

2024-04

**ORDINANCE
TOWNSHIP OF SWATARA,
DAUPHIN COUNTY, PENNSYLVANIA**

TO AUTHORIZE AND DIRECT THE INCURRING OF NON-ELECTORAL DEBT THROUGH THE ISSUANCE OF A GENERAL OBLIGATION NOTE, SERIES OF 2023 (THE "NOTE") IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,800,000 OF THE TOWNSHIP OF SWATARA, DAUPHIN COUNTY, PENNSYLVANIA (THE "MUNICIPALITY") FOR THE PURPOSE OF PROVIDING FUNDS TO (1) UNDERTAKE CERTAIN CAPITAL PROJECTS AS DESCRIBED HEREIN (COLLECTIVELY, THE "CAPITAL PROJECT"); AND (2) PAY THE COSTS OF ISSUING THE NOTE; STATING THAT REALISTIC COST ESTIMATES HAVE BEEN MADE FOR THE CAPITAL PROJECT AND STATING THE ESTIMATED PROJECT COMPLETION DATE; STATING THE REALISTIC ESTIMATED USEFUL LIVES OF THE PROJECT FOR WHICH THE NOTE IS ISSUED; DIRECTING THE PROPER OFFICERS OF THE MUNICIPALITY TO PREPARE, CERTIFY AND FILE THE REQUIRED DEBT STATEMENT AND BORROWING BASE CERTIFICATE; COVENANTING THAT THE MUNICIPALITY SHALL INCLUDE THE AMOUNT OF ANNUAL DEBT SERVICE IN ITS BUDGET FOR EACH FISCAL YEAR; PROVIDING FOR A FULLY REGISTERED NOTE, DATE OF THE NOTE, INTEREST PAYMENT DATES, PROVISIONS FOR REDEMPTION AND STATED PRINCIPAL MATURITY AMOUNTS AND FIXING THE MAXIMUM RATES OF INTEREST ON SUCH NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE COUNTY OF DAUPHIN, PENNSYLVANIA; AUTHORIZING THE PROPER OFFICERS OF THE MUNICIPALITY TO CONTRACT WITH A BANK OR BANK AND TRUST COMPANY FOR ITS SERVICES AS SINKING FUND DEPOSITORY, PAYING AGENT AND REGISTRAR; PROVIDING FOR THE REGISTRATION, TRANSFER AND EXCHANGE OF THE NOTE; PROVIDING FOR THE EXECUTION, DELIVERY AND AUTHENTICATION OF THE NOTE AND THE DISPOSITION OF THE PROCEEDS THEREOF; APPROVING THE FORM OF THE NOTE, PAYING AGENT'S AUTHENTICATION CERTIFICATE AND ASSIGNMENT; AWARDED SUCH NOTE AT A SALE BY NEGOTIATION AND STATING THAT SUCH SALE IS IN THE BEST FINANCIAL INTEREST OF THE MUNICIPALITY AND AUTHORIZING THE DELIVERY OF THAT NOTE TO THE COUNTY OF DAUPHIN; CREATING A SINKING FUND AND APPROPRIATING ANNUAL AMOUNTS FOR THE

PAYMENT OF DEBT SERVICE ON THE NOTE; AUTHORIZING AND DIRECTING THE 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; UNDERTAKING CERTAIN TAX COVENANTS WITH REGARD TO THE NOTE; 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 THIS ORDINANCE AND THE LOAN AGREEMENT; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE MUNICIPALITY TO PAY ISSUANCE COSTS; AUTHORIZING INCIDENTAL ACTIONS; RESCINDING INCONSISTENT ORDINANCES; AND STATING THE EFFECTIVE DATE.

WHEREAS, the Township of Swatara, 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 Commissioners (the "Governing Body") of the Municipality desires to undertake a capital project to finance the design, planning and construction for the reconstruction of Rupp Hill Road including but not limited to (i) constructing an improved horizontal curve alignment, implementing effective stormwater management, enhancing safety measure, and subbase improvements; and (ii) optimizing the curves at both the north and south ends of the project accommodate wide tractor trailers for safe navigation (collectively, the "Capital Project"); and

WHEREAS, to finance the costs of the Capital Project the Municipality has determined to issue its General Obligation Note, Series of 2023, in the maximum principal amount of \$1,800,000 (the "Note"); 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") 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, among other things, the DCIB-G Program, it is anticipated that the Board of Commissioners of the County will enact an ordinance authorizing

the issuance of tax-exempt general obligation bonds or notes (the “DCIB-G Note”) in the estimated maximum principal amount of \$13,050,000; and

WHEREAS, the County will lend a portion of 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 Capital Project to be undertaken by the Municipality; and

WHEREAS, the County has presented to Municipality a Purchase Proposal (defined hereinafter), to use proceeds of the DCIB-G Note to purchase the Note; and

WHEREAS, the Municipality 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 Municipality to finance the cost of the Project and the Municipality will agree to repay the loan of DCIB-G Note proceeds; and

WHEREAS, the issuance of the Note by the Municipality constitutes the incurrence of non-electoral debt by the Municipality within the meaning of the Debt Act.

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

Section 1. Incurrence of Debt; Amount and Purpose of Note; Realistic Cost Estimates; Estimated Project Completion Date. The Governing Body of the Municipality hereby authorizes and directs the incurring of non-electoral debt through the issuance of its Note to provide funds to (i) undertake the Capital Project; and (ii) to pay the costs of issuing the Note ((i) and (ii) collectively, the “Project”). Realistic cost estimates have been obtained for the Capital Project through estimates made by qualified persons, as required by Section 8006 of the Act.

The Municipality hereby reserves the right to undertake components of the Project in such order and at such time or times as it shall determine and to allocate the proceeds of the Note and other available moneys to the final costs of the Project in such amounts and order of priority as it shall determine; but the proceeds of the Note shall be used solely to pay the “costs,” as defined in the Act, of the Project described herein or, upon appropriate amendment hereto, to pay the costs of other projects for which the Municipality is authorized to incur indebtedness.

The estimated completion date of the Capital Project is November 29, 2024.

The first stated principal installment of the Note shall be made within the later of two years from the date of issue or one year following such estimated completion date of the Capital Project in compliance with Section 8142(c) of the Act.

Section 2. Realistic Estimated Useful Life. The realistic estimated useful life of the Capital Project is estimated to be in excess of thirty (30) 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.

Section 3. Debt Statement and Borrowing Base Certificate. The President or Vice President of the Governing Body, and the Secretary or Assistant Secretary 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 Act and a Borrowing Base Certificate.

Section 4. Loan Agreement. The Municipality shall enter into the Loan Agreement, to be dated the date of issuance and delivery of the Note, with the County.

The Loan Agreement shall be in a form acceptable to the solicitor to the Municipality, the Solicitor to the County, and bond counsel for the Municipality, if applicable, and the Proper Officer (as hereinafter defined) of the Municipality executing the same, their execution and delivery thereof to constitute conclusive evidence of such acceptance.

The President or Vice President of the Governing Body of the Municipality (each, a "Proper Officer") may, and each and any of them acting alone, hereby are, authorized and directed to execute and to deliver the Loan Agreement, and if required, the Secretary or Assistant Secretary is hereby authorized and directed to attest to the same.

Section 5. Covenant to Pay Note. It is covenanted with the holders of the Note that the Municipality shall: (i) include the amount of the debt service for the Note for each fiscal year in which the sums are payable in its budget for that year; (ii) appropriate those amounts from its general revenues for the payment of the debt service; and (iii) duly and punctually pay, or cause to be paid, from its sinking fund or any other of its revenues or funds the principal of, and the interest on, the Note at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof. For such budgeting, appropriation and payment, the Municipality pledges its full faith, credit and taxing power. The covenant contained in this **Section 5** shall be specifically enforceable.

Section 6. Description of Note. The Note is substantially in the form set forth in Exhibit A, attached hereto, with any changes that are acceptable to the solicitor to the Municipality and bond counsel for the Municipality, if applicable, and the Proper Officer of the Municipality executing the same, their execution and delivery thereof to constitute conclusive evidence of such acceptance. The Note shall be in registered form, without coupons, and shall be numbered in such manner as may be satisfactory to the Municipality and the County. So long as the Note is held by the County, the Note shall not require numbering as recommended by the Committee on Uniform Security Identification Procedures ("CUSIP").

The Note shall be issued in the maximum principal amount of \$1,800,000, or such lesser amount as authorized by the Governing Body of the Municipality pursuant to this Ordinance, shall be dated the date of its issuance, and shall bear interest, until maturity or prior

prepayment, at the maximum rates per annum, and shall mature in the amounts and in certain years, all as set forth in Exhibit B attached hereto and made a part hereof. The Note shall be issued in certificated form in the form of a single certificate for the entire principal amount of the Note with one maturity date and annual principal payments. The full principal amount of the Note shall be advanced by the County, on the date of issuance hereof.

If the date for payment of the principal of, or interest on, the Note is not a business day, then the date of such payment shall be the next succeeding day which is a business day. Payment on such subsequent business day shall have the same force and effect as if made on the nominal date of payment. A business day shall be any day in which the Purchaser and the Paying Agent are not authorized by law or under lawful authority to be closed.

The principal of and interest on the Note shall be payable in lawful money of the United States of America at the offices of the Paying Agent (hereinafter defined).

The Municipality shall have the right to prepay all principal and interest on the Note pursuant to the terms set forth in the Note.

Section 7. Execution, Delivery and Authentication of the Note; Disposition of Proceeds. The Note shall be executed by the manual or facsimile signature of a Proper Officer, or any one of them, and/or any other duly authorized or appointed officer of the Municipality, and shall have the corporate seal of the Municipality or a facsimile thereof impressed thereon, duly attested by the manual or facsimile signature of the Secretary or Assistant Secretary of the Municipality, and such officers are hereby authorized and directed to execute the Note in such manner. In case any official of the Municipality whose manual or facsimile signature shall appear on the Note shall cease to be such official before the authentication of the Note, such signature or the facsimile signature thereof shall nevertheless be valid and sufficient for all purposes the same as if such official had remained in office until authentication; and the Note may be signed on behalf of the Municipality, even though at the date of authentication of such Note such person was not an official. The Proper Officers of the Municipality, any one of them, and/or any other duly authorized or appointed officer of the Municipality, are authorized and directed to deliver, or cause to be delivered, the Note to the Purchaser as purchaser thereof against the full balance of the purchase price therefor.

Section 8. Paying Agent, Sinking Fund Depository and Registrar. The Governing Body pursuant to authorization contained herein hereby authorizes and directs a Proper Officer to contract with a bank or a bank and trust company authorized to do business in the Commonwealth (the "Paying Agent"), for its services as sinking fund depository, paying agent and registrar with respect to the Note, and the Paying Agent is hereby appointed to act in such capacities with respect to the Note. There is hereby established with the Paying Agent a separate sinking fund for the Municipality designated as the "Sinking Fund – Township of Swatara- General Obligation Note, Series of 2023" (the "Sinking Fund"). Into the Sinking Fund there shall be paid, when and as required, all moneys necessary to pay the debt service on the Note, and the Sinking Fund shall be applied exclusively to the payment of the interest covenanted to be paid upon the Note and to the principal thereof at maturity or earlier prepayment and to no other purpose whatsoever, except as may be authorized by law, until the same shall have been fully paid. The Paying Agent, as sinking fund depository shall, as and

when said payments are due, without further action by the Municipality, withdraw available monies in the Sinking Fund and apply said monies to the payment of the principal of and interest on the Note.

The maximum amounts set forth in Exhibit C attached hereto and made a part hereof shall be pledged in each of the fiscal years shown in Exhibit C to pay the debt service on the Note, and such amounts are annually hereby appropriated to the Sinking Fund for the payment thereof.

The proceeds of the Note shall be deposited in a settlement fund which the Paying Agent shall create and shall be disbursed, transferred or deposited as directed in a closing receipt duly executed and delivered by an authorized officer of the Municipality on the date of issuance and delivery of the Note.

Section 9. Manner of Sale; Award of Note. The Governing Body of the Municipality after due deliberation and investigation has found that a private sale by negotiation is in the best financial interest of the Municipality and based upon such finding the Governing Body of the Municipality hereby awards the Note, at negotiated sale, to the Purchaser for its own account, upon the terms set forth in its proposal for purchase of the Note (the "Purchase Proposal"), a copy of which is attached hereto as Exhibit D and made a part hereof. Such details are hereby approved.

The execution and delivery of the Purchase Proposal by a Proper Officer of the Municipality shall constitute conclusive evidence of such approval.

Section 10. Debt Proceedings. The Secretary or Assistant Secretary of the Municipality are hereby authorized and directed to certify to and file with the Pennsylvania Department of Community and Economic Development, in accordance with the 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, as well as any certificate excluding such debt as subsidized or self-liquidating debt of the Municipality (which may be filed simultaneously with the proceedings taken in connection with the increase of debt or at such other time as determined by the Municipality), and to pay the filing fees necessary in connection therewith.

Section 11. Tax Covenants. The Municipality acknowledges that the DCIB-G Note is being issued by the County as a tax-exempt obligation compliant with all the provisions of Section 103 and 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and as such, the Municipality hereby covenants that it will:

(a) not permit any infrastructure financed with the proceeds of the Note to be put to a private business use as defined in Section 141(b)(6) of the Code and Regulations promulgated thereunder (a "Private Business Use"). As part of this covenant, the Municipality specifically agrees that, without the prior written consent of the County, it may not sell or lease any infrastructure that is financed with the Note proceeds while the DCIB-G Note remains outstanding;

(b) take such actions as shall be necessary or desirable, from time to time and within its reasonable control, as shall be necessary (or requested by the County) to maintain the exclusion of interest paid by the County on the DCIB-G Note from the gross income of the owner for federal income tax purposes, pursuant to the requirements of Section 103 and 141 through 150, inclusive, of the Tax Code;

(c) refrain from taking any action or permitting any action to be taken on behalf of itself or causing or permitting any circumstances within its control to arise or continue, if such action or circumstance, or its expectation on the date of issuance of the Note, would cause the interest paid by the County on the DCIB-G Note to be subject to federal income tax in the hands of the owner thereof;

(d) either (A) restrict the yield on any investment of the proceeds of the Note to the yield on the DCIB-G Note, or (B) satisfy all of the following: (1) expend at least 85% of the net sale proceeds of the Note (plus investment proceeds thereon, if any) for the cost of the Project within three years of the date hereof; (2) within six months of the date hereof, incur substantial binding obligations (such as third-party contracts) to expend at least 5% of the net sale proceeds of the Note on the Project; and (3) proceed with due diligence to completion of the Project;

(e) calculate rebate and pay any rebate required to be paid to the County (as the issuer of the DCIB-G Note) in accordance with the Loan Agreement and Section 148(f) of the Code and the Regulations promulgated thereunder. The Municipality acknowledges and agrees that in its Loan Agreement it shall indemnify the County for any costs and expenses that the County incurs in paying any rebate owed by the Municipality.

Section 12. Settlement Account and Project Fund. The Municipality hereby creates with the Paying Agent a special account to be known as the "Township of Swatara - 2023 Note Settlement Account" (the "Settlement Account"). The Settlement Account shall be held in trust for the benefit of the Municipality until disbursed in accordance with the provisions hereof. The Municipality shall deliver the net proceeds (including accrued interest, if any) derived from the sale of the Note to the Paying Agent for deposit in the Settlement Account. The Paying Agent shall disburse, transfer or deposit such proceeds as directed in the Closing Receipt.

The Municipality hereby creates with the Paying Agent, or another bank or bank and trust company that is authorized to do business in the Commonwealth of Pennsylvania, a special fund to be known as the "Township of Swatara 2023 Capital Project Fund" (the "Capital Project Fund"). The Capital Project Fund shall be held in trust for the benefit of the Municipality until disbursed in accordance with the provisions hereof. The proceeds of the Note on deposit in the Capital Project Fund shall be used, upon written requisition by any one of the Proper Officers

of the Municipality, to pay the costs of the Capital Project or other eligible Capital Project costs. Proceeds of the Note remaining on deposit in the Capital Project Fund upon completion of the Capital Project shall, upon the advice of and as directed by counsel, be either (i) transferred to the Sinking Fund and used by the Municipality to pay debt service on the Note, or (ii) used by the Municipality to optionally redeem the Note, as appropriate, pursuant to the redemption provisions of this Ordinance.

Section 13. Continuing Disclosure. If required under an existing continuing disclosure obligation, the Municipality covenants to provide notice of the incurrence of indebtedness evidence by the Note in the form attached hereto as Exhibit E within ten (10) business days of closing for the Note. Any continuing disclosure filing required under this Ordinance shall be made solely by transmitting such filing through the EMMA System of the Municipal Securities Rulemaking Board, at www.emma.msrb.org.

Section 14. Incidental Actions. Each Proper Officer is 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, and the issuance and delivery of the Note.

Section 15. Payment of Issuance Costs. Each Proper Officer is hereby authorized and directed to pay the costs of issuing the Note at the time of delivery of the Note to the Purchaser, such costs being estimated in the Purchase Proposal attached hereto.

Section 16. Rescinding Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent herewith are rescinded, cancelled and annulled.

Section 17. Severability. In the 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 18. Effective Date. This Ordinance shall become effective on the earliest date permitted by the Act.

DULY ENACTED, by the Board of Commissioners, in lawful session duly assembled, this 11th day of October, 2023.

TOWNSHIP OF SWATARA,
Dauphin County, Pennsylvania

By: Christine L. Zubeck
(Vice) President of the Board of Commissioners

ATTEST:

Karen Allen

(Assistant) Secretary of the Township

(SEAL)

CERTIFICATE

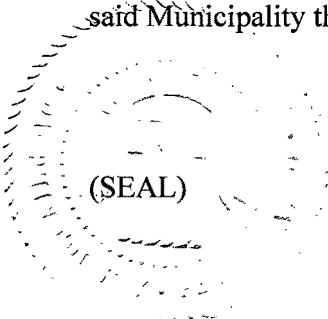
I, the undersigned, (Assistant) Secretary of the Township of Swatara, Dauphin County, Pennsylvania (the "Municipality"), DO HEREBY CERTIFY that: the foregoing is a true and correct copy of an Ordinance that duly was duly enacted by affirmative vote of a majority of all members of the Board of Commissioners of the Municipality at a meeting duly held on October 11, 2023; said Ordinance duly has been recorded in the minute book of the Board of Commissioners of the Municipality; a notice with respect to the intent to enact said Ordinance has been published as required by law; said Ordinance was available for inspection by any interested citizen requesting the same in accordance with the requirements of the Local Government Unit Debt Act of the Commonwealth of Pennsylvania; and said Ordinance has not been amended, altered, modified or repealed as of the date of this Certificate.


I further certify that the Board of Commissioners of the Municipality met the advance notice and public comment and agenda posting and availability requirements of the Sunshine Act, 65 Pa. Cons. Stat. §701 *et seq.*, by advertising the time and place of said meeting, by posting the agenda of said meeting on the Municipality's website at least 24 hours prior to said meeting, by posting prominently a notice of said meeting and the agenda of said meeting at the principal office of the Municipality and at the public building in which said meeting was held, by making copies of the agenda available for the public at the meeting, and by providing a reasonable opportunity for public comment at such meeting prior to enactment of said Ordinance, all as required by such Act.

I further certify that: the total number of members of the Board of Commissioners of the Municipality is five (5); the vote of members of the Board of Commissioners of the Municipality upon said Ordinance was called and duly was recorded upon the minutes of said meeting and members of the Board of Commissioners of the Municipality voted upon said Ordinance in the following manner:

<u>Name</u>	<u>Vote</u>
Christine Zubeck	YES
Jeff Varner	YES
Shaela Ellis	YES
Richard Boudier	YES
Michael Tuckey	YES

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Municipality this 11th day of October, 2023.





(Assistant) Secretary of the Township

**EXHIBIT A
FORM NOTE**

EXHIBIT B
MAXIMUM MATURITY SCHEDULE

Date	Amount	Maximum Interest Rate
12/1/2024	\$158,000	3.110%
12/1/2025	\$161,000	3.110%
12/1/2026	\$166,000	3.110%
12/1/2027	\$171,000	3.110%
12/1/2028	\$176,000	3.110%
12/1/2029	\$182,000	3.110%
12/1/2030	\$188,000	3.110%
12/1/2031	\$193,000	3.110%
12/1/2032	\$199,000	3.110%
12/1/2033	\$206,000	3.110%

EXHIBIT C
MAXIMUM ANNUAL AMOUNTS APPROPRIATED TO SINKING FUND

<u>Year</u>	<u>Amount</u>
2024	\$ 212,114.00
2025	212,066.20
2026	212,059.10
2027	211,896.50
2028	211,578.40
2029	212,104.80
2030	212,444.60
2031	211,597.80
2032	211,595.50
2033	212,406.60

EXHIBIT D
PURCHASE PROPOSAL

**EXHIBIT E
FORM OF EMMA NOTICE**

**NOTICE OF FINANCIAL OBLIGATION
TOWNSHIP OF SWATARA
Dauphin County, Pennsylvania
CUSIP Base No. 870071**

Township of Swatara, 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 issued its General Obligation Note, Series of 2023 (the "Note"), dated December __, 2023, to the County of Dauphin, Pennsylvania, in the principal amount of \$[_____], bearing interest at a fixed rate through December 1, 2033, the maturity date of the Note.

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

**TOWNSHIP OF SWATARA
Dauphin County, Pennsylvania**

Dated: December __, 2023