

ANTIETAM VALLEY MUNICIPAL AUTHORITY

RESOLUTION NO. 2024-5

WHEREAS, the Antietam Valley Municipal Authority (the "Authority") has been incorporated under and is governed by the Pennsylvania Municipality Authorities Act of May 2, 1945, P. L. 382 (the "1945 Act"), which 1945 Act is codified and continued by Act No. 22, approved on June 19, 2001, 53 Pa.C.S.A. §5601 *et seq.*, as amended and supplemented (the "Act"); and

WHEREAS, the Authority, by virtue of the Act, has power and authority, among other things, to acquire, hold, construct, improve, maintain, operate, own and lease, either in the capacity of lessor or lessee, a sewage collection, transportation and treatment system (the "Sewer System"); and

WHEREAS, the Authority, in accordance with its powers, has determined to undertake a project (the "Project") consisting of, among other things, (a) the design, acquisition, construction and installation of various capital improvements to the Sewer System; and (b) the payment of the costs of issuing the 2024 Note (hereinafter defined); and

WHEREAS, in order to finance a portion of the costs of the Project, the Authority has obtained a commitment (the "Commitment Letter") from Manufacturers and Traders Trust Company (the "Bank") to make a loan in the amount of \$3,250,000 to fund the costs of the Project; and

WHEREAS, the Commitment Letter requires, among other things, that the Authority authorize, execute and deliver (a) its Sewer Revenue Note in a principal amount of \$3,250,000 (the "2024 Note") to the Bank to evidence the Authority's obligation to repay the Bank moneys advanced by the Bank pursuant to the provisions of the 2024 Note to finance the Project; and (b) a certain loan agreement to be entered into by the Bank and the Authority and dated the date of execution and delivery of the 2024 Note (the "Loan Agreement"); and

WHEREAS, the Authority desires to accept the terms of such Commitment Letter; and

WHEREAS, this Authority has previously issued tax-exempt bonds or notes to finance and refinance various capital improvements to the Sewer System and may do so again in the future; and

WHEREAS, this Authority has determined, based on the recommendations of counsel, that it is in its best interests to adopt post-issuance compliance policies by which the Authority will monitor and continually update its use of bond proceeds and bond financed facilities throughout the term of any bonds or notes issued for its benefit; and

WHEREAS, the Authority desires to authorize and approve such action as shall be necessary and appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Board of this Authority, as follows:

1. This Board hereby approves and accepts the terms of the Commitment Letter and authorizes and directs the Chairman or Vice Chairman and Secretary or Assistant Secretary or any other member or officer of the Authority to execute and deliver the Commitment Letter to the Bank and to take any and all action which may be necessary, on behalf of the Authority, to evidence such approval and acceptance and to issue the 2024 Note.

2. The terms of the 2024 Note, including maximum amount, rates of interest, terms and repayment provisions shall be as set forth in the Commitment Letter and are hereby approved.

3. The Chairman and Secretary or in their absence, any other member or officer of the Authority are authorized, empowered and directed, to execute, acknowledge, attest and/or deliver, as appropriate, any and all such documents, agreements, certificates and instruments as may be necessary, proper or desirable, in the discretion of such member or officer to issue the 2024 Note and to accomplish the requirements and transactions contemplated in the Commitment Letter, all of which shall be subject to the review and approval (as to both form and substance) by the Authority's Solicitor. The execution and delivery of such documents, instruments, agreements and certificates will constitute conclusive evidence of their authorization, delivery and acceptance. This Board hereby expresses its intent that the Authority's proper officers, subject to review and approval by the Authority's Solicitor, shall have full power and authority to take all actions and do all things necessary and desirable to issue the 2024 Note and to accomplish the requirements and transactions contemplated in the Commitment Letter.

Specifically, in addition to any and all other documents, agreements, certificates and instruments as may be necessary, proper or desirable, all of which are hereby approved, the Authority approves the execution, acknowledgment, attestation and/or delivery, as appropriate, of the following: (a) the Loan Agreement; (b) the 2024 Note; (c) the Nonarbitrage Certificate; (d) the General Certificate of the Authority; (e) the Information Return on IRS Form 8038-G; and (f) the Financing Statements on Form UCC-1.

4. The Authority hereby authorizes, empowers and directs its proper officers and/or members, as identified in Section 3 above, to take any and all action and to execute and deliver any documents, instruments, agreements, and certificates necessary or desirable to accomplish the transactions contemplated herein.

5. The Authority hereby authorizes and approves the payment of all expenses incurred in connection with the issuance of the 2024 Note and the transactions contemplated in the Commitment Letter, which expenses may be paid from amounts advanced by the Bank to the Authority pursuant to the Loan Agreement.

6. The Authority hereby designates the 2024 Note as a “qualified tax-exempt obligation” within the meaning, and for the purposes of, Section 265(b) of the Internal Revenue Code of 1986, as amended.

7. The Authority hereby adopts the Tax Exempt Bond Compliance Program attached hereto as Exhibit “A”.

8. This Board approves, ratifies and confirms all action heretofore taken, by the officers, employees, representatives and other authorized persons, in the name or on behalf of the Authority in connection with the undertakings herein contemplated.

9. The Authority hereby approves the appointment of (i) PFM Financial Advisors LLC, Malvern, Pennsylvania, as municipal advisor and (ii) Stevens & Lee, P.C., Reading, Pennsylvania, as Bond Counsel in connection with the Project and the issuance of the Note.

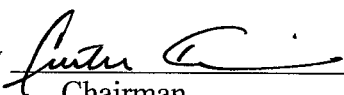
10. This Resolution shall become effective immediately.


11. In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity shall not effect or impair any remaining provision, section, sentence, clause or part of this Resolution, it being the intent of this Board that such remainder shall be and shall remain in full force and effect.

12. All resolutions or parts of resolutions, insofar as the same shall be inconsistent herewith, shall be and the same expressly are hereby repealed.

DULY ADOPTED, this 24th day of October, 2024, by the Board of the Antietam Valley Municipal Authority, in lawful session duly assembled.

ANTIETAM VALLEY MUNICIPAL
AUTHORITY

By 
Chairman

Attest: 
Secretary

(SEAL)

Exhibit "A"

ANTIETAM VALLEY MUNICIPAL AUTHORITY

POLICY AND PROCEDURES

Subject: Tax Exempt Bonds Compliance Program

Issued by: Board of the Authority

Approval Date: October 24, 2024

Effective Date: October 24, 2024

- I. Standard: Antietam Valley Municipal Authority (the "Authority") shall maintain the tax exempt status of tax-exempt bonds or notes issued for its benefit.
- II. Purpose: To provide a written policy and process by which the Authority will monitor and continually update its use of bond proceeds and bond financed facilities throughout the term of any tax exempt bonds or notes issued for its benefit.
- III. Implementation:
 - A. Responsible Persons
 1. The responsible persons are:
 - i. The officer responsible for the financial affairs of the Authority (the "Authority Administrator") shall be responsible for the tracking of expenditures and receipts of bond proceeds and keeping the applicable records thereof;
 - ii. The Authority Administrator shall be responsible for reviewing and monitoring the private use, if any, of the Authority's tax exempt financed facilities and the review of any management or service provider contracts, leases or other contractual arrangements relating to the use of the bond financed facilities to determine compliance with the safe harbors established by Rev. Proc. 97-13, as amended, modified or superseded, and keeping all applicable records relating to such use and determinations;
 - iii. The Authority Administrator shall be responsible for reviewing and monitoring the investment of any bond proceeds and determining whether investments were made in accordance with the applicable safe harbor for determining fair market value and providing all such records to the Authority Administrator for safe keeping together with the records of receipts and expenditures of bond proceeds;

- iv. The Authority Administrator shall be responsible for monitoring the Authority's rebate obligations and, if applicable, engaging a rebate consultant and causing such consultant to undertake a rebate analysis and the preparation of a written report with respect to the Authority's rebate obligations. The Authority Administrator shall be responsible for ensuring that the Authority makes timely payment of all amounts owed to the U.S. Treasury, if any; and
 - v. The Authority Administrator shall be responsible to review the reports, at least annually with counsel, and confirm that the policies and procedures set forth herein are being followed.
2. The Authority Administrator may, in his or her discretion, appoint or retain other responsible persons to assist or advise the foregoing responsible persons in their tasks.

B. Tracking of Bond Proceeds

1. The Authority Administrator shall create and maintain spreadsheets for each bond issue which will track the date, amount, and purpose of each receipt of and expenditure of bond proceeds. Back up documentation (either hard copy or in electronic form (if compliant with Rev. Proc. 97-22)) for each receipt or expenditure shall be retained as more fully described below.
2. The Authority Administrator shall review the applicable tax certificates (including the Nonarbitrage Certificate, the Authority's tax certificate and the Form 8038-G) for each issue and acquaint himself or herself with the Authority's expectations with respect to the bonds as expressed therein to ensure that the proceeds are expended consistently with such expectations. Any discrepancies will be brought to the attention of the Authority Board, which shall communicate with counsel regarding such matters.
3. Expenditure of Proceeds
 - i. For expenditures from the applicable project fund, the Authority Administrator will review the applicable authorizing resolution to confirm that each expenditure is within the scope of the project described in the authorizing resolution.
 - ii. The Authority Administrator will maintain a fixed asset record for all assets acquired with tax-exempt bond proceeds that notes the useful life of each asset acquired and its placed in service date shall be recorded.
 - iii. For any funds deposited in a sinking fund, and any earnings thereon, the Authority Administrator shall review and monitor all expenditures and receipts for such sinking fund and shall not less than annually confirm that such fund is not funded in excess of the amount necessary.

C. Investment of Proceeds

1. The Authority Administrator shall review the applicable tax certificates for each issue and acquaint himself or herself with the Authority's expectations with respect to the bonds as expressed therein to ensure that the proceeds are invested consistently with such expectations. The Authority Administrator shall determine the yield applicable to the bonds as stated in the Form 8038-G filed with respect to each bond issue.
2. The Authority Administrator shall determine what proceeds are available for investment and whether they are subject to yield restriction. If such proceeds are not subject to yield restriction, the Authority Administrator shall cause such proceeds to be invested in such investments as shall be permitted under the applicable bond documents and the Authority's investments guidelines, if any, and the Authority Administrator may make such investments in consultation with the Authority's investment advisors, if any. If such proceeds are subject to yield restriction, the Authority Administrator shall cause such proceeds to be invested at or below the applicable yield restriction in such investments as shall be permitted under the applicable bond documents and the Authority's investments guidelines, if any, and the Authority Administrator may make such investments in consultation with the Authority's investment advisors, if any, or if such investments cannot be obtained at fair market value (because investment yields are then in excess of the applicable bond yield), the Authority shall invest such proceeds in tax exempt obligations that are not subject to the alternative minimum tax.
3. The Authority Administrator shall cause such investments to be acquired at fair market value under applicable safe harbors for the determination of fair market value and for adequate records to be maintained to support such fair market value determinations.

D. Private Business Use

1. The Authority Administrator shall create and maintain spreadsheets for each bond financed project showing date and type of expenditure, vendor name and date the asset was placed in service. The Authority Administrator will track the use of such facility by anyone other than the Authority. Back up documentation (either hard copy or in electronic form (if compliant with Rev. Proc. 97-22)) for each receipt or expenditure shall be retained as more fully described below.
2. The Authority Administrator shall review the applicable tax certificates for each issue and acquaint himself or herself with the Authority's expectations with respect to the bonds as expressed therein to ensure that any use of the facility is consistent with such expectations.
3. Prior to the Authority's execution of any agreement (i) for the rental by the Authority of bond financed property (such as the rental of space to a third party

on a communications tower), (ii) for the management of, or the provision of services with respect to, any function at a bond financed facility (such as food services), or (iii) that conveys rights to a third party that are different from the rights granted to members of the general public, the Authority Administrator shall first determine whether such arrangement constitutes a private business use. If such use constitutes private business use, the Authority Administrator will determine how much private business use already exists and whether the proposed private business use will be within the permitted limitation. The Authority Board, in consultation with the Authority Administrator, bond counsel and Authority solicitor, shall in their discretion approve or disapprove of the arrangement. The Authority Board shall only approve of such arrangement if the Authority is compliant with private business use limitations with respect to the applicable bonds after giving effect to the proposed arrangement or the Authority Administrator has determined that remedial actions can be taken, or another remedy exists, that will permit the applicable bonds to remain compliant with the private business use limitation.

E. Rebate

1. The Authority shall engage a rebate consultant and cause such consultant to undertake a rebate analysis and the preparation of a written report at least every 5 years that a bond issue is outstanding and upon the refunding in full of such bond issue, if no rebate exception has been determined for the applicable issue of bonds. Such rebate consultant shall determine whether any issue of bonds has qualified for an exception from rebate, and if not, whether any rebate liability is owed to the U.S. Treasury. If any liability is determined, the Authority shall cause such liability to be paid to the U.S. Treasury promptly and no later than 60 days after the applicable 5th year anniversary or after the refunding of such series of bonds. Such payment to be accompanied by the appropriate and required forms to be filed with the Internal Revenue Service.

IV. Documentation

- A. At least annually, at a regularly scheduled budget meeting, the Authority Administrator shall report to the Board regarding the Authority's compliance with the various limitations and restrictions applicable to tax exempt financing. The Authority Administrator shall periodically consult bond counsel with respect to reviewing results and data generated from its information gathering and compliance monitoring procedures as a further check on the integrity of its post issuance compliance program outlined above.
- B. The Authority Administrator shall maintain all expenditure and fixed asset records noted herein. The Authority Administrator shall maintain the remaining records noted herein. The Authority Administrator and CFO will have all records organized and kept in accordance with this Policy and procedures available to him or her at all times. The Authority shall keep all such records for a period not shorter than 6 calendar years after

the year in which the applicable bond issue matures, or if such issue is refunded, 6 calendar years after the refunding bond issue matures.

V. Professional Advisors

- A. The Authority Board, Authority Administrator and Authority Solicitor may consult with bond counsel, the Authority financial advisor or other professional expert in tax-exempt finance to provide advice and guidance with the interpretation of IRS and SEC rules and regulations as necessary to assist the Authority with compliance with these policies and procedures.

VI. Budgeting

- A. The Authority Board shall budget the sum necessary to effectuate the policy and procedures established hereby.

VII. Corrective Actions

- A. The goal of this tracking and monitoring is to ensure that all tax exempt bonds remain qualified in compliance with the applicable tax requirements. Such monitoring also ensures that any actual or potential violations of federal tax requirements can be timely identified and, in consultation with counsel, corrected by the taking or remedial action or engaging the Internal Revenue Service (“IRS”) under the voluntary closing agreement program.

VIII. Training

- A. The Authority Administrator shall at least bi-annually review materials posted by the Internal Revenue Service with respect to tax exempt bonds and post issuance compliance at www.irs.gov.