

COUNCIL BILL NO. 1840**INTRODUCED BY: Randy E. Schmidt****ORDINANCE NO. 1746****AN ORDINANCE**

AN ORDINANCE OF THE CITY OF DUBOIS AUTHORIZING THE INCREASING OF THE NONELECTORAL INDEBTEDNESS OF THE CITY BY THE DELIVERY BY THE CITY OF A GENERAL OBLIGATION NOTE IN A TOTAL AMOUNT OF UP TO \$ 814,000.00 AT ANY TIME OUTSTANDING FOR THE PURPOSE OF FINANCING THE DEMOLITION OF THE WEBER AVENUE BRIDGE OVER PENTZ RUN AND THE RECONSTRUCTION OF THOSE TWO BRIDGES; CONFIRMING THE APPLICATION FOR LOAN ACCEPTED BY THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, FOR THE TERMS AND CONDITIONS OF SAID NOTE; APPROVING THE DEPARTMENT'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 \$ 814,000.00 through the issuance of a General Obligation Note of the City of DuBois in the principal amount of up to \$ 814,000.00 for the purpose of financing the demolition of the Weber Avenue bridge and the Washington Avenue bridge over Pentz Run in the City of DuBois and the construction of two new bridges at the same locations over Pentz Run in the City of DuBois, pursuant to and in accordance with final plans and specifications and reports prepared by the Commonwealth of Pennsylvania, Department of Transportation, and the paying of the costs and expenses incurred in preparing and executing the Note which is to be issued to evidence said nonelectoral indebtedness; and

WHEREAS, the City of DuBois has received preliminary realistic cost estimates indicating the sum of \$ 814,000.00 will be needed to complete the project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the City of DuBois debt incurring power, pursuant to constitutional and statutory authority to be exceeded;

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 terms and conditions of the acceptance of its loan application by the Commonwealth of Pennsylvania, Department of Transportation, for the loan to the City of up to \$ 814,000.00 with interest not to exceed 1.625% per annum for ten (10) years with payments of interest and principal in one hundred twenty (120) consecutive monthly installments in accordance with a payment schedule to be provided by the Department of Transportation. The payment schedule may be modified to reflect the date of actual loan disbursement.

In compliance with Section 8161 of Act 177 of 1996, as amended, the members of the City Council have determined that applying for a loan from the Commonwealth of Pennsylvania, Department of Transportation, is in the best interests of the local government unit. Therefore, the general obligation Note in the amount of \$ 814,000.00 herein authorized to be issued and sold is hereby awarded and sold to the Commonwealth of Pennsylvania, Department of Transportation, 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 the Commonwealth of Pennsylvania, Department of Transportation, 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.

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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 Secretary is hereby directed to deliver said Note when fully executed to the Commonwealth of Pennsylvania, Department of Transportation.

SECTION 2. The 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 \$814,000.00.

SECTION 3. The total debt of up to EIGHT HUNDRED FOURTEEN THOUSAND DOLLARS (\$814,000.00), of nonelectoral debt of the City of DuBois shall be evidenced by a Note in the total principal amount of up to, but not exceeding \$814,000.00 in favor of the Commonwealth of Pennsylvania, Department of Transportation, as set forth in the aforementioned loan application acceptance from the Commonwealth of Pennsylvania, Department of Transportation.

The principal and interest on said Note shall be payable at the offices of the Commonwealth of Pennsylvania, Department of Transportation, 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

\$814,000.00 DuBois, Pennsylvania

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 Commonwealth of Pennsylvania, Department of Transportation, Harrisburg, Pennsylvania, in lawful money of the United States of America, the principal sum of EIGHT HUNDRED FOURTEEN THOUSAND DOLLARS (\$814,000.00), together with interest on the unpaid principal balance at the rate of 1.625% per annum in one hundred twenty (120) consecutive monthly payments in accordance with a payment schedule provided to the City by the Department of Transportation based on the date of the actual loan disbursement with the first payment due and payable beginning on or before one month from loan disbursement.

It is hereby certified that all acts, conditions, and things required to be or be done, happen, and be performed precedent or and in the issuance of this Note or in the creation of the debt of which it is evidence, have been done, happened, and been performed in regular and due form and manner as required by law; and that is 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 June 23, 2009.

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 Secretary as of the _____ day of _____, 2009.

ATTEST:

Frances L. Lias
City Secretary

CITY OF DUBOIS
By [Signature]
Mayor and President of Council

By [Signature]
City Controller

* * * * *

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 Secretary, 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 Secretary is hereby authorized and directed to deliver said Note to the Commonwealth of Pennsylvania, Department of Transportation.

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 and taxing power. This covenant shall be specifically enforceable.

SECTION 8. The City covenants that it will continue diligently to completion with the demolition of the bridge on Weber Avenue and the bridge on Washington Avenue over Pentz Run and the reconstruction of both bridges as promptly as practicable, all in accordance with the Plans and Specifications and Reports of the Commonwealth of Pennsylvania, Department of Transportation.

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, 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 of 2010.

The payment of the principal and interest on said Note will be guaranteed by the City and the City will declare that said Note shall be a general obligation of the City, for the prompt and full payment of all or any part of which, the full faith and credit and taxing power of the City will be irrevocably pledged. This covenant shall be specifically enforceable and the City understands and intends that its pledges above-stated of its full taxing power will be unlimited as to rate or amount.

SECTION 9. The required net moneys realized 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 Commonwealth of Pennsylvania, Department of Transportation, 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. 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 \$814,000.00 and the

self-liquidating non-electoral debt (excluded) of the City to be incurred hereunder shall initially be up to \$0.00, 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 Secretary 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" 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 practicable. Upon approval by the Pennsylvania Department of Community and Economic Development, the "Certificate of Approval" shall be promptly filed with the Records of the City in accordance with the Local Government Unit Debt Act. Said officers are also hereby further authorized and directed to perform all other acts and do all other things necessary to obtain said approvals.

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 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 the demolition of the two bridges, one being on Weber Avenue and the other being on Washington Avenue, over Pentz Run and the construction of two new bridges at the same locations, pursuant to and in accordance with the Plans and Specifications and Reports previously provided by the Commonwealth of Pennsylvania, Department of Transportation with said debt being secured as provided hereunder and with said project to have an estimated useful life in excess of forty (40) 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 the 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 22nd of June, 2009.

ATTEST:

Francis L. Lisc
City Secretary

CITY OF DUBOIS:

By [Signature]
Mayor and President of City Council

APPROVED:

City Solicitor