

COUNCIL BILL NO. 1796

INTRODUCED BY: RANDY E. SCHMIDT

ORDINANCE NO. 1704

AN ORDINANCE

AN ORDINANCE OF THE CITY OF DUBOIS AUTHORIZING THE INCREASING OF THE NONELECTORAL INDEBTEDNESS OF THE CITY BY THE DELIVERY OF A GUARANTEED REVENUE NOTE IN A TOTAL AMOUNT OF UP TO \$1,484,050.00 AT ANY TIME OUTSTANDING FOR THE PURPOSE OF FINANCING THE REPLACEMENT OF SEWER LINES ON SOUTH THIRD STREET, SOUTH JARED STREET, AND NORTH AND SOUTH MAIN STREET IN THE CITY OF DUBOIS; CONFIRMING THE APPLICATION FOR LOAN ACCEPTED BY THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY FOR THE TERMS AND CONDITIONS OF SAID NOTE; FIXING THE FORM, INTEREST RATE, PAYMENT DATES AND MATURITY DATES FOR SAID NOTE; PLEDGING THE REPAYMENT OF SAID NOTE; AUTHORIZING THE EXECUTION AND DELIVERY THEREOF; APPROVING THE CONSULTING ENGINEER'S COST ESTIMATE AND REPORT; AUTHORIZING THE FILING FOR APPROVAL OF SAID DEBT WITH THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, AND AUTHORIZING THE PAYMENT OF THE REQUIRED FILING FEE THEREFOR.

WHEREAS, it is necessary that the nonelectoral indebtedness of the City of DuBois, Clearfield County, Pennsylvania, be authorized to be increased in the total amount of up to \$1,484,050.00 through the issuance of a Guaranteed Revenue Note of the City of DuBois in the principal amount of up to \$1,484,050.00 for the purpose of financing the replacement of sewer lines on South Third Street, South Jared Street, and North and South Main Streets in the City of DuBois, pursuant to and in accordance with final plans and specifications and reports prepared by the City's Consulting Engineers, Gannett Fleming, Inc., of Clearfield, Pennsylvania and Nussbaumer & Clarke, Inc., of Buffalo, New York, and the paying of the costs and expenses incurred in preparing and executing the Note which is to be used to evidence said nonelectoral indebtedness; and

WHEREAS, the City of DuBois has received preliminary realistic cost estimates indicating the sum of \$1,484,050.00 will be needed to complete the project; and

WHEREAS, in order to render said Note effective as to the City as "excluded self-liquidating nonelectoral debt", it will be necessary, pursuant to Sections 8006 and 8026 of the Local Government Unit Debt Act, for the City Council to approve and adopt the Consulting Engineer's cost estimate as set forth in Appendix "B" attached hereto and the Consulting Engineers' Report submitted herewith.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of DuBois, and it is hereby ordained and enacted by authority of the same as follows:

SECTION 1. The City Council hereby ratifies, reconfirms and accepts the term and conditions of its loan application accepted by the Pennsylvania Infrastructure Investment Authority (PENNVEST) for the loan to the City of up to \$1,484,050.00 with interest not to exceed 1.252% per annum for the first five years and interest payable at the rate of 2.416% per annum for the remaining 15 years of the loan term with payments of interest and principal payable on the schedule set forth by the said Pennsylvania Infrastructure Investment Authority, a copy of which is attached hereto and made a part hereof as Appendix "A".

In compliance with Section 8161 of the Local Government Unit Debt Act of December 19, 1996, as amended by the Act of May 5, 1998, the members of the City Council have determined that applying for a loan from PENNVEST is in the best interests of the local government unit. Therefore, the Guaranteed Revenue Note in the sum of \$1,484,050.00 herein authorized to be issued at private sale is hereby awarded and sold to PENNVEST in accordance with its acceptance of the City's loan application and the terms and conditions imposed by it to purchase the said Note at par, provided the said Note is dated the date of delivery thereof to

PENNVEST and is in the form set forth in Section 5 of this Ordinance; and further provided that the proceedings have been approved by the Department of Community and Economic Development if such approval is required under the provisions of the Act.

In accordance with the aforesaid bid and subject to the approval of the authorizing proceedings by the Pennsylvania Department of Community and Economic Development, the Mayor and President of City Council or the City Manager is hereby directed to deliver said Note when fully executed to PENNVEST.

SECTION 2. The excluded self-liquidating nonelectoral indebtedness of the City of DuBois be, and the same hereby is, initially authorized to be increased from time to time by an amount not to exceed at any time outstanding the sum of up to \$1,484,050.00. Said nonelectoral debt has been established as self-liquidating and, therefore, excludable in accordance with Section 8026 of the Local Government Unit Debt Act pursuant to the Consulting Engineers' Report approved hereunder.

SECTION 3. The total debt of up to ONE MILLION FOUR HUNDRED EIGHTY-FOUR THOUSAND FIFTY DOLLARS (\$1,484,050.00), of excluded, self-liquidating nonelectoral debt of the City of DuBois shall be evidenced by a Note in the total principal amount of up to, but not exceeding \$1,484,050.00 in favor of the Pennsylvania Infrastructure Investment Authority as set forth in the aforementioned loan application acceptance from PENNVEST.

The principal and interest on said NOTE shall be payable at the offices of the Pennsylvania Infrastructure Investment Authority in Harrisburg, Pennsylvania.

SECTION 4. All of said Note, or any portion of the principal amount thereof, may be prepaid at any time. Any such prepayments may be made by the City without premium or penalty.

SECTION 5. The form of said Note to be issued from time to time hereunder shall be substantially as follows:

* * * * *

CITY OF DUBOIS

CLEARFIELD COUNTY, PENNSYLVANIA

Promissory Note

\$1,484,050.00
Pennsylvania

DuBois,

FOR VALUE RECEIVED, the CITY OF DUBOIS, a local government unit and body corporate and politic of the Commonwealth of Pennsylvania, hereby promises to pay to the Pennsylvania Infrastructure Investment Authority, Harrisburg, Pennsylvania, in lawful money of the United States of America, the principal sum of ONE MILLION FOUR HUNDRED EIGHTY-FOUR THOUSAND FIFTY DOLLARS (\$1,484,050.00) ON _____, together with interest to be paid from the date hereof on the unpaid balance of said principal sum at the rate of interest per annum (computed on the basis of a year of 365 days) equal to a fixed rate of 1.252% for the first five years of said Note and at a rate of 2.416% per annum for the remaining 15 years of the loan term.

It is hereby certified that all acts, conditions, and things required to be done or to happen, and be performed precedent to or at the issuance of this Note or in the creation of the debt of which it is evidence, have been done, or have happened, and have been performed in regular and due form and manner as required by law, and that this Note, together with all other indebtedness of the City is not in excess of any conditional or statutory limitation.

No recourse shall be had for the payment of principal or interest on this Note against any Council member, officer, agent, attorney or employee, past, present or future of the City, or of

any successor, as such, either directly or indirectly or through the City, it being understood and agreed that this Note is solely a corporate obligation of the City

This Note evidencing a borrowing authorized by an Ordinance or Resolution of the City Council of the City of DuBois duly and properly adopted on _____, 2006.

IN WITNESS WHEREOF, the CITY OF DUBOIS has caused this Note to be properly executed by the Mayor and President of City Council and the City Controller of the City and its corporate seal to be hereto affixed and attested to by the City Manager as of the _____ day of _____, 2006.

CITY OF DUBOIS

By *John S. Spleen*
Mayor and President of Council

By *Diane Bernardo*
City Controller

ATTEST:

Frances L. Lias
City Secretary

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SECTION 6. It is hereby authorized and directed that said Note shall be executed on behalf of the City by the Mayor and President of City Council and by the City Controller, and there shall be affixed thereto the City seal which shall be attested by the City Manager, and said Note shall thereafter be valid and obligatory for all purposes, and shall be entitled to all benefits conferred thereon under the provisions of this Note Ordinance. The Mayor and President of City Council or the City Manager is hereby authorized and directed to deliver said Note to the Pennsylvania Infrastructure Investment Authority.

SECTION 7. The City covenants with the holder of said Note, in compliance with Section 8104 of the Local Government Unit Debt Act, that it will budget and duly and punctually pay said principal and interest on said Note at the times and place and in the manner stated in said Note according to the true intent and meaning thereof, and for such budgeting, appropriation and payment, the City pledges its full faith and credit, revenues and taxing power. This covenant shall be specifically enforceable.

SECTION 8. The City covenants that it will continue diligently to completion with the replacement of sewer lines owned by the City of DuBois, as promptly as practicable, all in accordance with the Plans and Specifications and Reports of the City's Consulting Engineers.

The City further covenants to levy and assess upon all persons and property subject to taxation for City purposes, an annual tax in each of the fiscal years that said Note shall remain outstanding, of so many mills as will yield amounts which, together with all other available general revenues of the City, including, specifically, those of the City's sewer system, shall be applied exclusively to said debt service charges on said Note as the same shall, from time to time, become due and payable. The collection of said tax, if any is necessary, shall commence with the fiscal year 2006.

SECTION 9. The required net moneys realized from the sewer rates and other charges, after payment of operating costs of the Sewer System, from taxes imposed hereunder (if any) and all other general revenue moneys of the City otherwise usable and required, and any required capitalized interest moneys from the Construction Account, shall be payable to the Pennsylvania Infrastructure Investment Authority at the times due in accordance with the attached schedule.

SECTION 10. The City Council herewith directs that the necessary documentation be filed with the Pennsylvania Department of Community and Economic Development so that the debt incurred hereunder may be approved as nonelectoral debt of the City with up to \$1,484,050.00 thereof being exercised as to the City as self-liquidating nonelectoral debt on the basis that the net sewer service charges for services furnished by the City's Sewer System, together with any sewer service payments guaranteed by any municipality or sewer authority serviced by the City of DuBois, will be sufficient to pay the total principal and interest on the Note that is anticipated to retire the Note. On this basis, it is hereby declared that the net nonelectoral debt (not excluded) of the City to be incurred hereunder, as represented by the Notes and subsequently the Note shall be \$0.00 and the self-liquidating nonelectoral debt (excluded) of the City to be incurred hereunder shall initially be up to \$1,484,050.00, which together with all presently existing net debt of the City will not be in excess of the constitutional limitations as set forth in the Local Government Unit Debt Act. The Mayor and President of City Council, the City Controller, and the City Manager are hereby further directed to prepare, execute and verify under oath a "Debt Statement" of the City in order to obtain approval for the Note, and to submit the same, together with an executed "Application for Approval" and executed "Debt Statement" and executed "Borrowing Base Certificate" and executed "Self-Liquidating Debt Exclusion Certificate" for the Note and the necessary filing fee to the Pennsylvania Department of Community and Economic Development pursuant to the Local Government Unit Debt Act as promptly as practicable. Upon approval by the Pennsylvania Department of Community and Economic Development, the "Certificate of Approval" and the "Self-Liquidating Debt Exclusion Certificate" shall be promptly filed with the Records of the City in accordance with the Local Government Unit Debt Act. The City Council also hereby approves and adopts the Consulting Engineers' cost estimate as set forth in Appendix "B" attached hereto and the Consulting Engineers' Report submitted herewith. Said officers are also hereby further authorized and directed to perform all other acts and do all other things necessary to obtain said approvals and perfect such exclusion.

SECTION 11. All moneys derived from the proceeds of the loan and evidenced by the Note, including the payment of interest on the Note and repayment of principal as provided herein, shall be deposited in a sinking fund to be established in accordance with the provisions of the Local Government Unit Debt Act and the S&T Bank, DuBois Branch, shall be the sinking fund depository required to be appointed under said Act. The proper and appropriate officers of the City are hereby authorized and directed to contract for the services of the S&T Bank, DuBois Branch, as a sinking fund depository and to perform all actions necessary to comply with the requirements for the establishment of a sinking fund and the appointment of a sinking fund depository under the provisions of the Local Government Unit Debt Act.

SECTION 12. The City Council hereby further authorizes and directs that the City shall continue and complete its replacement of sewer lines owned by the City of DuBois, pursuant to and in accordance with the Plans and Specifications and reports previously provided by Gannett Fleming, Inc., of Clearfield, Pennsylvania, and Nussbaumer & Clarke, Inc., of Buffalo, New York, Consulting Engineers for the City on this project, with said debt being secured as provided hereunder and with said project to have an estimated useful life in excess of twenty (20) years.

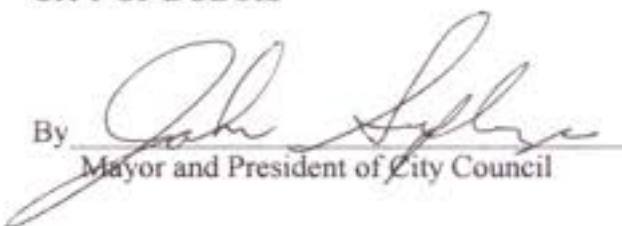
SECTION 13. The proper and appropriate officers of the City are also hereby authorized and directed to perform any and all other acts necessary and proper to be done as required by the Local Government Unit Debt Act, in connection herewith.

SECTION 14. All other ordinances or resolutions or parts of ordinances or resolutions not in accordance with this Note Ordinance are hereby repealed insofar as they affect this Note Ordinance.

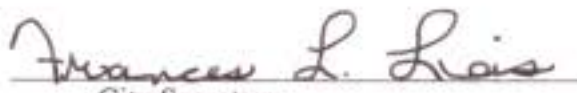
SECTION 15. This Note Ordinance shall take effect five (5) days after the second and final advertisement of its adoption.

ORDAINED AND ENACTED into law by the City Council of the City of DuBois in lawful session assembled this 12th day of June, 2006.

CITY OF DUBOIS

By 
Mayor and President of City Council

ATTEST:


City Secretary


City Solicitor