

**ORDINANCE NO. _____
OF THE BOARD OF COMMISSIONERS
OF THE TOWNSHIP OF CALN,
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE THAT AUTHORIZES THE INCURRENCE OF NONELECTORAL, GENERAL OBLIGATION DEBT BY THE TOWNSHIP OF CALN, CHESTER COUNTY, PENNSYLVANIA (THE “PARTICIPANT”) PURSUANT TO THE ISSUANCE OF THE GENERAL OBLIGATION NOTES, 2019 SERIES (THE “PARTICIPANT NOTE”) IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,233,000 AND APPROVES CERTAIN CAPITAL PROJECTS; APPROVES THE NEGOTIATED SALE OF THE PARTICIPANT NOTE TO THE DELAWARE VALLEY REGIONAL FINANCE AUTHORITY; APPROVES THE SUBSTANTIAL FORMS OF THE LOAN DOCUMENTS AND AUTHORIZES EXECUTION AND DELIVERY OF ALL NECESSARY DOCUMENTS; STATES THE AMORTIZATION SCHEDULE AND MAXIMUM ANNUAL DEBT SERVICE PAYMENTS; AUTHORIZES AND AWARDS A TRANSACTION UNDER A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT AND AUTHORIZES AND DIRECTS A FILING TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; PLEDGES THE FULL FAITH, CREDIT, AND TAXING POWER OF THE PARTICIPANT FOR THE TIMELY REPAYMENT OF THE PARTICIPANT NOTE, INCLUDING THE PERIODIC PAYMENTS DUE UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT; COVENANTS TO PAY ANY TERMINATION CHARGES; CREATES A SINKING FUND AND APPOINTS A SINKING FUND DEPOSITORY; AUTHORIZES THE APPLICATION TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT FOR APPROVAL OF THE ISSUANCE OF THE PARTICIPANT NOTE; AUTHORIZES ADVERTISEMENT OF ENACTMENT; AND REPEALS INCONSISTENT ORDINANCES.

WHEREAS, the Township issued its \$2,500,000 General Obligation Note, Series of 2002 (the “2002 Note”) on September 30, 2002, to fund certain capital projects (collectively the “2002 Project”) consisting of (i) acquisition of property for the municipal complex, parkland, and open space, (ii) improvements to streets and sidewalks, (iii) acquisition of fire equipment, (iv) the planning for and development of a new municipal complex, (v) improvements to buildings, and (vi) payment of the costs of issuance of the 2002 Note; and

WHEREAS, the Township issued its \$6,310,000 General Obligation Bonds, Series of 2007 (the “2007 Bonds”) on September 13, 2007, to fund certain capital projects (collectively, the “2007 Project”) consisting of (i) acquisition of Ingleside Golf Club, (ii) redemption of the 2002 Note, (iii) other capital projects of the Township, and (iv) payment of the costs of issuance of the 2007 Bonds; and

WHEREAS, the Township issued its \$7,480,000 General Obligation Bonds, Series of 2013 (the “2013 Bonds”) on May 2, 2013, to fund certain capital projects (collectively, the “2013 Project”) consisting of (i) redemption of the 2007 Bonds, (ii) other capital projects of the Township, and (iii) payment of the costs of issuance of the 2013 Bonds; and

WHEREAS, the Township may optionally redeem the 2013 Bonds on any date on or after October 1, 2018; and

WHEREAS, the current refunding of the 2013 Bonds at current market rates would reduce the Township’s debt service payments; and

WHEREAS, the incurrence of debt by the issuance of the General Obligation Notes, 2019 Series (collectively, the “Participant Note”) is necessary to provide the funding to redeem the 2013 Bonds; and

WHEREAS, the Board of Commissioners has obtained preliminary cost estimates for the optional redemption of the 2013 Bonds from persons qualified by experience; and

WHEREAS, that certain refunding project (collectively, the “2019 Project”), consisting of (i) the current refunding of the 2013 Bonds and (ii) the payment of the costs of issuance of the Participant Note, will benefit the health and welfare of the residents of the Township of Caln; and

WHEREAS, the 2019 Project, including the 2002 Project, 2007 Project, and 2013 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 2019 Project, through a lease, management contract, or any other arrangement that would result in a private business use under the *Internal Revenue Code of 1986*, as amended; and

WHEREAS, the proposed increase of nonelectoral debt from the issuance of the Participant Note, together with the nonelectoral and lease rental debt presently outstanding, will not cause the constitutional or statutory debt limitations of the Participant to be exceeded; and

WHEREAS, the Delaware Valley Regional Finance Authority (“DelVal”), a public authority within the meaning of the *Local Government Unit Debt Act*, 53 Pa. C.S.A. §8001, *et seq* (the “*Debt Act*”), has from time to time issued Local Government Revenue Bonds (the “DelVal Bonds”), to provide funds for loans to local government units and municipal authorities (the “Loan Program”); and

WHEREAS, from time to time, DelVal has entered into interest rate swap agreements related to the DelVal Bonds (collectively, the “DelVal 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 DelVal, and the Financial Advisor has prepared an “Interest Rate Management Plan” (the “Plan”), as such term is defined in the *Debt Act*, and an Interest Rate Swap Management Policy (the “Swap Policy”) that have been adopted by the Board of DelVal; and

WHEREAS, DelVal established minimum rating criteria for any counterparty to the DelVal Swap Agreement of long term, senior, unsecured debt ratings in the “AA-” or “Aa3” category or higher, or ratings equal to or higher than any active counterparty, by a Nationally Recognized Statistical Rating Organization registered with the Securities and Exchange Commission, and the Board of Directors of DelVal found that the award of transactions under the DelVal Swap Agreement by negotiation in private sales were in the best financial interests of DelVal and the participants in the Loan Program, and the Financial Advisor concluded that the financial terms and conditions of the DelVal Swap Agreement were fair and reasonable as of the dates of award; and

WHEREAS, the Participant wishes to utilize the DelVal Loan Program by issuing the Participant Note to DelVal; and

WHEREAS, under the terms of the Loan Agreement with DelVal, interest payments on the Participant Note (the “Loan Interest”) will equal the amounts allocable to the Participant Note for interest on the DelVal Bonds, periodic scheduled payments on the DelVal Swap Agreement, and other costs and liquidity requirements incurred by DelVal to administer the Loan Program; and

WHEREAS, under the terms of the Loan Agreement with DelVal, the principal amount outstanding of the Participant Note (the “Loan Principal”) will equal the notional amount of the DelVal Swap Agreement related to the Participant Note; and

WHEREAS, the Board of Commissioners intends to (i) designate the Loan Agreement and the allocable portion of the DelVal Swap Agreement as a Qualified Interest Rate Management Agreement related to the Participant Note, (ii) approve the Plan as the Interest Rate Management Plan required by the *Debt Act*, and (iii) adopt the Swap Policy.

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

SECTION 1. APPROVAL OF THE 2019 PROJECT AND AUTHORIZATION TO ISSUE THE PARTICIPANT NOTE

The Board of Commissioners (the “Board”) hereby authorizes and approves the 2019 Project. Pursuant to §8241(b)(1) of the *Debt Act*, the current refunding of the 2013 Bonds from the proceeds of the Participant Note will reduce total debt service over the life of the series. In accordance with §8243(a) of the *Debt Act*, the term of the debt will not be extended. Pursuant to §8142(a)(2) of the *Debt Act*, the fourteen-year, remaining, estimated weighted average useful life of the 2019 Project, including the 2002 Project, 2007 Project, and 2013 Project, exceeds the thirteen-year term of the Participant Note. The Board hereby authorizes and directs that notice of the optional redemption of the 2013 Bonds be sent to the bondholders.

The principal of the Participant Note shall be amortized to provide level or declining annual debt service, pursuant to §8142(b)(1) of the *Debt Act*. The amortization of the principal amounts of the Participant Note shall begin within two years of the date of issue in accordance with §8142(c) of the *Debt Act*. The Board hereby authorizes and directs the incurrence of nonelectoral, general obligation debt in the aggregate principal amount of FIVE MILLION TWO HUNDRED THIRTY-THREE THOUSAND DOLLARS (\$5,233,000) by the issuance of the Participant Note.

SECTION 2. APPROVAL OF THE LOAN COMMITMENT

The Board, after due deliberation and investigation, hereby determines that a private sale by negotiation of the Participant Note to DelVal is in the best financial interests of the Participant.

The Board hereby accepts the Loan Commitment from DelVal, attached hereto, to purchase the Participant Note at an aggregate price of \$5,233,000 from the proceeds of the DelVal Bonds. The Participant shall be responsible for paying DelVal's costs of origination in an amount not to exceed \$26,165, as directed by DelVal's Program Administrator upon the issuance of the Participant Note. The Participant Note shall be purchased by DelVal on or about October 1, 2019, or in such installments and/or at such other times as the President or Vice-President of the Board and DelVal's Program Administrator shall determine.

SECTION 3. APPROVAL OF THE FORMS OF THE LOAN DOCUMENTS AND AUTHORIZATION TO EXECUTE AND DELIVER ALL NECESSARY DOCUMENTS

The substantial forms of the Loan Agreement, Participant Note, Participant Tax Compliance Agreement, and Participant Continuing Disclosure Agreement (collectively, the "Loan Documents") attached to the Loan Commitment are hereby approved. The President or Vice-President and the Secretary or Assistant Secretary of the Board (collectively, the "Authorized Officers") are hereby authorized and directed to execute and deliver the Loan Documents, in the substantial forms attached to the Loan Commitment, but with such alterations, deletions and additions as the Authorized Officers may approve (such approval to be conclusively established by the execution of the Loan Documents by the Authorized Officers). The Authorized Officers also are hereby authorized and directed (i) to execute and deliver such other certificates, instruments, and agreements (including those required by any institution issuing a financial guaranty insurance policy, municipal bond insurance policy, letter of credit, or similar instrument related to the DelVal Bonds or the Participant Note) and (ii) to take all actions that may be necessary or beneficial to issue the Participant Note.

SECTION 4. AMORTIZATION SCHEDULE AND MAXIMUM ANNUAL DEBT SERVICE PAYMENTS

The indebtedness of the Participant Note shall be nonelectoral debt and a general obligation of the Participant and shall be evidenced by one or more Promissory Notes (The form is attached hereto as Exhibit A.) in the aggregate par amount of \$5,233,000. The Participant Note shall bear interest (the "Loan Rate") at the rate specified in the Loan Agreement and the Participant Note, the substantial forms of which are attached to the Loan Commitment. The Participant Note shall be subject to optional redemption by the Participant as set forth in the Participant Note and the Loan Agreement. The amortization schedule of the Loan Principal and the maximum Loan Interest

payments under the Participant Note, based upon the maximum Loan Rate of 15%, are shown below:

**General Obligation Notes, 2019 Series
Principal Amortization Schedule and
Maximum Annual Debt Service Payments**

<i>Bond Year</i> <u>Ending</u>	<i>Principal</i> (1)	<i>Maximum Interest Rate</i>	<i>Maximum Interest Payment</i> (2)	<i>Maximum Annual Debt Service</i>
25-Sep-20	\$ 360,000.00	15%	\$ 771,867.50	\$ 1,131,867.50
25-Sep-21	367,000.00	15%	730,950.00	1,097,950.00
25-Sep-22	374,000.00	15%	675,900.00	1,049,900.00
25-Sep-23	380,000.00	15%	619,800.00	999,800.00
25-Sep-24	387,000.00	15%	562,800.00	949,800.00
25-Sep-25	394,000.00	15%	504,750.00	898,750.00
25-Sep-26	402,000.00	15%	445,650.00	847,650.00
25-Sep-27	409,000.00	15%	385,350.00	794,350.00
25-Sep-28	416,000.00	15%	324,000.00	740,000.00
25-Sep-29	424,000.00	15%	261,600.00	685,600.00
25-Sep-30	432,000.00	15%	198,000.00	630,000.00
25-Sep-31	440,000.00	15%	133,200.00	573,200.00
25-Sep-32	<u>448,000.00</u>	15%	<u>67,200.00</u>	<u>515,200.00</u>
Total	<u>\$ 5,233,000.00</u>		<u>\$ 5,681,067.50</u>	<u>\$ 10,914,067.50</u>

- (1) Principal is payable annually, commencing on: 25-Sep-20
Principal is amortized to provide level or declining annual debt service.
- (2) Interest is payable monthly on the 25th, commencing: 25-Oct-19
Interest is calculated for the period beginning on: 1-Oct-19

SECTION 5. AUTHORIZATION AND AWARD OF A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT

The Participant is incurring indebtedness under the *Debt Act* that will be issued to DelVal, a public authority, and the Participant, by execution of the Loan Agreement, will become obligated for a notional amount of the DelVal Swap Agreement equal to the outstanding principal amount of the Participant Note. The Board hereby accepts and adopts the Plan as the Interest Rate Management Plan fulfilling the requirements of §8281(b)(2) of the *Debt Act*. The Board hereby adopts the Swap Policy, accepts and ratifies the minimum criteria used by DelVal to select the counterparties of the DelVal Swap Agreement, and accepts and ratifies the award of the DelVal Swap Agreement in a private sale by negotiation. The Board hereby authorizes and awards the

Loan Agreement and the portion of the DelVal Swap Agreement allocable to the Participant Note as the Qualified Interest Rate Management Agreement with respect to the Participant Note, pursuant to §8281(a)(2) of the *Debt Act*. The Board 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, in accordance with §8284(a)(1) of the *Debt Act*:

- 1) Form of the Loan Agreement, the Qualified Interest Rate Management Agreement pursuant to §8281(b)(1) of the *Debt Act*, and the form of the confirmation related to the Participant Note,
- 2) The Interest Rate Management Plan pursuant to §8281(b)(2) of the *Debt Act*, and
- 3) The finding of the Financial Advisor that the financial terms and conditions of the DelVal Swap Agreement were fair and reasonable as of the date of the award by DelVal, pursuant to §8281(e)(5) of the *Debt Act*.

SECTION 6. PLEDGE OF THE FULL FAITH, CREDIT, AND TAXING POWER

The Participant hereby covenants to:

- 1) Include all payments of Loan Interest and Loan Principal payable under the Loan Agreement and the Participant Note in the budget of the fiscal year in which such amounts are due and payable,
- 2) Appropriate such amounts from its taxes and other general revenues, and
- 3) Pay, or cause to be paid, punctually and duly, such amounts that are due and payable under the Participant Note and the Loan Agreement on the dates, at the places, and in the manner stated in the Participant Note and the Loan Agreement.

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

SECTION 7. OBLIGATIONS OF THE PARTICIPANT RELATED TO THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT

The Participant’s obligations related to the Qualified Interest Rate Management Agreement are set forth in the Loan Agreement. In accordance with §8281 of the *Debt Act*:

- 1) The Participant pledges its full faith, credit, and taxing power to make any periodic scheduled payments due and payable under the DelVal Swap Agreement related to the Participant Note and Loan Agreement (the “Periodic Payments”). The Participant covenants to (a) include all Periodic Payments in the budget of the fiscal year in which such amounts are due and payable, (b) appropriate such amounts from its taxes and other general revenues, and (c) pay, or cause to be paid, punctually and duly, such amounts that are due and payable on the dates, at the places, and in the manner stated in the Participant Note and the Loan Agreement. As provided by the *Debt Act*, this covenant shall be specifically enforceable.
- 2) The notional amount of the DelVal Swap Agreement related to the Participant Note is equal to the outstanding principal amount of the Participant Note, initially \$5,233,000.
- 3) The Participant’s obligations under the DelVal Swap Agreement end when the Participant repays or prepays the amounts outstanding under the Participant Note and the Loan Agreement. The scheduled term of the Participant’s obligations related to the DelVal Swap Agreement ends on September 25, 2032.
- 4) The Participant pledges to budget, appropriate, and pay any termination payment due and payable under the DelVal Swap Agreement related to the Participant Note and Loan Agreement (the “Termination Charge”). The Participant covenants to (a) include any Termination Charge in the budget of the fiscal year in which such amounts are due and payable, (b) appropriate such amounts from its taxes and other general revenues, and (c) pay, or cause to be paid, punctually and duly, such amounts that are due and payable on the dates, at the places, and in the manner stated in the Participant Note and the Loan Agreement. The Participant’s obligations to make Periodic Payments are senior to any obligation for a Termination Charge.
- 5) The maximum annual Periodic Payments, not including any Termination Charge, shall not exceed the maximum annual debt service payments authorized for the Participant Note. The maximum Loan Rate under the Loan Agreement and the maximum floating rate payable under the DelVal Swap Agreement is 15%.

SECTION 8. SINKING FUND DEPOSITORY

Pursuant to §8221 of the *Debt Act*, the Board hereby creates a sinking fund for the Participant Note and appoints Wells Fargo Bank, N.A. (the “Bank”), or its successors or assigns, as the Paying Agent and Sinking Fund Depository for the Participant Note. The Bank shall maintain separate accounts, subaccounts and subfunds for payments of Loan Principal and Loan Interest to be made by the Participant until such Participant Note is paid in full. The Participant shall deposit into the Sinking Fund sufficient amounts for payment of Loan Principal of and Loan Interest on the Participant Note no later than the date upon which such payments shall become due. The Bank shall, as and when said payments are due, without further action by the Participant, withdraw available monies in the Sinking Fund and apply said monies to payment of Loan Principal of and Loan Interest on the Participant Note. The Board hereby authorizes and directs the Authorized Officers to contract with the Bank, by the execution of the Loan Agreement, to serve as Paying Agent and Sinking Fund Depository for the Participant Note.

SECTION 9. AUTHORIZATION TO SUBMIT STATEMENTS TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

The Board hereby authorizes and directs the Authorized Officers to prepare and submit an application for approval of the incurrence of the nonelectoral, general obligation debt evidenced by the Participant Note to DCED, including the proceedings that authorize issuance, the debt statement, and any other documents required by the *Debt Act* or DCED.

SECTION 10. LEGAL ADVERTISEMENTS

The Board hereby ratifies and directs the advertisement of a summary of this Ordinance as finally enacted, as required by the *Debt Act*, in the *Daily Local News*, a newspaper of general circulation in the Township of Caln, within fifteen (15) days following the date 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 Authorized Officers, have hereunto set our signatures and affixed hereto the Seal of the TOWNSHIP OF CALN, Chester County, Pennsylvania.

Dated: July 11, 2019

JENNIFER M. BRETON
President, Board of Commissioners

[Seal]

ATTEST:

KRISTEN L. DENNE
Secretary, Board of Commissioners

Exhibit A

Form of the Participant Note