Authority will reimburse the County for certain payments made under the Guaranty in accordance with the terms and provisions as set forth therein.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAUPHIN, PENNSYLVANIA, AS FOLLOWS:

Section 1. Approval of the Incinerator Project and Financing Thereof; Realistic Estimated Useful Life of the Incinerator Project. The County hereby approves the Incinerator Project, as described in the recitals hereof, the financing thereof and requests the Authority to undertake the Incinerator Project. The County ratifies and confirms all actions heretofore taken by any official of the County in connection with the Incinerator Project. The realistic estimated useful life of the Incinerator Project is hereby determined by the County to be in excess of forty (40) years.

Section 2. Incurrence of Lease Rental Debt. The County approves the issuance of the 2013B Bonds by the Authority and hereby authorizes and directs the incurring of lease rental debt, pursuant to the Debt Act, in the aggregate principal amount of \$24,000,000, to be evidenced by the Guaranty.

Section 3. Debt Statement and Borrowing Base Certificate. The Chairman of the Board of Commissioners (the "Chairman"), Vice Chairman of the Board of Commissioners (the "Vice Chairman") or the Chief Clerk of the County (or other authorized officers or officials of the County), as appropriate, are hereby authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Debt Act and to prepare or cause to be prepared and file a borrowing base certificate and the Chairman or Vice Chairman and the Chief Clerk are hereby authorized and directed to certify to the Pennsylvania Department of Community and Economic Development (the "Department") a transcript of the proceedings as required by Section 8111 of the Debt Act, and to cause to be paid any filing fees required under Section 8203 of the Debt Act. Said officers of the County are authorized and directed to take any and all action necessary at any time or from time to time in connection with carrying out the intent of this Ordinance or necessary to comply with the Debt Act.

Section 4. County Guaranty. The form, terms and provisions of the Guaranty to be substantially in the form set forth in Exhibit "A" hereof are hereby approved. The Chairman, the Vice Chairman or the Chief Clerk of the County, as appropriate, are hereby authorized and directed, upon receipt of approval from the Department, to execute, attest, seal and deliver the County Guaranty in such form, subject to such changes and modifications, if any, as may be approved by such officer or officers with the advice of Mette, Evans & Woodside, as Special Counsel to the County, the execution of the Guaranty to be conclusive evidence of such approval. Said officers of the County are authorized to take all other required, necessary or desirable action in connection with the Incinerator Project and the execution and delivery of the Guaranty.

Section 5. Annual Amounts Payable Under County Guaranty; Covenant to Pay Such Amounts. The amounts required to be paid under the Guaranty, from the general revenues of the County, shall be as set forth in Exhibit "B" attached hereto. Exhibit "B" is incorporated herein by reference with the same force and effect as if fully set forth in the text hereof. If at any time the County is required to make any payment under the Guaranty, the proper officers of the County are hereby authorized and directed to do so.

The County covenants to and with the registered owners of the 2013B Bonds that; subject to the terms and conditions of and as more fully set forth in the Guaranty, 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, the amounts payable in respect of its guaranty, at the dates and places and in the manner stated in the Guaranty according to the true intent and meaning thereof. For such budgeting, appropriation and payment, the County pledges its full faith, credit and taxing power. This covenant shall be specifically enforceable in accordance with the Debt Act.

Section 6. Approval of Reimbursement Agreement. The Chairman, the Vice Chairman or the Chief Clerk of the County, as appropriate, are hereby authorized and directed to execute, attest, seal and deliver the Reimbursement 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 Mette, Evans & Woodside, as Special Counsel to the County, the execution of the Reimbursement Agreement to be conclusive evidence of such approval.

Section 7. 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 8. Incidental Actions. The proper officers of the County are hereby authorized, directed and empowered on behalf of the County to execute, attest and deliver 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 and the transactions hereby contemplated.

Section 9. Repealer. All ordinances and resolutions or parts thereof inconsistent herewith be and the same hereby are repealed.

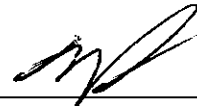
Section 10. Severability. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this County that the remainder of the Ordinance shall remain in full force and effect.

Section 11. Effective Date. This Ordinance will become effective in accordance with the provisions of the Debt Act.

ADOPTED AND ORDAINED, this 23rd day of October, 2013, by the Board of Commissioners of the County of Dauphin.

COUNTY OF DAUPHIN,
Pennsylvania

By: 
CHAIRMAN, BOARD OF
COMMISSIONERS

By: 
MEMBER

By: 
MEMBER

ATTEST:

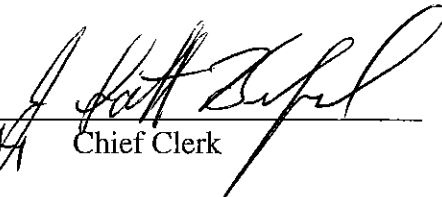
By: 
Deputy CHIEF CLERK

(SEAL)

CERTIFICATE

I, the undersigned, Chief Clerk of the County of Dauphin, Pennsylvania (the "County"), certify that: the foregoing Ordinance was enacted by the affirmative vote of a majority of the entire Board of Commissioners of the County at a meeting convened and held according to law on October 23, 2013; said Ordinance was enacted by an aye and nay vote; said Ordinance and the vote thereon has been recorded in the minutes of said meeting; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the County,
this 23rd day of October, 2013.



Deputy Chief Clerk

(SEAL)

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT, dated as of _____, 2013, made and executed by the **COUNTY OF DAUPHIN**, Pennsylvania (the "County"), a Third Class County organized and existing under laws of the Commonwealth of Pennsylvania (the "Commonwealth"), and delivered to the Lancaster County Solid Waste Management Authority (the "Authority"), Pennsylvania, and Fulton Bank, National Association, a national banking association organized and existing under the laws of the United States of America, as paying agent (the "Paying Agent") for the Authority with respect to the 2013B Bonds (as defined in this Guaranty Agreement).

WITNESSETH:

WHEREAS, This County is a Local Government Unit, as defined in the Local Government Unit Debt Act (the "Act"), as codified by the Pennsylvania General Local Government Code, Act No. 177 of 1996, approved December 19, 1996, of the Commonwealth; and

WHEREAS, The Authority is a municipality authority existing under laws of the Commonwealth, has been incorporated pursuant to appropriate action of the Board of Commissioners of Lancaster County, Pennsylvania, and is governed and existing under provisions of the Pennsylvania Municipality Authorities Act, as amended and supplemented, of the Commonwealth; and

WHEREAS, This County and the Authority have entered in a Cooperation Agreement, dated as of _____, 2013, and an Amendment to Cooperation Agreement, dated _____, 2013 (collectively, the "Cooperation Agreement")

concerning their respective financial responsibilities regarding the purchase by the Authority of a certain mass burn solid waste disposal, resource recovery, steam generation facility, including ash disposal facilities, which is identified as the Designated RMW Facility in the Cooperation Agreement (the "Facility"); and

WHEREAS, This County heretofore determined that it was in the public interest and welfare of its citizens that the Authority undertake the purchase of the Facility, which Facility will provide capacity in disposal facilities, such as a landfill, recycling facility, waste to energy facility and all related, necessary and appurtenant facilities, serving residents of this County, and

WHEREAS, The Authority, with the approval of this County and in order to fulfill its obligations under the Cooperation Agreement, has determined to fund the purchase of the Facility, in part, by the issuance of its unsecured obligations, which may be designated as the Lancaster County Solid Waste Management Authority, Guaranteed Authority Bonds, Series B of 2013, in the amount of \$24,000,000 (whether so designated or with such designation as shall be determined by the Authority upon issuance thereof, the "2013B Bonds"); and

WHEREAS, The Authority has received a proposal for purchase of its 2013B Bonds in the principal amount of \$24,000,000.00, to be dated as of the date of delivery thereof, the proceeds of the 2013 Bonds, together with other available funds, to be applied for and towards the purchase of the Facility; and

WHEREAS, In order to assist the Authority with sale and issuance of the 2013B Bonds, this County has indicated its willingness to guarantee the full payment of the principal of and interest on the 2013B Bonds, pursuant to power and authority set forth in the Act.

NOW, THEREFORE, the County, intending to be legally bound, hereby covenants and agrees as follows:

1. This County hereby guarantees the full payment of the principal of and interest on the 2103B Bonds and in furtherance thereof covenants and agrees with the registered owners, from time to time, of the 2013B Bonds that this County will pay the full amount of principal of and interest on the 2013B Bonds when the same become due and payable, at the times and place, under the terms and conditions, and in the manner prescribed in the 2013B Bonds.

This County agrees and hereby covenants with the registered owners of the 2013B Bonds that this County shall include the amount of debt service on the 2013B Bonds, for each Fiscal Year (which term shall mean the fiscal year of this County, from time to time designated by law) in which such sums are payable in its budget for that Fiscal Year, that this County, shall appropriate from its general revenues and duly and punctually pay or cause to be paid from its sinking fund established therefor or any other of its funds or revenues the full amount of such principal and interest on the dates and at the place and in the manner stated in the 2013B Bonds according to the true intent and meaning hereof. For such budgeting, appropriation and payment this County hereby does pledge its full faith, credit and taxing power and hereby does agree that this covenant shall be specifically enforceable.

2. This County agrees that the principal of and interest on the 2013B Bonds shall be payable solely by this County and shall be non-recourse as to the assets and revenues of the Authority.

3. This County agrees that the debt service in each Fiscal Year with respect to the 2013B Bonds to which the foregoing guarantee shall apply is as follows:

Fiscal Year
Ending December 31

Debt Service

12/31/2014	\$ 1,680,000
12/31/2015	\$ 1,680,000
12/31/2016	\$ 1,680,000
12/31/2017	\$ 1,680,000
12/31/2018	\$ 1,680,000
12/31/2019	\$ 1,680,000
12/31/2020	\$ 1,680,000
12/31/2021	\$ 1,680,000
12/31/2022	\$ 1,680,000
12/31/2023	\$ 1,680,000
12/31/2024	\$ 1,680,000
12/31/2025	\$ 1,680,000
12/31/2026	\$ 1,680,000
12/31/2027	\$ 1,680,000
12/31/2028	\$ 1,680,000
12/31/2029	\$ 1,680,000
12/31/2030	\$ 1,680,000
12/31/2031	\$ 1,680,000
12/31/2032	\$ 1,680,000
12/31/2033	\$25,680,000

4. This Guaranty Agreement may not be assigned by this County nor may its obligations arising hereunder be in any manner whatsoever alienated by this County. This Guaranty Agreement shall inure to the benefit of the registered owners from time to time of the 2013B Bonds. This County acknowledges that the registered owners of the 2013B Bonds shall materially rely on the existence of this Guaranty Agreement and this County's due performance of its obligations hereunder.

5. This County acknowledges and agrees that upon the giving of notice to and demand upon this County by the Paying Agent that on any June 1 or December 1 that the Paying Agent has not received sufficient funds for the payment of interest on or principal of the 2013B Bonds to become due on the succeeding June 15 or December 15, the County shall make

payment in immediately available funds to the Paying Agent of the amounts and to such account as demanded by the Paying Agent not later than June 10 or December 10.

6. Notices, demands, requests and other communications under this Guaranty Agreement shall be deemed sufficient and properly given, if in writing and delivered in person or by recognized carrier service to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses, or if by electronic means if given in writing and delivered to the following electronic addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day on which United States mail is not delivered, or if sent by electronic means, they shall be deemed as given immediately:

(a) If to :

The Lancaster County Solid Waste Management Authority
1299 Harrisburg Pike
Lancaster, PA 17603-2515
Email Address: _____
Attention: Chief Executive Officer

with a copy to:

Alexander Henderson, III, Esquire, and
William C. McCarty, Esquire
Hartman Underhill & Brubaker, LLC
221 East Chestnut Street
Lancaster, PA 17602
Email Address: alexh@hublaw.com
Email Address: billm@hublaw.com

(b) If to the County:

Dauphin County Board of Commissioners
County Administrative Building
2 South Second Street

Harrisburg, PA 17101
Attention: Chairman

with a copy to:

Joseph A. Curcillo, III, Esquire
Dauphin County Solicitor
County Administrative Building
2 South Second Street
Harrisburg, PA 17101

with a copy to:

Charles B. Zwally, Esquire
Mette Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

(c) If to Paying Agent:

Fulton Bank, National Association
One Penn Square
Lancaster, PA 17602
Attention: Stuart W. Juppenlatz, CCTS
Senior Vice President, Senior Corporate Trust Officer

Any of the foregoing parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent.

IN WITNESS WHEREOF, the County of Dauphin, Pennsylvania, has caused this Guaranty Agreement to be executed in its behalf by not less than two members of the Board of County Commissioners of the County and the official seal of the County to be hereunto affixed and attested by the Chief Clerk of the Board of County Commissioners and to be delivered to the Authority and to the Paying Agent as the paying agent of the 2013B Bonds, which have accepted the same.

COUNTY OF DAUPHIN,
Pennsylvania

ATTEST:

By: _____
Chairman, Board of
County Commissioners

Chief Clerk, Board of
County Commissioners

By: _____
Member, Board of
County Commissioners

(SEAL)

By: _____
Member, Board of
County Commissioners

ACCEPTANCE AND ACKNOWLEDGMENT

Lancaster County Solid Waste Management Authority, as the issuer of, and
Fulton Bank, National Association, as the paying agent for, the Guaranteed Authority Bonds,
Series B of 2013 acknowledge receipt of an executed counterpart of the foregoing Guaranty
Agreement, all as of _____, 2013.

ATTEST: LANCASTER COUNTY SOLID WASTE
MANAGEMENT AUTHORITY

(SEAL) By: _____
Chairperson

ATTEST: FULTON BANK, NATIONAL ASSOCIATION

(SEAL) By: _____
(Vice) President