

COUNCIL BILL NO. 1833

ORDINANCE NO. 1740

Introduced by: Gary D. Gilbert

Of

CITY COUNCIL, CITY OF DUBOIS

Clearfield County, Pennsylvania

GENERAL OBLIGATION BONDS, SERIES OF 2009

WHEREAS, the City Council of DuBois (the "Council") of Clearfield County, Pennsylvania ("the City") has determined to issue its principal in an amount not to exceed \$8,000,000 General Obligation Bonds, Series of 2009 (the "2009 Bonds" or the "Bonds"); and

WHEREAS, the Council deems it advisable to issue the 2009 Bonds pursuant to the Pennsylvania Local Government Unit Debt Act, 53 Pa. Cons. Stat. §8001 *et seq.*, as amended (the "Act"), for the purpose of: (1) funding various capital projects of the City; (2) paying capitalized interest; and (3) paying the costs and expenses of issuance of the 2009 Bonds (collectively, the "Project"); and

WHEREAS, it is necessary that the indebtedness of the City be increased for the purpose of funding the Project; and

WHEREAS, the City has obtained estimate(s) of the cost(s), and has determined the useful life, of the Project by any one or more of the following methods: taking bids, obtaining an option for a fixed price contract or obtaining estimates from persons qualified by experience; and

WHEREAS, the City has received a Bond Purchase proposal from Boenning & Scattergood, Inc. (the "Underwriter"), pursuant to a Bond Purchase Agreement dated January 26, 2009, for the purchase of the Bonds (the "Bond Purchase Agreement"), attached hereto as Exhibit; and

WHEREAS, the City desires to formally approve the Project and to authorize the incurrence of nonelectoral debt under the Act, and the execution and delivery of the Bond Purchase Agreement.

NOW, THEREFORE, it is hereby enacted that:

Section 1 -- Authorization

1.01. Council hereby authorizes the incurrence, and the increase of its nonelectoral indebtedness in a principal amount not to exceed \$8,000,000 set forth above, to be evidenced by the General Obligation Bonds, Series of 2009, in substantially the form attached hereto as Exhibit, in order to pay the costs of the Project. The 2009 Bonds will be dated the date of their delivery, will bear interest at the rate and will be payable (or will be subject to redemption or will mature) on the dates shown on the Amortization Schedule set forth on Exhibit A attached hereto.

1.02. The City hereby approves the Project to be undertaken collectively consisting of providing funds for (1) various City capital projects, including designing, acquiring, constructing and equipping the improvements to the City reservoir and water system and (2) paying capitalized interest on the Bonds and paying the costs of issuing the Bonds.

1.03. It is hereby determined and declared that the estimated useful lives of the capital projects to be financed with a portion of the proceeds of the Bonds are at least 30 years.

It is hereby certified that an aggregate principal amount of the Bonds at least equal to the realistic estimated cost of each such capital project shall mature prior to the end of the useful life of such project.

1.04. Stated installments or maturities of principal of the Bonds will not be deferred beyond the later of one year after the estimated date for the completion of the construction portion of the Project, if any, or two years from the date of issuance of the Bonds.

1.05. The Council hereby finds and determines that the realistic cost estimates have been obtained for the costs of the Project from City officials, registered architects, professional engineers or other persons qualified by experience to provide such estimates.

1.06. The Mayor and President of City Council and the City Controller or their duly elected and acting successors (the "Designated Officers") are hereby authorized and directed to execute and deliver such documents, and to do and perform all acts necessary and proper for the issuance and further security of the Bonds, including its execution sealing and delivery for negotiation. The Bonds shall be executed in the name and under the corporate seal of the City by the Designated Officers in substantially the form attached hereto as Exhibit together with such changes, modifications, insertions and deletions as the Designated Officers, with the advise of counsel, deem necessary and appropriate, their execution and delivery thereof shall be conclusive evidence of the approval and authorization by the City of the final terms of the Bonds.

Section 2 --Preparation of Debt Statement.

2.01. The Designated Officers are hereby authorized and directed to prepare and certify a debt statement required by § 8110 of the Act and its accompanying Borrowing Base Certificate.

Section 3 – Security and Payment of Bonds.

3.01. The Bonds shall be a general, full faith and credit, unlimited tax obligation of the City. The City hereby covenants with the holders and with subsequent holders, from time to time, of the Bonds that it will (a) include the amount of the debt service for each fiscal year in which any installment of principal or interest is payable in its budget for that year, (b) appropriate such amounts to the payment such debt service and (c) duly and punctually pay or cause to be paid the principal of and interest on the Bonds on the dates at the place and in the manner stated therein according to the true intent and meaning thereof, for such budgeting, appropriation and payment, the City hereby pledges its full faith, credit and taxing power. Payment of the Bonds will be insured to the holders, from time to time, of the Bonds by the bond insurance policy hereby authorized to be purchased from Financial Security Assurance Inc. upon the issuance and delivery of the Bonds.

3.02. The Bank of New York Mellon Trust Company, N.A. (Bank), is hereby designated as the Sinking Fund Depository for the obligation herein and the City does hereby create, and orders to be established a sinking fund, to be known as the "City of DuBois, Pennsylvania, Sinking Fund- General Obligation Bonds, Series of 2009", for the payment of the Bonds, and does further covenant to maintain such Sinking Fund with a bank, in accordance with the Act, until the Bonds are paid in full. The Designated Officers are hereby authorized and directed to contract with the Bank for its services as Sinking Fund Depository for the Bonds and Paying Agent for the same.

Section 4--Tax Covenants.

4.01. The City hereby covenants that no part of the proceeds of the Bonds will be used, at any time, directly or indirectly, in a manner which, if such use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the

“Code”) and the Regulations thereunder applicable to the Bonds and that it will comply with the requirements of that Section and the Regulations throughout the term of the Bonds.

4.02. The City will file IRS Form 8038-G and any other forms or information required by the Code or the Regulations to be filed with the Internal Revenue Service in order to further ensure the exclusion of the interest on the Bonds from gross income tax for federal income tax purposes.

Section 5- Approvals and Appointments

5.01. If necessary, the City hereby approves the execution of one or more investment agreements, the purchase of certain U.S. Treasury obligations or any other securities or investments (the “Investments”) for investment of the proceeds of the Bonds in connection with the Project. The City hereby authorizes and directs the Designated Officers to execute any investment agreement on behalf of the City, in the form approved by the Solicitor and Bond Counsel of the City. The Investments shall be limited to those authorized under law for proceeds of the Bonds.

5.02. The actions of the proper officers and the advertising of a summary of this Ordinance as required by law in a newspaper of general circulation in the City is ratified and confirmed. The advertisement of enactment in said newspaper is hereby directed within fifteen (15) days following the day of final enactment.

5.03. The City hereby appoints and engages Pepper Hamilton LLP, Pittsburgh, Pennsylvania, to act as Bond Counsel to the City in connection with the purposes of and to facilitate the intent of this Ordinance.

5.04. The Designated Officers are hereby authorized to execute and deliver such other documents and to take such other action as may be necessary or proper to effect the completion of the financing or the intent and purposes of this Ordinance.

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

Section 6 -- Award

6.01. Having determined that a private sale by negotiation of the Bonds is in the best financial interest of the City, the Council hereby awards and sells the Bonds to Boenning & Scattergood, Inc. in accordance with the terms of the Bond Purchase Agreement which, as presented at this meeting, is hereby accepted and shall be executed by the Designated Officers.

Section 7--Bond Ordinance a Contract

7.01. This Ordinance shall be deemed to be a contract with the holders, from time to time, of the Bonds.

This Ordinance shall become effective on the earliest date permitted by the Act.

DULY RESOLVED AND ENACTED ON 1/26/09

CITY OF DUBOIS, PENNSYLVANIA

By:

John S. [Signature]

By:

By:

(SEAL)

Attest:

Francis L. Lois
CITY SECRETARY

[Faint signatures and text at the bottom of the page]