

COUNCIL BILL NO. 1861 AMENDED
INTRODUCED BY: RANDY SCHMIDT
ORDINANCE NO. 1764

Of

CITY COUNCIL, CITY OF DUBOIS

Clearfield County, Pennsylvania

GENERAL OBLIGATION BONDS, SERIES OF 2011

WHEREAS, the City Council of DuBois (the "Council") of Clearfield County, Pennsylvania (the "City") has determined to issue its General Obligation Bonds, Series of 2011 (the "2011 Bonds" or the "Bonds") in a principal amount of \$3,440,000; and

WHEREAS, the Council deems it advisable to issue the 2011 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) refunding two outstanding bank loans of the City; (2) funding various capital projects of the City; and (3) paying the costs and expenses of issuance of the 2011 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 24, 2011, for the purchase of the Bonds (the "Bond Purchase Agreement"), attached hereto as Exhibit A; 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 of non-electoral indebtedness in a principal amount not to exceed \$5,250,000 set forth above, to be evidenced by the General Obligation Bonds, Series of 2011, in substantially the form attached hereto as Exhibit B, in order to pay the costs of the Project. The 2011 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 C attached hereto.

1.02. The City hereby approves the Project to be undertaken collectively consisting of (1) refunding two outstanding bank loans of the City; (2) funding various capital projects of the City; and (3) paying the costs and expenses of issuance of the 2011 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 and 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 B together with such changes, modifications, insertions and deletions as the Designated Officers, with the advice 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 of 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 a bond insurance policy hereby authorized to be purchased 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 2011", 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.

4.03. The City hereby agrees to designate on the face of the Bonds that each of the Bonds is a "qualified tax-exempt obligation", as that term is defined in Section 265(b)(3)(B) of the Code. Once designated, the City hereby covenants that it will take such steps as may be

necessary to cause the Bonds to continue to be obligations described in Section 265(b)(3)(B) of the Code.

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 JANUARY 24, 2011.

CITY OF DUBOIS, PENNSYLVANIA

By: Gay D. Gilbert

(SEAL)

Attest:

John Spitzer CITY MANAGER

Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Paying Agent or its agent for registration of transfer, exchange or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No.

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UNITED STATES OF AMERICA
COMMONWEALTH OF PENNSYLVANIA
CITY OF DUBOIS
GENERAL OBLIGATION BOND, SERIES OF 2011

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>SERIES ISSUANCE DATE</u>	<u>CUSIP</u>
%	June 15, 20	February __, 2011	

REGISTERED OWNER: CEDE & CO

PRINCIPAL AMOUNT _____ DOLLARS

City of DuBois, Clearfield County, Pennsylvania (the "City"), existing by and under the laws of the Commonwealth of Pennsylvania, for value received, hereby acknowledges itself indebted and promises to pay to the registered owner named above on the maturity date specified above, unless this bond shall have been previously called for redemption in whole or in part and payment of the redemption price shall have been duly made or provided for, the principal amount shown above; and to pay interest thereon at the annual rate specified above (computed on the basis of a 360-day year of twelve 30-day months) from the most recent Regular Interest Payment Date (as hereinafter defined) next preceding the authentication date hereof, unless the authentication date is (a) a Regular Interest Payment Date, in which event this bond shall bear interest from said Regular Interest Payment Date, or (b) after a Regular Record Date and before the next succeeding Regular Interest Payment Date, in which event this bond shall bear interest from such succeeding Regular Interest Payment Date, or (c) on or prior to the Regular Record Date preceding June 15, 2011, in which event this bond shall bear interest from the Series Issuance Date specified above. Such payments of interest shall be made on June 15, 2011, and on each December 15 and June 15 thereafter (each, a "Regular Interest Payment Date") until the principal or redemption price hereof has been paid or provided for as aforesaid. The principal or redemption price of, and interest on, this bond may be paid in any coin or

currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

The principal or redemption price of this bond is payable upon presentation and surrender hereof at the office of Bank of New York Mellon, N.A., in Pittsburgh, Pennsylvania or at the designated office of any additional or appointed alternate or successor paying agent or agents (the "Paying Agent"). Interest shall be paid by check mailed to the registered owner hereof, as shown on the registration books kept by the Paying Agent as of the close of business on the applicable Regular or Special Record Date (each as hereinafter defined).

The record date for any Regular Interest Payment Date (each, a "Regular Record Date") shall be on the last day (whether or not a business day) of the calendar month immediately preceding each Regular Interest Payment Date. In the event of a default in the payment of interest becoming due on any Regular Interest Payment Date, the interest so becoming due shall forthwith cease to be payable to the registered owners otherwise entitled thereto as of such date. Whenever moneys become available for the payment of such overdue interest, the Paying Agent shall on behalf of the City establish a special interest payment date (the "Special Interest Payment Date") on which such overdue interest shall be paid and a special record date (which shall be a business day) relating thereto (the "Special Record Date"), and shall mail a notice of each such date to the registered owners of all Bonds (as hereinafter defined) at least ten (10) days prior to the Special Record Date, but not more than thirty (30) days prior to the Special Interest Payment Date. The Special Record Date shall be at least ten (10) days but not more than fifteen (15) days prior to the Special Interest Payment Date.

If the date for payment of the principal or redemption price of, and interest on, this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the Commonwealth of Pennsylvania or in each of the cities in which the corporate trust or payment office of the Paying Agent are located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

So long as The Depository Trust Company ("DTC") or its nominee, CEDE & Co., is registered owner hereof, all payments of principal and premium, if any, and interest on, this bond shall be payable in the manner and at the respective times of payment provided for in the Representation Letter (the "Representation Letter") defined in, and incorporated into, the Resolution referred to herein.

The principal or redemption price of, and interest on, this bond are payable without deduction for any tax or taxes, except inheritance and estate taxes or any other taxes now or hereafter levied, or assessed hereon under any present or future laws of the Commonwealth of Pennsylvania, all of which taxes, except as above provided, the City assumes and agrees to pay.

This bond is one of a duly authorized issue of \$ _____ aggregate principal amount of general obligation bonds of the City known as "City of DuBois General Obligation Bonds, Series of 2011" (herein called the "Series of 2011 Bonds" or "Bonds" or "bonds"), all of like tenor, except as to interest rate, date of maturity and provisions for redemption. The Bonds

are issuable only in the form of fully registered bonds without coupons in the denomination of \$5,000 or integral multiples thereof and are issued in accordance with the provisions of the Pennsylvania Local Government Unit Debt Act, 53 Pa. Cons. Stat. §8001 *et seq.*, as amended (the "Act") and by virtue of a resolution of the City duly adopted (the "Resolution"), and the sworn statement of the duly authorized officers of the City as appears on record in the office of the Pennsylvania Department of Community and Economic Development, Harrisburg, Pennsylvania.

It is covenanted with the registered owners from time to time of this bond that the City shall (i) include the amount of the debt service for each fiscal year in which the sums are payable in its budget for that year, (ii) appropriate those amounts from its general revenues for the payment of the debt service, and (iii) duly and punctually pay or cause to be paid from its sinking fund or any other of its revenues or funds the principal or redemption price of, and the interest on, this bond at the dates and places and in the manner stated in this bond, according to the true intent and meaning thereof. For such budgeting, appropriation and payment, the City pledges its full faith, credit and taxing power. As provided in the Act, this covenant shall be specifically enforceable; subject, however, as to the enforceability of remedies to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally. Nothing in this paragraph shall be construed to give the City any taxing power not granted by another provision of law.

STATEMENT OF INSURANCE

[To be completed]

OPTIONAL REDEMPTION

The Bonds stated to mature on or after _____ are subject to redemption prior to maturity at the option of the City, in whole or in part on any date on and after _____, upon not less than 30 days notice, to be given in the manner required by the Resolution, at 100% of principal, together with accrued interest to the redemption date.

MANDATORY REDEMPTION

The Bonds maturing on _____ are subject to mandatory redemption by the City in part, by lot, at a redemption price of 100% of the principal amount thereof plus accrued interest to the date fixed for redemption, on _____ in the years and in amounts set forth below:

[To be completed]

Any redemption of this bond under the preceding paragraph(s) shall be made as provided in the Resolution, upon not less than thirty (30) days' notice, by mailing a copy of the redemption notice by first-class United States mail, postage prepaid, or by another method of giving notice which is acceptable to the Paying Agent and customarily used by fiduciaries for

similar notices at the time such notice is given, to each registered owner of the Bonds to be redeemed. Such notice shall be mailed to the address of such registered owner appearing on the registration books of the Paying Agent, unless such notice is waived by the registered owner of the Bonds to be redeemed; *provided, however*, that failure to give notice of redemption by mailing or any defect in the notice as mailed or in the mailings thereof to the registered owner of any Bond to be redeemed shall not affect the validity of the redemption as to other Bonds for which proper notice shall have been given or waived. In the event that less than the full principal amount hereof shall have been called for redemption, the registered owner hereof shall surrender this bond in exchange for one or more new Bonds in an aggregate principal amount equal to the unredeemed portion of the principal amount hereof. The Paying Agent shall also give further notice of such redemption as provided in the Resolution, but no failure to do so or defect therein shall affect the validity of the redemption.

So long as DTC or its nominee, CEDE & Co., is registered owner hereof, if all or fewer than all Bonds of a maturity are to be redeemed, the Paying Agent shall notify DTC within the time periods required by the Representation Letter. If fewer than all Bonds of a maturity are to be redeemed, DTC shall determine by lot the principal of the maturity of the Bonds to be redeemed of each DTC Participant's interest in such maturity to be redeemed.

If at the time of the mailing of any notice of optional redemption the City shall not have deposited with the Paying Agent moneys sufficient to redeem all the Bonds called for redemption, such notice shall state that it is conditional, that is, subject to the deposit or transfer of the redemption moneys with the Paying Agent not later than the opening of business on the redemption date, and that such notice shall be of no effect unless such moneys are so deposited.

The City has established a sinking fund with the Paying Agent, as the sinking fund depository, into which funds for the payment of the principal or redemption price of, and the interest on, the Bonds shall be deposited not later than the date fixed for disbursement thereof. The City has covenanted in the Resolution to make payments out of such sinking fund or out of any other of its revenues or funds, at such times and in such annual amounts, as shall be sufficient for prompt and full payment of the principal or redemption price of, and interest on, this bond.

The City, pursuant to recommendations promulgated by the Committee on Uniform Security Identification Procedures (CUSIP), has caused CUSIP numbers to be printed on the Bonds. No representation is made as to the accuracy of said numbers either as printed on the Bonds or as contained in any notice of redemption, and the City shall have no liability of any sort with respect thereto. Reliance upon any redemption notices with respect to the Bonds may be placed only on the identification numbers printed hereon.

No recourse shall be had for the payment of the principal or redemption price of, or interest on, this bond, or for any claim based hereon or on the Resolution, against any member, officer or employee, past, present, or future, of the City or of any successor body, either directly or through the City or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, and all such liability of such members, officers or employees is released as a condition of and as consideration for the execution and issuance of this bond.

This bond is registered as to both principal and interest on the bond register to be kept for that purpose at the corporate trust and/or payment office of the Paying Agent, and both principal and interest shall be payable only to the registered owner hereof. This bond may be transferred in accordance with the provisions of the Resolution, and no transfer hereof shall be valid unless made at said office by the registered owner in person or his duly appointed attorney or other legal representative and noted hereon. The Paying Agent is not required to transfer or exchange any Bond during the fifteen (15) days immediately preceding the date of mailing of any notice of redemption or at any time following the mailing of any such notice, if the Bond to be transferred or exchanged has been called for such redemption. The City and the Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest hereon and for all other purposes, whether or not this bond shall be overdue. The City and the Paying Agent shall not be affected by any notice to the contrary.

This bond has been designated by the County as a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended.

THE TERMS AND PROVISIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF AND SUCH CONTINUED TERMS AND PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH IN THIS PLACE.

This bond shall not be valid or become obligatory for any purpose until the Paying Agent's Authentication Certificate printed hereon is duly executed.

IN WITNESS WHEREOF, City of DuBois has caused this bond to be signed in its name by the manual or facsimile signature of the Mayor and its corporate seal or a facsimile thereof to be affixed, imprinted, lithographed or reproduced hereon and attested by the manual or facsimile of its Secretary or Assistant Secretary, all as of the Series Issuance Date.

CITY OF DUBOIS

By: _____ (Facsimile)
Mayor

[SEAL]

Attest:

(Facsimile)
Secretary

[FORM OF PAYING AGENT'S AUTHENTICATION CERTIFICATE]

This bond is one of the Bonds described therein. Attached hereto is the complete text of the opinion of Pepper Hamilton LLP, Bond Counsel, dated the date of the initial delivery of, and payment for, the Bonds, a signed copy of which is on file with the undersigned.

BANK OF NEW YORK MELLON, N.A.
PAYING AGENT

By _____
Authorized Signer

AUTHENTICATION DATE:

EXHIBIT B-1

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though the terms which they represent were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with the right of survivorship and not as tenants in common

UNIFORM GIFT MIN ACT Custodian
 (Cust) (Minor)
 under Uniform Gifts to Minors
 Act
 (State)

Additional abbreviations may also be used though not in the above list.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers
unto

(Please type or print name, address (including postal zip code) and social security or other tax

identification number of the transferee)

the within Bond and all rights thereunder, hereby irrevocably appointing
_____ his/her attorney to transfer said Bond on the bond
register with full power of substitution in the premises.

Dated:

Signature Guaranteed: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon
the face of the within Bond in every particular, without alteration or enlargement or any change
whatever.

FORM OF BOND COUNSEL OPINION

EXHIBIT C-