

ORDINANCE NO. 116
OF THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BUCKS,
PENNSYLVANIA

AN ORDINANCE AUTHORIZING THE INCURRENCE OF LEASE RENTAL DEBT BY THE COUNTY OF BUCKS (THE "COUNTY"), PURSUANT TO THE EXECUTION AND DELIVERY OF A GUARANTY AGREEMENT FOR THE BUCKS COUNTY COMMUNITY COLLEGE (THE "PARTICIPANT"); APPROVING CERTAIN CAPITAL PROJECTS OF THE PARTICIPANT; APPROVING THE ISSUANCE AND NEGOTIATED SALE OF THE GUARANTEED REVENUE NOTE, SERIES OF 2004 (THE "PARTICIPANT NOTE") IN THE AGGREGATE PAR AMOUNT OF \$3,725,000; APPROVING THE FORMS OF THE PARTICIPANT NOTE, LOAN AGREEMENT, CONTINUING DISCLOSURE AGREEMENTS, TAX COMPLIANCE AGREEMENT, AND GUARANTY AGREEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF THE GUARANTY AGREEMENT AND THE COUNTY'S CONTINUING DISCLOSURE AGREEMENT; SETTING FORTH THE RANGE OF THE ANNUAL LEASE RENTAL PAYMENTS DUE UNDER THE GUARANTY AGREEMENT; APPROVING THE INTEREST RATE MANAGEMENT PLAN RELATED TO THE PARTICIPANT NOTE; APPROVING THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT RELATED TO THE PARTICIPANT NOTE AND AUTHORIZING AND DIRECTING THE FILING RELATED TO THE INTEREST RATE MANAGEMENT AGREEMENT TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; PLEDGING THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY FOR ANY PAYMENTS DUE UNDER THE GUARANTY AGREEMENT, INCLUDING THE PERIODIC SCHEDULED PAYMENTS DUE UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT, IN THE EVENT OF A PAYMENT DEFAULT BY THE PARTICIPANT; AUTHORIZING THE PREPARATION AND FILING OF ALL NECESSARY DOCUMENTS FOR APPROVAL OF THE GUARANTY AGREEMENT TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; AUTHORIZING ADVERTISEMENT OF ENACTMENT; AND REPEALING INCONSISTENT ORDINANCES.

WITNESSETH:

WHEREAS, the Bucks County Community College (the "Participant") was founded in 1964 to provide a two-year collegiate institution to serve the citizens of the County; and

WHEREAS, the Participant operates under a sponsorship agreement with the County which expires on October 26, 2019; and

WHEREAS, the Participant wishes to undertake certain capital projects consisting of (i) building renovations, (ii) parking lot expansions, and (iii) the payment of the costs of issuance of the Participant Note (collectively, the "2004 Project"); and

WHEREAS, the 2004 Project shall be for the benefit and use of the general public, and no private party shall have any special legal entitlement to the beneficial use of the 2004 Project, through a lease, management contract, or any other arrangement; and

WHEREAS, the Board of Trustees of the Participant has determined that the negotiated sale of the Participant Note to the Delaware Valley Regional Finance Authority (the "DVRFA") to fund the 2004 Project is in the best financial interest of the Participant; and

WHEREAS, the DVRFA's Purchase Proposal requires the execution and delivery of a Guaranty Agreement (the "2004 Guaranty") among the County, the Participant, and the DVRFA as a condition to the purchase of the Participant Note; and

WHEREAS, the County has determined that the 2004 Project will benefit and will contribute to the health and general welfare of the County's residents; and

WHEREAS, the County has determined that it would be obligated to make payments to DVRFA only in the event of a payment default by the Participant; and

WHEREAS, the County has determined that the execution of the 2004 Guaranty will allow the Participant to minimize the costs of issuance and the interest costs of the Participant Note; and

WHEREAS, the execution and delivery of the 2004 Guaranty, under which the County shall guarantee the Participant's obligations to pay principal, interest, and other charges due and payable to the DVRFA under the terms

of the Participant Note and Loan Agreement, will constitute "lease rental debt" under the Local Government Unit Debt Act, 53 Pa. C.S.A. §8001, et seq (the "Debt Act"), as amended and restated; and

WHEREAS, the Delaware Valley Regional Finance Authority (the "DVRFA"), a public authority within the meaning of the Debt Act, issued the Local Government Revenue Bonds, Series of 2002 (the "DVRFA Bonds"), to provide funds for loans to be secured by the pledge of the full faith, credit and taxing power of local government units (the "Loan Program"); and

WHEREAS, the DVRFA determined to enter into an "Interest Rate Management Agreement", as such term is defined in the Debt Act, with respect to the DVRFA Bonds (the "DVRFA Swap Agreement") in order to provide a more cost effective Loan Program and to allow participants in the Loan Program to manage interest rate risk more efficiently; and

WHEREAS, Calhoun, Baker Inc. (the "Financial Advisor") is an "Independent Financial Advisor", as such term is defined in the Debt Act, to the DVRFA, and the Financial Advisor has prepared an "Interest Rate Management Plan" (the "DVRFA Plan"), as such term is defined in the Debt Act, that has been adopted by the Board of DVRFA; and

WHEREAS, the DVRFA established minimum criteria of long term, senior, unsecured debt ratings of "Aa3" or higher by Moody's Investors Service or "AA-" or higher by Standard & Poor's for the provider of the DVRFA Swap Agreement, and the Board of the DVRFA found that the award of the DVRFA Swap Agreement by negotiation in a private sale was in the best financial interests of DVRFA and the participants in the Loan Program, and the Financial Advisor concluded that the financial terms and conditions of the DVRFA Swap Agreement were fair and reasonable as of the date of award; and

WHEREAS, the Participant wishes to utilize the DVRFA Loan Program by issuing the Participant Note to the DVRFA and, under the terms of the loan documents, the Participant will be obligated to make certain payments under the DVRFA Swap Agreement; and

WHEREAS, the Board of Commissioners of the County desires to have the DVRFA Swap Agreement constitute a "Qualified Interest Rate Management Agreement", as such term is defined in the Debt Act, with respect to the Participant Note and the 2004 Guaranty, and the DVRFA Plan constitute the Interest Rate Management Plan required by the Debt Act; and

WHEREAS, Financial Security Assurance Inc. (the "Eligible Credit Enhancer") shall issue a financial guaranty insurance policy (the "Eligible Credit Enhancement") to secure certain payment obligations of the Participant and the County under the Participant Note and the Loan Agreement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUCKS, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF SAID BOARD OF COMMISSIONERS THAT:

Section 1. Approval of the 2004 Project, Estimated Useful Life of the 2004 Project, and Approval of the Participant Note

The Board of Commissioners hereby authorizes and directs the incurring of lease rental debt in the aggregate par amount of \$3,725,000 by the issuance of the Participant Note. The Board of Commissioners hereby finds that the 2004 Project would be beneficial to and would promote the health and general welfare of the residents of the County. The estimated useful life of the 2004 Project is ten years, a period in excess of the five year term of the Participant Note. The amortization of the principal of the Participant Note shall begin within two years of the date of issuance of the Participant Note. The principal of the Participant Note shall be amortized to provide approximately level annual debt service. The Board of Commissioners hereby approves the 2004 Project and hereby approves the issuance of the Participant Note to fund the 2004 Project.

Section 2. Approval of the Purchase Proposal

The Board of Commissioners, after due deliberation and investigation, hereby determines that a private sale by negotiation of the Participant Note to the DVRFA is in the best financial interest of the County and the Participant. The County hereby approves the sale of the Participant Note in accordance with the terms of the proposal submitted by DVRFA, attached hereto as Exhibit I (the "Purchase Proposal"). The DVRFA will purchase the Participant Note at a price of \$3,725,000. The Participant shall be responsible for paying the DVRFA's costs to purchase the Participant Note, in an amount not to exceed \$14,900, as directed by the DVRFA's Program Administrator at the issuance of the Participant Note. The Participant Note shall be purchased by DVRFA on or about May 25, 2004, or in such installments and/or at such other times as the Participant's Chairman and the DVRFA's Program Administrator shall determine.

Section 3. Approval of the Forms of the Participant Note, Loan Agreement, Continuing Disclosure Agreements, Tax Compliance Agreement, and 2004 Guaranty

The Board of Commissioners hereby approves the substantial forms of the Participant Note, Loan Agreement, Continuing Disclosure Agreements, Tax Compliance Agreement, and 2004 Guaranty (collectively, the "Loan Documents") attached to the DVRFA's Purchase Proposal. The Chairman or Vice Chairman and the Chief Clerk are hereby authorized and directed to execute and deliver the 2004 Guaranty and the County's Continuing Disclosure Agreement, in the substantial forms attached to the Purchase Proposal, but with such alterations, deletions and additions as the Chairman or Vice Chairman may approve (such approval to be conclusively established by the execution of the 2004 Guaranty and the Continuing Disclosure Agreement by the Chairman or Vice Chairman). The Chairman or Vice Chairman and the Chief Clerk also are hereby authorized and directed (i) to execute and deliver such other certificates, instruments, and agreements (including certificates, instruments, and agreements required by any institution issuing any financial guaranty insurance policy, letter of credit, or similar instrument securing the Participant Note) and (ii) to take all actions that may be necessary or beneficial to issue the Participant Note.

Section 4. Amortization and Maximum Annual Debt Service Schedule

The Participant Note shall bear interest at the floating rate specified in the Loan Agreement and Participant Note, the substantial forms of which are attached to the Purchase Proposal. The annual lease rental payments due under the 2004 Guaranty would range from \$0 to \$1,267,750.00. The principal amortization schedule and maximum annual debt service payments for the Participant Note (based upon the maximum interest rate of 15%) are set forth below:

**Bucks County Community College
Guaranteed Revenue Note, Series of 2004
Principal Amortization Schedule and
Maximum Annual Debt Service**

<i>Period Ending</i>	<i>Principal (1)</i>	<i>Maximum Interest Rate</i>	<i>Maximum Interest Payment (2)</i>	<i>Maximum Annual Debt Service</i>
25-May-04				
25-May-05	\$ 709,000.00	15%	\$ 558,750.00	\$ 1,267,750.00
25-May-06	726,000.00	15%	452,400.00	1,178,400.00
25-May-07	745,000.00	15%	343,500.00	1,088,500.00
25-May-08	763,000.00	15%	231,750.00	994,750.00
25-May-09	782,000.00	15%	117,300.00	899,300.00
Total	<u>\$ 3,725,000.00</u>		<u>\$ 1,703,700.00</u>	<u>\$ 5,428,700.00</u>

- (1) Principal is amortized to provide approximately level annual debt service at 2.50%. Principal is payable annually on May 25, commencing May 25, 2005.
- (2) Interest is payable monthly on the 25th day of the month, commencing June 25, 2004. Calculated for the period beginning on May 25, 2004.

SECTION 5. AUTHORIZATION AND AWARD OF A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT RELATING TO THE PARTICIPANT NOTE

The County is incurring lease rental indebtedness under the Debt Act by the execution of the 2004 Guaranty. Under the terms of the 2004 Guaranty, in the event of a payment default of the Participant, the County will be obligated to make the scheduled payments for a portion of the DVRFA Swap Agreement related to the Participant Note. The Board of Commissioners hereby accepts and adopts the DVRFA Plan as the Interest Rate Management Plan fulfilling the requirements of §8281(b)(2) of the Debt Act. The Board of Commissioners hereby accepts and ratifies the minimum criteria used by DVRFA to select the provider of the DVRFA Swap Agreement and hereby accepts and ratifies the award of the DVRFA Swap Agreement in a private sale by negotiation. The Board of Commissioners hereby authorizes and awards the DVRFA Swap Agreement as the Qualified Interest Rate Management Agreement with respect to the Participant Note, pursuant to §8281(a)(2) of the Debt Act. The Board of Commissioners hereby authorizes and directs the filing, to the Department of Community and Economic Development ("DCED") within fifteen days of enactment, of a certified copy of this Ordinance and the following documents, attached hereto, in accordance with §8284(a)(1) of the Debt Act:

- (a) Form of the Loan Agreement to be executed by the Participant and DVRFA,
- (b) DVRFA Swap Agreement, the Qualified Interest Rate Management Agreement pursuant to §8281(b)(1) of the Debt Act,

- (c) DVRFA Plan, the Interest Rate Management Plan pursuant to §8281(b)(2)(ii) of the Debt Act, and
- (d) Finding of the Financial Advisor that the financial terms and conditions of the DVRFA Swap Agreement were fair and reasonable as of the date of the award by DVRFA, pursuant to §8281(e)(5) of the Debt Act.

SECTION 6. OBLIGATIONS RELATED TO THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT

The Participant's and, in the event of a payment default by the Participant, the County's obligations related to the DVRFA Swap Agreement are set forth in the Loan Agreement. In accordance with §8281(c) of the Debt Act: The County pledges its full faith, credit, and taxing power to make any scheduled payments related to the DVRFA Swap Agreement and covenants to budget, appropriate, and pay any termination payment (the "Termination Payment") that may be due under the DVRFA Swap Agreement.

The notional amount of the DVRFA Swap Agreement related to the Participant Note is equal to the outstanding principal amount of the Participant Note, initially \$3,725,000.

The scheduled term of the County's obligations related to the DVRFA Swap Agreement ends on May 25, 2009.

The County's obligations under the DVRFA Swap Agreement end when the Participant repays or prepays the amounts outstanding under the Participant Note and the Loan Agreement.

The maximum interest rate under the DVRFA Swap Agreement is 15%.

The maximum annual net, scheduled payments, not including any Termination Payment, related to the DVRFA Swap Agreement shall not exceed the maximum annual debt service payments authorized for the Participant Note.

The County has pledged general revenues for the payment of any obligations due under the DVRFA Swap Agreement.

The DVRFA Swap Agreement requires collateralization if the ratings of the provider drop below "Aa3" by Moody's Investor Service and "AA-" by Standard & Poor's.

The County's obligations to make payments due on the Participant Note and scheduled payments related to the DVRFA Swap Agreement are senior to any obligation for a Termination Payment.

Section 7. Authorization to Incur Lease Rental Debt and to Pledge the Full Faith, Credit, and Taxing Power

The County is hereby authorized to incur lease rental debt, as defined in the Debt Act, which shall be evidenced by the 2004 Guaranty that secures the Participant Note and the Loan Agreement. The County hereby covenants: to include all periodic scheduled payments payable under the 2004 Guaranty on the Participant Note, which takes into consideration (a) the regularly scheduled interest payments on the DVRFA's Bonds, (b) the periodic scheduled payments due under the DVRFA Swap Agreement, (c) all Administrative Fees and Expenses, except any Termination Payments due under the DVRFA Swap Agreement, and (d) the amortization of principal due on the Participant Note, in the budget of the fiscal year in which such amounts are due and payable, to appropriate such amounts from its taxes and other general revenues, and to pay, or cause to be paid, punctually and duly, such amounts that are due and payable under the 2004 Guaranty for the Participant Note and Loan Agreement at the dates and places and in the manner stated in the Participant Note and the Loan Agreement.

For such budgeting, appropriation, and payment, the County irrevocably pledges its full faith, credit, and taxing power. As provided by the Debt Act, this covenant shall be specifically enforceable.

The County shall not claim any right of set-off, counterclaim, reduction or diminution of an obligation, or any other defense against the Participant or DVRFA to reduce its payment obligations under the 2004 Guaranty. The County's payment obligations to the DVRFA, the holder of the Participant Note, are absolute and unconditional. The 2004 Guaranty shall remain in full force and effect until the Participant has satisfied all of its obligations to the DVRFA and the Eligible Credit Enhancer under the Participant Note and the Loan Agreement.

SECTION 8. COVENANTS FOR TERMINATION PAYMENTS

The County hereby covenants: to include the amounts for Administrative Fees and Expenses allocable to Termination Payments due under the DVRFA Swap Agreement for each fiscal year in which such Termination Payments are payable in its budget for that year, to appropriate such amounts from its general revenues for the payment of such Termination Payments, and to duly and punctually pay or cause to be paid from any other of its revenues or funds the

Termination Payments at the dates and places and in the manner stated in the Participant Note and the Loan Agreement. Pursuant to §8129 of the Debt Act, in the event of a payment default by the County, the Termination Payments shall constitute "unfunded debt".

Section 9. Authorization to Submit Statements to the Department of Community and Economic Development

The Chairman or Vice Chairman of the Board of Commissioners and the Chief Clerk of the County are hereby authorized to prepare and to submit to the Department of Community and Economic Development ("DCED") the debt statement required by Section 8110 of the Debt Act, the proceedings that authorize the incurrence of lease rental debt that is evidenced by the 2004 Guaranty and any other documents required by the Debt Act or DCED.

Section 10. Legal Advertisements

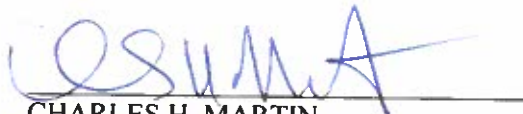
The Board of Commissioners hereby ratifies and directs the advertisement of a summary of this Ordinance as finally enacted, as required by the Debt Act, in the Bucks County Courier Times, a newspaper of general circulation in the County of Bucks, within fifteen (15) days following the day of final enactment.


Section 11. Conflicting Ordinances

All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.


IN WITNESS WHEREOF, we, the Undersigned, have hereunto set our signatures and affixed hereto the Seal of the County.

Dated: April 21, 2004



CHARLES H. MARTIN
Chairman of the Board of Commissioners
County of Bucks, Pennsylvania


MICHAEL G. FITZPATRICK, ESQUIRE
Commissioner
County of Bucks, Pennsylvania

[Seal]


SANDRA A. MILLER
Commissioner
County of Bucks, Pennsylvania

ATTEST:


DAVID G. STEINBACH
Chief Clerk
County of Bucks, Pennsylvania

EXHIBITS AND CLOSING DOCUMENTS IN SAFE