

## COUNCIL BILL NO. 1905

INTRODUCED BY: Edward Walsh

## ORDINANCE NO. 1807

AN ORDINANCE OF THE  
CITY OF DUBOIS  
(CLEARFIELD COUNTY, PENNSYLVANIA)  
ENACTED MARCH 23, 2015 AND NUMBERED 1807

**FORMAL ACTION CONSTITUTING A DEBT ORDINANCE  
UNDER THE LOCAL GOVERNMENT UNIT DEBT ACT**

AUTHORIZING THE INCURRING OF NONELECTORAL DEBT BY THE ISSUANCE OF A GENERAL OBLIGATION NOTE, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION FOUR HUNDRED THOUSAND DOLLARS (\$4,400,000.00); COVENANTING TO PAY, AND PLEDGING UNLIMITED TAXING POWER FOR THE PAYMENT OF, THE NOTE; ESTABLISHING A SINKING FUND AND APPOINTING A SINKING FUND DEPOSITORY; FIXING THE FORM, MAXIMUM INTEREST RATES, MATURITY, REDEMPTION AND OTHER PROVISIONS FOR THE PAYMENT THEREOF; ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE NOTE; AUTHORIZING A FILING OF REQUIRED DOCUMENTS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; RATIFYING AND DIRECTING CERTAIN ACTIONS OF OFFICERS; AND MAKING CERTAIN OTHER COVENANTS AND PROVISIONS IN RESPECT OF THE NOTE.

## Note Counsel:

Dinsmore & Shohl LLP  
One Oxford Centre, Suite 2800  
301 Grant Street  
Pittsburgh, PA 15219

## Solicitor:

Toni Cherry, Esq.  
Gleason Cherry & Cherry LLP  
1 North Franklin Street  
DuBois, PA 15801

First Reading:	March 9, 2015
Second Reading and enactment:	March 23, 2015

WHEREAS, the Members of Council (the "Governing Body") of the City of DuBois (the "Local Government Unit") deem it advisable to incur nonelectoral indebtedness, pursuant to the Local Government Unit Debt Act (the "Debt Act"), for: (a) the current refunding of the Local Government Unit's General Obligation Bonds, Series of 2011, (b) the acquisition of capital projects and improvements including, but not limited to, the Euclid Avenue Waterline Extension, a masonry block police garage and streetscape and road improvements, and (c) the payment of all costs and expenses incurred by the City in connection with the issuance and sale of the Note (collectively, the "Project"); and

WHEREAS, S&T Bank (the "Bank") has presented a written proposal (the "Purchase Contract"), attached hereto as **Exhibit PC**, to purchase the Note (defined hereinafter) to be issued by the Local Government Unit in order to achieve the financing of the Local Government Unit's Project; and

NOW, THEREFORE, it is hereby enacted that:

Section 1 – Definitions.

Unless the context clearly indicates otherwise, the following terms shall, for all purposes of this Ordinance, have the meanings hereby ascribed to them. Moreover, such terms, together with all other provisions of this Ordinance, shall be read and understood in a manner consistent with the provisions of the Debt Act, as generally interpreted by the Department of Community and Economic Development or by courts maintaining competent jurisdiction.

Words or phrases importing the masculine gender shall be read and understood to include the feminine and neuter genders and those importing number shall include singular or plural, both as appropriate to the context. The word "person," in addition to natural persons, shall mean and include corporations, associations and public bodies and their successors unless the context shall indicate otherwise.

"Dated Date" means the date of delivery of the Note, expected to be May 1, 2015, or such other date that may be determined and fixed by the Bank in the Purchase Contract relating to the Note, or mutually agreeable to the parties, upon which interest will begin to accrue on the Note.

"Department" has the meaning given to such term in Section 2 hereof.

"Designated Officers" has the meaning given to such term in Section 2 hereof.

"First Note Payment Date" means June 1, 2015, the date upon which interest on the Note is first payable, as may be further specified by the Bank in accordance with the Purchase Contract relating to the Note.

"Loan Agreement" means that agreement for the lending of credit under the Note, as such term is further defined in Section 2 hereof.

"Note" means the Local Government Unit's General Obligation Note, Series of 2015.

"Note Payment Date(s)" means, singularly or jointly, the first day of each month during the term thereof, as may be further specified by the Local Government Unit and the Bank in accordance with the Purchase Contract, commencing with the First Note Payment Date.

"Purchase Price" means, with respect to the Note, 100% of the principal amount of said Note together with accrued interest, if any, to the date(s) of delivery of said Note, adjusted for any fees, discounts or interest as may be specified in the Purchase Contract.

Section 2 – Authorization.

2.01. The Local Government Unit hereby authorizes the incurrence, and the increase, of nonelectoral indebtedness in the principal amount not to exceed \$4,400,000.00, to be evidenced by its General Obligation Note, Series of 2015 in substantially the form attached hereto as Exhibit A to the Loan Agreement (with such changes as the Designated Officers shall approve), in order to pay the costs of the Project. The Note will be dated the date of deliver and will be payable as described in the Loan Agreement; provided that the Note will bear interest according to the following schedule of interest rates, whether fixed, or variable by formula with maximums, for and during the respective periods during the term of the Note, payable on the Note Payment Dates, beginning on the First Note Payment Date, as follows:

- 1. The initial interest rate on the Note will be fixed at \_\_\_% from its Dated Date through and including April \_\_, 20\_\_.

2. Beginning May 1, 20\_\_, through and including April 30, 20\_\_, the interest rate on the Note will adjust to a new interest rate equal to \_\_\_\_\_, subject to a maximum rate of 6.00%. Once adjusted, Note will bear interest at the new adjusted interest rate for the full five year period until the next periodic adjustment.

3. Beginning May 1, 20\_\_, through and including final maturity, the interest rate on the Note will adjust to a new interest rate equal to \_\_\_\_\_, subject to a maximum rate of 6.00%. Once adjusted, Note will bear interest at the new adjusted interest rate until maturity.

Furthermore, the Note will be issued subject to, and its terms and conditions of payment and security further delineated by and under a loan agreement (the "Loan Agreement") substantially incorporating the terms and conditions of the Purchase Contract. The Loan Agreement, substantially in such form as the Designated Officers and the Local Government Unit's Solicitor shall approve, is attached hereto as **Exhibit LA**, upon at least five (5) business days prior written notice to the Bank, the Local Government Unit has the right to prepay all or part of the outstanding principal and interest of the Note, without penalty.

The Local Government Unit understands and recognizes that the Bank may, at its sole discretion, sell or transfer one or more participation interests in the Note to one or more financial institutions. So long as none of its obligations under the Loan Agreement or in respect of the Note are in any way enlarged or increased thereby, the Local Government Unit hereby consents to the sale or transfer by the Bank, at any time and from time to time, of one or more such participation interests in the Note to one or more such purchasers, and hereby further waives any requirement of notice of the same.

2.02. Reasonable estimates of the cost of the Project, which is not less than the principal amount of the indebtedness authorized hereby, together with the useful life of the capital assets financed and refinanced by the Bonds (being, on a weighted average, in excess of twenty five (25) years), have been obtained with the assistance of engineers, architects, financial advisors and other persons qualified by experience. Nothing contained herein shall prohibit the Governing Body, under proper enactment of an ordinance and compliance with all provisions of law, from amending, adding to, subtracting from, substituting for or otherwise altering the Project undertaken hereby.

2.03. The Mayor, City Manager and Secretary 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 Note, including its execution and sealing and delivery to the Purchaser. The Designated Officers are further authorized and directed to undertake and perform, or cause to be undertaken or performed, all the ordinary duties of the Local Government Unit (and the same are hereby specifically approved) which may be required to effectuate the Project.

2.04. The Designated Officers are hereby further authorized and directed to provide to the Purchaser a copy of the audited financial statements of the Local Government Unit while the Note is outstanding.

2.05. The Local Government Unit hereby covenants and agrees to comply with the conditions and/or requirements of the Purchaser set forth in the Purchase Contract within **Exhibit PC** attached hereto.

### Section 3 -- Preparation of Debt Statement.

3.01. As required by §8110 of the Debt Act, the Designated Officers of the Local Government Unit shall prepare, execute and acknowledge the Debt Statement, and its accompanying Borrowing Base Certificate and shall file such documents, along with a certified copy of this Ordinance and proofs of publication of required notices, with the Pennsylvania Department of Community and Economic Development (the "Department") to enable the Department to certify its approval to issue, sell and deliver the Note.

### Section 4 -- Security and Payment of the Note.

4.01. The Note shall be a general, full faith and credit obligation of the Local Government Unit. The Local Government Unit hereby covenants with the Purchaser and with subsequent holders, from time to time, of the Note 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 Note 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 of the Note, the Local Government Unit hereby irrevocably pledges its full faith, credit and taxing power. The maximum amounts of debt service payable in respect of the Note are set forth in **Exhibit MDS**.

4.02. The Local Government Unit does hereby create, and orders to be established (in its name and identified by reference to the Note), a Sinking Fund for the payment of the Note with the Bank, which is a bank lawfully conducting business in the Commonwealth of Pennsylvania, and does further covenant to maintain such Sinking Fund, in accordance with the Local Government Unit Debt Act, until the Note is paid in full. Any Designated Officer is hereby authorized and directed to contract with the Bank for its services in such capacity, except as the same may be included in the Purchase Contract. The Bank shall undertake the duties of sinking fund depository, paying agent and registrar according to the provisions of the Act in compliance with current industry standards and practices.

Section 5 -- Tax Covenants.

The Local Government Unit hereby states its intention to comply with all the provisions of Sections 103 and 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended (the "Tax Code"); the Local Government Unit represents and covenants that it has undertaken and performed, and will undertake and perform, or, as appropriate, discontinue, upon the instruction of Note Counsel, all those acts necessary and proper to the maintenance of the exclusion from gross income of the interest on the Note to the registered owner(s) thereof conferred by those Sections, as interpreted by applicable regulations, rulings or other pronouncements of the Secretary of the United States Department of the Treasury.

The Local Government Unit covenants that the Note is not an issue: (1)(a) more than 10 percent of the proceeds of which are to be used for any private business use, and (b) the payment of the principal of, or the interest on, more than 10 percent of the proceeds, directly or indirectly, is (x) secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or (y) to be derived from payments in respect of property, or borrowed money, used or to be used for a private business use; nor (2) the proceeds of which, in an amount exceeding the lesser of five percent of such proceeds, or \$5,000,000, are to be used to make or finance loans to persons other than governmental units.

The Local Government Unit covenants that no portion of the proceeds of the Note is reasonably expected (at the time of issuance of the Note) to be used, nor will be so used, directly or indirectly, (1) to acquire higher yielding investments, or (2) to replace funds which were used directly or indirectly to acquire higher yielding investments. This prohibition does not apply to proceeds invested in higher yielding investments (a) for a reasonable temporary period until such proceeds are needed for the purpose of the Note, or (b) as a part of a reasonably required reserve or replacement fund. For these purposes, "higher yielding investment" means any investment property (generally, a security or debt obligation) that produces a yield over the term of the Note which is materially higher than the yield on the Note, but does not include any tax-exempt obligation.

The Local Government Unit covenants to pay and rebate its arbitrage profits (being an amount equal to the sum of (1) the excess of (a) the amount earned on all nonpurpose investments over (b) the amount which would have been earned if the nonpurpose investments were invested at a rate equal to the yield on the Note; plus (2) any income attributable to said excess [provided, further, that any gain or loss on the disposition of a nonpurpose investment will be taken into account] to the United States in accordance with the provisions of Section 148(f) of the Tax Code and regulations thereunder, but only as and to the extent that none of the following exceptions apply to the Local Government Unit).

Rebate to the United States as described above shall not be required of the Local Government Unit if, and in the event that any one of the following exceptions applies: (i) **SIX MONTH SAFE HARBOR** - the gross proceeds of the Note are expended for the Project by no later than the day which is six months after the date of issuance of the Note, or, the gross proceeds, except the lesser of five percent of the gross proceeds of the Note, or \$100,000, are so expended by said date and such remaining portion is expended by no later than the day which is one year after the date of issuance of the Note; (ii) **18-MONTH SPEND-DOWN** - the following cumulative percentages of the gross and investment proceeds of the Note are expended for the Project by no later than the day which is the indicated period of time following the date of issuance of the Note: 15% - six months; 60% - one year; 100% - eighteen months (except that not more than 5%, representing only reasonable retainage on the costs of the Project, may remain unexpended after eighteen months, but not in excess of thirty months); (iii) **TWO YEAR SPEND-DOWN (CONSTRUCTION ISSUES ONLY)** - the following cumulative percentages of available construction proceeds of the Note are expended for the Project by no later than the day which is the indicated respective period of time following the date of issuance of the Note: 10% - six months; 45% - one year; 75% - eighteen months; 100% - two years (except that not more than 5%, representing only reasonable retainage on the costs of the Project, may remain unexpended after two years, but not in excess of three years); or (iv) **SMALL ISSUER** - (a) 95 percent or more of the net sale proceeds (being gross proceeds minus amounts deposited into a reasonably required reserve fund) of the Note is to be used for local governmental activities of the Local Government Unit (or a subordinate entity), and (b) the aggregate face amount of all tax-exempt obligations other than private activity bonds, issued by the Local

Government Unit, and all subordinate entities thereof (but not including any obligations not outstanding or to be redeemed, as may be excluded under prevailing interpretations of the Tax Code and regulations thereunder), during the calendar year in which the Note are issued, is not reasonably expected to exceed \$5,000,000 (\$15,000,000, in the case of certain bonds for school construction purposes).

For these purposes, "gross proceeds" means any proceeds and replacement proceeds of the Note, "available construction proceeds" has the meaning used in §148(f)(4)(C)(vi) of the Tax Code, "sale proceeds" means all amounts actually or constructively received from the sale of the Note, except accrued interest on the Note deposited to the Sinking Fund, and "nonpurpose investment" means any investment property acquired with the gross proceeds of the Note and not required to carry out the governmental purpose of the Note.

The Local Government Unit agrees to prepare, or cause to be prepared, execute and submit to the Secretary IRS Form 8038-G (or 8038-GC, as applicable), in respect of the Note, according to all the requirements for information reporting contained in Section 149(e) of the Tax Code.

The Local Government Unit hereby designates (or "deem designates," as appropriate) the Note to be "qualified tax-exempt obligations" for the purposes of, and according to all the terms and conditions of, Section 265(b)(3) of the Tax Code. Having considered tax-exempt obligations previously issued, together with the Note, during the calendar year in which the Note is issued, the Local Government Unit represents and covenants that the reasonably anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the Local Government Unit (together with all subordinate entities) during said calendar year does not exceed \$10,000,000. For these purposes, "tax-exemption obligations" means any obligation the interest on which is wholly-exempt from taxes under the Tax Code

#### Section 6 -- Award.

After due consideration of sundry factors, including professional assistance and current market conditions, the Local Government Unit hereby: (1) determines that a private sale by negotiation of the Note is in the best financial interest of the Local Government Unit; and (2) authorizes the Designated Officers (or their appropriate successors acting by reason of absence or other incapacity), in their sole discretion, to award the sale of the Note (or a portion thereof) to the Purchaser, by means of the execution of and delivery to the Purchaser, the Purchase Contract. The execution and delivery of the Purchase Contract is hereby ratified and confirmed.

#### Section 7 -- Appointment of Professionals.

The Local Government Unit does hereby appoint Dinsmore & Shohl LLP as Note Counsel in connection with the issuance of the Note and the financing of the Project.

#### Section 8 -- Ordinance a Contract.

Upon the Local Government Unit's execution of the Purchase Contract, this Ordinance, together with the Loan Agreement relating thereto, if and when executed and delivered, shall be deemed to be a contract with the holders, from time to time, of the Note.

Duly enacted by the Governing Body of the Local Government Unit, in lawful session assembled, on March 23, 2015.

ATTEST:

  
John Supfizio - City Manager

CITY OF DUBOIS

  
Gary Gilbert - Mayor & President of Council

PASSED BY COUNCIL

03/23/15


APPROVED: 

EXHIBIT LA  
FORM OF LOAN AGREEMENT

LOAN AND SECURITY AGREEMENT

THIS LOAN AGREEMENT (this "Agreement"), dated this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the CITY OF DUBOIS, with its administrative offices located at 16 West Scribner Avenue, DuBois, PA 15801 (the "Local Government Unit"), and S&T BANK a bank duly organized and existing under the laws of the Commonwealth of Pennsylvania, with an address at 800 Philadelphia Street, Indiana, PA 15701 (the "Bank").

RECITALS:

The Local Government Unit is a "local government unit" duly organized and operating under the Constitution and the laws of the Commonwealth of Pennsylvania (the "Commonwealth").

The Local Government Unit is authorized by law, among other things, to borrow money and to make and issue negotiable notes and bonds, and to make such agreements in connection therewith as the Local Government Unit shall deem advisable.

The Local Government Unit has determined to undertake a Project consisting of (a) the current refunding of the Local Government Unit's General Obligation Bonds, Series of 2011, (b) the acquisition of capital projects and improvements including, but not limited to, the Euclid Avenue Waterline Extension, a masonry block police garage and streetscape and road improvements, and (c) the payment of all costs and expenses incurred by the City in connection with the issuance and sale of the Note (the "Project").

The Local Government Unit has determined to finance certain costs of the Project and has requested the Bank to make a loan to the Local Government Unit in order to enable it to borrow the sum of \$ \_\_\_\_\_ (the "Loan"), and the Bank is willing to make the Loan to the Local Government Unit upon the terms and conditions hereinafter set forth and in its commitment letter dated \_\_\_\_\_, 2015 (the "Proposal") which was accepted by the Local Government Unit by its officers and ratified pursuant to the authority of an authorizing ordinance enacted March 23, 2015 (the "Ordinance").

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the parties hereto, each intending to be legally bound hereby, covenant and agree as follows:

Section 1. Definitions.

(a) In this Agreement (except as otherwise expressly provided for or unless the context otherwise requires), the following terms have the meanings specified in the foregoing recitals:

Agreement	Local Government Unit
Bank	Ordinance
Commonwealth	Project
Loan	Proposal

(b) In addition, the following terms shall have the following meanings, unless the context otherwise requires:

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

7493193

"Event of Default" means an event specified in Section 10 hereof.

"Interest Payment Date" has the meaning given to such term in Section 2 hereof.

"Maturity Date" has the meaning given to such term in Section 3 hereof.

"Note" means the Local Government Unit's General Obligation Note, Series of 2015.

"Note Registrar" has the meaning given to such term in Section 5 hereof.

"Taxable Rate" has the meaning given to such term in Section 2 hereof.

"Tax-Exempt Rate" has the meaning given to such term in Section 2 hereof.

All terms defined in this Agreement shall bear those same meanings when used in the Note, certificates, reports or other documents made or delivered pursuant to this Agreement, unless the context otherwise requires.

(c) This Agreement, the Note, the Ordinance and all other agreements and documents executed and/or delivered pursuant hereto, as each may be amended, modified, extended or renewed from time to time, are collectively referred to as the "Loan Documents." Capitalized terms not defined herein shall have the meanings ascribed to them in the Loan Documents.

(d) In this Agreement, unless otherwise indicated, (i) defined terms may be used in the singular or the plural and the use of any gender includes all genders, (ii) the words "hereof", "herein", "hereunder" and words of similar import refer to this entire Agreement, and (iii) all references to particular Sections are references to the Sections of this Agreement.

## Section 2. Loan; Note; Interest.

(a) Subject to the terms and conditions and relying upon the representations and warranties herein set forth, the Bank agrees to make the Loan to the Local Government Unit on the date hereof. To evidence the Loan, the Local Government Unit shall issue and deliver the Note to the Bank.

(b) The Loan shall be in the sum of \$\_\_\_\_\_.

(c) The Principal Amount outstanding under the Note will bear interest at the Tax Exempt Rate (hereinafter defined). Interest shall be payable in arrears monthly on the 8th calendar day of each month (each, an "Interest Payment Date"), commencing on \_\_\_\_\_, 2015. All interest shall be calculated on a year of 365/360 day basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. For purposes of the Note, the term "Tax Exempt Rate" shall mean: (i) for the period from the date of the Note through \_\_\_\_\_, a fixed rate of \_\_\_\_\_% per annum; and (ii) for the period commencing \_\_\_\_\_, until all amounts are due under the Note are paid in full the 30-Day LIBOR Rate plus 175 basis points up to a maximum of 6.00% per annum. The term "LIBOR Rate" shall mean the London Interbank Offered Rate of interest for an interest period of one (1) month, which appears on Bloomberg page BBAM under the column heading "USD" on the LIBOR Interest Period Rate Adjustment Date. The term "LIBOR Interest Period" shall mean (i) initially, \_\_\_\_\_ and ending on \_\_\_\_\_, ("Change Date") and (ii) thereafter, each one (1) month period ending on the day of such month that numerically corresponds to the Change Date. The term "LIBOR Interest Period Rate Adjustment

7493193

Date" shall mean two (2) days prior to the beginning of each Change Date; provided that if such LIBOR Interest Period Rate Adjustment Date is not a Business Day, the LIBOR Interest Period Rate Adjustment Date shall mean the Business Day immediately preceding such LIBOR Interest Period Rate Adjustment Date. The term "Business Day" means any day which is neither a Saturday or Sunday nor a legal holiday on which commercial banks are authorized to be closed in Indiana, Pennsylvania; and the term "S&T Prime Rate" shall mean the rate publicly announced by S&T Bank, from time to time as its Prime Rate. The S&T Prime Rate is not tied to any external rate or index and does not necessarily reflect the lowest rate of interest charged by S&T Bank, to any particular class or category of customers.

The Note is issued by the Local Government Unit in favor of the Registered Owner on the assumption that interest paid hereon is excludable from the gross income of the Registered Owner for Federal income tax purposes. If interest on the Note shall be declared by the Internal Revenue Service or an agent thereof to be, or shall otherwise be determined or required to be includable in the income of the Registered Owner for purposes of the Code, the indebtedness evidenced hereby shall thereafter bear interest at an annual rate (the "Taxable Rate") which shall be the sum of the S&T Prime Rate plus one percentage point (1%) (not to exceed six percent (6.00%)), such Taxable Rate to change automatically as of the dates of changes in the S&T Prime Rate without notice to the Local Government Unit, and the payments set forth herein shall be increased accordingly; the Local Government Unit will pay to the Registered Owner on demand the difference between the amount of interest which the Registered Owner would have received in interest at the Taxable Rate if the indebtedness evidenced by the Note had borne interest at the Taxable Rate during the entire period that interest on the Note is so declared, determined or required to be taxable, together with such penalties and interest, if any, due and payable because of non-payment of Federal income taxation less interest paid at the Tax-Exempt Rate above notwithstanding that the indebtedness evidenced by the Note may have been paid in full prior to such declaration or determination. In the event of any such declaration or determination, the Registered Owner shall promptly give written notice of the same to the Local Government Unit who shall have the privilege of contesting such declaration or determination in the name of the Registered Owner hereof by any available administrative or judicial proceedings, provided that it does so at its own expense and pays all costs, interest and/or penalties resulting therefrom. In the event that such declaration or determination is reversed pursuant to the entry of a final determination, order, ruling or decree, all amounts theretofore paid to the Registered Owner in excess of the Tax-Exempt Rate shall be promptly refunded to the Local Government Unit and the rate of interest shall revert to the Tax-Exempt Rate.

If the Local Government Unit fails to make any payment of principal, interest or other amount coming due pursuant to the provisions of the Note within fifteen (15) calendar days of the date due and payable, the Local Government Unit also shall pay to the Registered Owner a late charge equal to the lesser of five percent (5%) of the amount of such payment or \$20.00 (the "Late Charge"). Such fifteen-day period shall not be construed in any way to extend the due date of any such payment. Upon maturity, whether by acceleration, demand or otherwise, and at the Registered Owner's option upon the occurrence of any Event of Default (as defined in the Loan Agreement) and during the continuance thereof, the Note shall bear interest at a rate per annum (calculated on a year of 365/360 day basis) which shall be equal to three percentage points (3%) in excess of the interest rate in effect from time to time under the Note but not more than the maximum rate allowed by law (the "Default Rate"). The Default Rate shall continue to apply whether or not judgment shall be entered on the Note. Both the Late Charge and the Default Rate are imposed as liquidated damages for the purposes of defraying the Registered Owner's expenses incident to the handling of delinquent payments, but are in addition to, and not in lieu of, the Registered Owner's exercise of any rights and remedies hereunder, under the Loan Agreement described below or under applicable law, and any fees and expenses of any agents or attorneys which the Registered Owner may employ. In addition, the Default Rate reflects the increased credit risk to the Registered Owner of carrying a loan that is in default. The Local Government Unit agrees that the Late Charge and Default Rate are reasonable forecasts of just compensation for anticipated and actual harm incurred by the Registered Owner, and that the actual harm incurred by the Registered Owner cannot be estimated with certainty and without difficulty.

7493193



Section 3. Payments

Payments on the Loan will be made in accordance with the Debt Service Schedule attached hereto and incorporated by reference, together with interest thereon at the above-stated rate. All outstanding principal and accrued interest shall be due and payable in full on \_\_\_\_\_, \_\_\_\_\_ (the "Maturity Date"). The Principal Amount outstanding under the Note will bear interest as provided in Section 2(c) hereof.

Section 4. Prepayment

Upon at least five (5) business days prior written notice to the Bank, the Local Government Unit has the right to prepay all or part of the outstanding principal and interest of the Note, without penalty.

Section 5. Note Registration

(a) Pursuant to the Ordinance, the Local Government Unit has appointed the Bank as the Paying Agent, Sinking Fund Depository and registrar for the Note (the "Registrar") and as such the Bank shall keep books for the registration of the Note. The Local Government Unit hereby confirms and ratifies said appointment. The principal of and interest on the Note shall be payable only to the registered owner or his attorney or legal representative.

(b) The transfer of the Note may be registered only upon the books kept for the registration and transfer of the Note upon surrender thereof to the Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative and shall be in such form as shall be satisfactory to the Registrar.

(c) The person in whose name a Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on said Note shall be made only to the registered owner thereof or his registered assigns. All such payments shall be valid and effectual to satisfy and discharge the liability upon said Note, including the interest thereof, to the extent of the sum or sums so paid. Neither the Local Government Unit, the Bank, nor the Registrar shall be affected by any notice to the contrary.

Section 6. Security

The Note is secured by the Local Government Unit's irrevocable pledge of its full faith, credit and taxing power. Pursuant to the Ordinance, the Local Government Unit has covenanted to the Bank that the Local Government Unit shall include the amount of the debt service, for each fiscal year of the Local Government Unit in which such sums are payable under the Note, in its budget for that fiscal year, shall appropriate such amounts to the Note and the applicable interest thereon on the dates and at the place and in the manner stated in the Note, according to the true intent and meaning thereof. As provided in the Local Government Unit Debt Act, as amended (53 Pa.C.S.A. § 8001 *et seq.*, the "Debt Act"), the foregoing covenant of the Local Government Unit is specifically enforceable. The Local Government Unit further covenanted and agreed in the Ordinance to undertake, perform and pursue all acts, applications, appeals, procedures and petitions, including the filing and pursuit of legal actions and remedies within appropriate administrative and judicial forums, necessary to permit and enable the Local Government Unit to budget and collect revenues adequate to fulfill the foregoing covenant.

This Agreement, the Note, the Ordinance and all other agreements and documents executed and/or delivered pursuant hereto, as each may be amended, modified, extended or renewed from time to time, are collectively referred to as the "Loan Documents." Capitalized terms not defined herein shall have the meanings ascribed to them in the Loan Documents.

7493193

At any time when payments are required to be made by the Local Government Unit hereunder, to the extent sufficient money shall not be available in the Local Government Unit's then current budget, and if the Local Government Unit shall be unable to incur, lawfully, debt in the current fiscal year for the purpose of paying such debt service or to issue revenue anticipation notes or to otherwise satisfy its obligations hereunder, the Local Government Unit shall, to the extent permitted by law, include any amounts so payable in its budget for the next succeeding fiscal year and shall appropriate any such amounts to the payment of such obligations and duly and punctually shall pay or cause to be paid the obligations incurred hereunder in the manner herein stated according to the true intent and meaning hereof, and for such budgeting, or appropriation and payment the Local Government Unit does pledge its full faith, credit and taxing power. As provided in the Debt Act, this covenant shall be enforceable specifically against the Local Government Unit.

The obligations of the Local Government Unit hereunder shall not be affected by any bankruptcy, arrangement of creditors, reorganization or similar proceedings of the Local Government Unit; and, to the extent applicable, the Local Government Unit specifically waives any right or benefit, which could accrue to it by reason of any such proceeding and agrees that the same shall not affect the liability of the Local Government Unit hereunder.

Section 7. **Representations and Warranties.**

The Local Government Unit represents and warrants to the Bank that:

(a) The Local Government Unit is a city duly organized and validly existing under the laws of the Commonwealth and constituting a Local Government Unit, as defined in the Debt Act. The Local Government Unit possesses all requisite power and authority under laws of the Commonwealth to enter into and to perform all the covenants and agreements set forth in this Agreement, to issue the Note and to undertake the Project. The Local Government Unit is duly authorized to execute and deliver the Loan Documents, all necessary action to authorize the execution and delivery of the Loan Documents has been properly taken, and the Local Government Unit is and will continue to be duly authorized to borrow under this Agreement and to perform all of the other terms and provisions of the Loan Documents.

(b) The Local Government Unit has full power and authority to enter into the transactions provided for in this Agreement and has been duly authorized to do so by appropriate action of the City Council or otherwise as may be required by law, charter, other organizational documents or agreement, and this Agreement and the Note, when executed and delivered by the Local Government Unit, will constitute the legal, valid and binding obligations of the Local Government Unit enforceable in accordance with their terms.

(c) There is no litigation pending in any court against the Local Government Unit, nor to the knowledge of the undersigned is there any threatened, in any court or other tribunal of competent jurisdiction, State or Federal, against the Local Government Unit, in any way: (a) affecting the existence of the Local Government Unit or the titles of its officers to their respective offices; (b) seeking to prohibit, restrain or enjoin the issuance, sale or delivery of the Note or the collection of taxes of the Local Government Unit pledged to pay the Note; (c) contesting the power or authority of the Local Government Unit to issue, sell and deliver the Note, to adopt the Ordinance, to execute and deliver this Agreement and any other Loan Documents, or to perform any official act in connection with any of the foregoing instruments; or (d) questioning or affecting the validity of the Note, the Ordinance, this Agreement, or any other Loan Documents, or the proceedings of the Local Government Unit relating to the issuance, sale or delivery of the Note.

(d) Neither this Agreement, the Note, the Loan Documents, nor any certificate or other document furnished to the Bank in connection herewith contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary in order to make the statements contained in this

7493193

Agreement or the Note not misleading. There is no fact known to the Local Government Unit which materially adversely affects or, so far as the Local Government Unit can now foresee, might materially adversely affect the business, assets, operations, financial condition or results of operation of the Local Government Unit and which has not otherwise been fully set forth in this Agreement.

**Section 8. Conditions of Lending.**

The obligation of the Bank to make the Loan is subject to the accuracy of all representations and warranties herein contained, to the performance by the Local Government Unit of its agreements to be performed hereunder, and to the satisfaction of the following further conditions:

(a) The Local Government Unit shall be in compliance with all terms and conditions set forth herein, and no Event of Default and no conditions, lapse of time, or both, which would constitute an Event of Default, shall have occurred and be continuing or shall exist;

(b) Concurrently with the execution and delivery of this Agreement and the Note, the Local Government Unit shall have also furnished to the Bank (i) certified copies of the Ordinance and the approval of the Department of Community and Economic Development for the issuance of said Note, (ii) evidence of the authority of each person who has signed this Agreement, the Note and certificates on behalf of the Local Government Unit, (iii) an opinion of the Local Government Unit's solicitor, in form and substance satisfactory to the Bank, as to all matters incident to the transactions herein contemplated which the Bank may reasonably request, (iv) an opinion of Note Counsel, in form and substance satisfactory to the Bank, as to all matters incident to the transactions herein contemplated which the Bank may reasonably request; and (v) a certificate of the appropriate officers of the Local Government Unit, in a form and substance satisfactory to the Bank; and

(c) The execution and delivery of this Agreement, the Note and all other legal details and proceedings in connection with the transactions contemplated by this Agreement shall be in form and substance satisfactory to the Bank, and the Bank shall have received all such counterparts, originals or certified or other copies of such documents or proceedings in connection with such transactions, in form and substance as to certification and otherwise, satisfactory to the Bank, as the Bank may reasonably request;

(d) The Local Government Unit shall have established a deposit account with Bank;

(e) The payment of all costs and expenses, including but not limited to, legal fees and costs, appraisal fees, environmental audit fees, recording fees and title fees incurred by Bank in connection with the transactions contemplated herein and the commitment fee and documentation fee in accordance with the Proposal; and

(f) Receipt of all necessary approvals of the Local Government Unit.

**Section 9. Covenants of the Local Government Unit.**

The Local Government Unit covenants that, from the date of execution of this Agreement until the Loan has been fully paid, it will:

(a) At all times comply with the laws of the Commonwealth of Pennsylvania applicable to the Local Government Unit;

(b) Promptly notify the Bank of any condition or event which constitutes an Event of Default or which, with the lapse of time or giving of notice would become such an Event of Default, and, if such a

condition or event has been so disclosed, specifying the nature and extent thereof and the corrective measures which the Local Government Unit proposes to take in relation thereto;

(c) Furnish (i) the Local Government Unit's annual audited financial statements to the Bank prepared by a certified public accountant not unacceptable to Bank in accordance with generally accepted accounting principles consistently applied within 18 months after the end of each fiscal year; (ii) the Local Government Unit's quarterly internally prepared financial statements in a form and substance acceptable to Lender in accordance with generally accepted accounting principles consistently applied within 30 days after the end of each fiscal quarter; and (iii) and at any time and from time to time such other or additional information regarding the business and affairs or financial condition of the Local Government Unit as the Bank may request, in form and content satisfactory to the Bank;

(d) Maintain books and records in accordance with Generally Accepted Accounting Principles and permit any officers or qualified employees or representatives of the Bank designated by it to visit and inspect the Local Government Unit's books and discuss the affairs, finances and accounts of the Local Government Unit, all at such times and as often as the Bank may reasonably request; and

(e) Permit any officers or qualified employees or representatives of the Bank designated by it to visit and inspect the Local Government Unit's books and discuss the affairs, finances and accounts of the Local Government Unit, all at such times and as often as the Bank may reasonably request;

(f) The Local Government Unit will pay all reasonable legal fees incurred by Bank in connection with the preparation of this Agreement and the other related loan documents (including any amendments hereto or thereto or consents or waivers hereunder or thereunder), all fees, charges or taxes for the recording or filing of any instruments or documents pursuant to this Agreement and the other related loan documents. The Local Government Unit will also pay all reasonable out-of-pocket expenses of Bank in connection with the administration of this Agreement and the other related loan documents. The Local Government Unit will, upon request, promptly reimburse the Bank for all amounts expended, advanced or incurred by Bank to satisfy any obligation of the Local Government Unit under this Agreement or any other related loan documents, or to collect the Note, or to enforce the rights of Bank under this Agreement or any other related loan documents, which amounts will include all court costs, attorneys' fees (including without limitation for trial, appeal, bankruptcy proceeding of whatsoever nature or kind or other proceedings), fees of auditors and accountants, and investigation expenses reasonably incurred by Bank in connection with any such matters, together with the interest at the rate of interest as specified in the Note on each such amount from the date of written demand or request by Bank for reimbursement until the date of reimbursement to Bank.

#### Section 10. Events of Default.

The occurrence of any of the following events shall be deemed an Event of Default:

(a) Default in the payment of principal or interest on any Note for a period in excess of fifteen (15) days or any other default under the terms of said Note; or

(b) Default in the performance of any covenant or agreement set forth in this Agreement or in any Note or the occurrence of a default under any other agreement between the Local Government Unit and the Bank; or

(c) Any representation or warranty made by the Local Government Unit is untrue or incomplete in any material respect or any schedule, statement, report, warranty, representation, notice or writing furnished by the Local Government Unit pursuant to this Agreement is untrue or incomplete in any material respect on the date as of which the facts set forth are stated or certified.

7476800v1

Upon the occurrence of any of the foregoing Events of Default, no further advances will be permitted and the Bank will be entitled to increase the interest rate on the Note to the Default Rate in accordance with the Note or will be entitled by written or telegraphic notice to the Local Government Unit to declare the Note and interest, if any, accrued thereon and all liabilities of the Local Government Unit hereunder and thereunder to be forthwith due and payable, and the same shall thereupon become due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived.

**Section II Miscellaneous.**

(a) No delay or failure of the Bank in exercising any right, power or privilege hereunder or under law shall affect the right, power or privilege, nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof. Any waiver, permit, consent or approval of any kind or character on the part of the Bank or any breach or default under this Agreement or any waiver of any provision or condition of this Agreement must be in writing and shall be effective only to the extent in such writing specifically set forth. Nothing in this Agreement shall be deemed any waiver or prohibition of Bank's right of banker's lien or setoff.

(b) All representations, warranties, covenants and agreements of the Local Government Unit contained herein or made in writing in connection herewith shall survive execution and delivery of this Agreement, the making of the Loan and issuance of the Note to the Bank, except as herein otherwise expressly provided.

(c) Any notices required or permitted to be given pursuant hereto, or in connection therewith, shall be deemed to have been fully given when addressed and mailed, postage prepaid, as follows:

If to the Bank:	S&T Bank P.O. Box 247 Dubois, PA 15801-0247 Attention: Daniel M. Baronick Vice President
-----------------	--

If to the Local Government Unit:	City of DuBois 16 West Scribner Avenue DuBois, PA 15801 Attention: City Manager
----------------------------------	--

(d) This Agreement may be executed in as many counterparts as may be deemed necessary and convenient, each of which shall be regarded for all purposes as an original, but such counterparts shall constitute but one and the same instrument.

(e) This Agreement constitutes the entire contract between the Bank and the Local Government Unit and supersedes all prior communications, oral and written, as well as all contemporaneous oral communications between the parties.

(f) If any part or provision of this Agreement is found or declared to be invalid or in contravention of any governing law or regulation, such part or provision shall be severable without affecting the validity of any other part or provision of this Agreement.

7493192

(g) This Agreement shall be binding upon and inure to the benefit of the Bank, the Local Government Unit and their respective successors and assigns, except the Local Government Unit may not voluntarily transfer or assign its rights hereunder.

(h) This Agreement shall be deemed to be a contract made under the laws of the Commonwealth of Pennsylvania, and shall be governed by and construed in accordance with the laws thereof.

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed this Agreement as of the day and year first above written.

[SEAL]

CITY OF DUBOIS

\_\_\_\_\_  
Gary Gilbert – Mayor & President of Council

Attest:

\_\_\_\_\_  
John Suplizio – City Manager

S&T BANK

By \_\_\_\_\_  
Daniel M. Baronick, Vice President

EXHIBIT MDS

MAXIMUM DEBT SERVICE SCHEDULE

See General Obligation Note Series 2015 File for Amortization Schedule

EXHIBIT PC  
PURCHASE CONTRACT



800 Philadelphia Street  
P.O. Box 190  
Indiana, PA 15701  
800.325.2265  
stbank.com

February 17, 2015

City of DuBois  
PO Box 408  
18 W. Scribner Ave.  
DuBois, PA 15801

Dear Herrn:

I am pleased to inform you that S&T Bank (hereinafter the "Bank") has approved your financing request for the City of DuBois (hereinafter the "Borrower") in an amount not to exceed \$4,400,000.00. This offer is subject to the terms and conditions in the documents signed by the parties to evidence the loan transaction and includes, but is not limited to, the following terms and conditions:

<b>Borrower:</b>	<b>City of DuBois</b>
<b>Amount:</b>	Not to exceed \$4,400,000.00 (Term Loan)
<b>Purpose:</b>	To refinance General Obligation Bond, Series 2011 (\$3,090,000) and additional money for City improvement projects. (\$1,310,000).
<b>Rate:</b>	a.) Tax Free Equivalent of 30-Day LIBOR + 1.75% 1.26% (tax-free) / 1.91% (taxable) with a maximum tax free rate of 6% b.) Fixed for 7 years at the Tax Free Equivalent of 175 basis points over the 7-year FHLB weekly average fixed rate. Rate to reset to the tax-free equivalent of the 30-Day LIBOR + 175 basis points. Rate to be locked at the time of enactment of the authorizing ordinance. 2.79% (tax-free) / 4.29% (taxable) with a maximum tax free rate of 6% c.) Fixed for 10 years at the Tax Free Equivalent of 175 basis points over the 10-year FHLB weekly average fixed rate. Rate to reset to the tax-free equivalent of the 30-Day LIBOR + 175 basis points. Rate to be locked at the time of enactment of the authorizing ordinance. 3.16% (tax-free) / 4.84% (taxable) with a maximum tax free rate of 6%
<b>Origination Fee:</b>	5 basis points of total loan amount
<b>Documentation Fee:</b>	Per outside council
<b>Repayment:</b>	Principal and interest per month to be determined and adjusted accordingly.
<b>Maturity Date:</b>	Not to exceed 20 years
<b>Amortization:</b>	Not to exceed 20 years
<b>Prepayment Penalty:</b>	None
<b>Security:</b>	The note will be secured by a pledge of the full faith credit and taxing power of the City.
<b>Guarantors:</b>	None



City of DuBois  
 February 17, 2015  
 Page 2

- Per Funding Conditions:** 1.) Bank-qualified tax free requirements (legal opinion, IRS Form 8038G/GC, minutes approving borrowings).
- Post Funding Conditions:** 1.) Borrowing Ordinance  
 2.) Compliance with all filings required by the Local Governmental Unit Debt Act.  
 3.) Rate is based on the designation of the note as a Qualified Tax-Exempt obligation. If the note fails to meet this requirement, the interest rate on the loan will be adjusted to provide the Bank with a tax effective yield, as determined by the Bank.  
 4.) The Borrower will reimburse the Bank for all expenses in connection with the documentation, closing and collection of this loan.  
 5.) Borrower shall further provide any additional information that the Bank shall reasonably request.  
 6.) Contingent upon receipt of an executed commitment letter and appropriate loan documents as determined by the Bank.
- Financial Conditions:** 1.) Annual CPA Audited financial statement on the Borrower due 18 months after fiscal year end.  
 2.) Management prepared financial statement on the Borrower due quarterly / 30 days from period end.  
 3.) Annual Budget due 30 days after council approval.

The Borrower agrees to execute and deliver such instruments, documents, certificates, opinions, assurances, and actions as the Bank may request, to affect the purpose of the transaction described in this commitment letter. The Bank's obligation to make the loan shall be subject to receipt by the Bank of properly executed documents in form and substance satisfactory to the Bank and Bank's counsel. All proceedings, agreements, instruments, documents, and other matters relating to the making of the loan, and all other transactions herein contemplated, shall be satisfactory to the Bank and to Bank's counsel. While our mutual efforts will be directed toward the closing of this transaction, we may require that the transaction be restructured or otherwise modified.


This commitment is issued in reliance on, and the validity and binding effect of this commitment shall be subject to, the accuracy of all information, representations, schedules, and other materials or data submitted by the Borrower on the Borrower's financial standing and the financial standing of the principals of the Borrower as set forth in the financial statements and other information submitted by the Borrower to the Bank and in reliance on the Borrower's statements as to the value of the Collateral and its intended usage, all of which is deemed material. Any misrepresentation of a material fact, whether intentional or otherwise, made prior to issuance of this commitment or any change of any material fact (in the business, assets, operations, or conditions, financial or otherwise, of Borrower and/or any other party guarantying or pledging collateral on behalf of the Borrower) after the issuance hereof shall, at the Bank's sole option, render this commitment void without further notice to the Borrower. In such event, the Bank, at its sole option, may elect not to close the loan.

City of DuBois  
February 17, 2015  
Page 3

If the terms of this loan are satisfactory, please sign, date and return the enclosed copy of this letter, along with the previously stated commitment fee, in the envelope provided. This commitment is effective for thirty (30) days from the date of this letter. This offer will expire if we have not closed the loan within ninety (90) days of the commitment letter date. If you have any questions or desire clarification on the conditions, please give me a call at (814) 375-3821.

This commitment cannot be assigned to any other party without the express written consent of S&T Bank.

I appreciate the opportunity to be of service to you and look forward to a mutually beneficial relationship.

Sincerely,  
  
Daniel M. Baronick  
Sr. Vice President

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2015 with the intent of being legally bound; the undersigned hereby accepts the foregoing Commitment and agrees to the terms and conditions hereof.

*City of DuBois*

\_\_\_\_\_

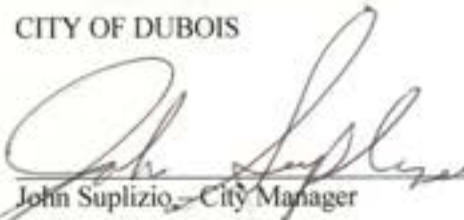
CERTIFICATE

I, the undersigned, a Designated Officer of the named Local Government Unit, hereby certify that the foregoing and attached is a true copy of an Ordinance which was duly adopted by the affirmative vote of a majority of all the members of the Governing Body thereof at a meeting held on the date of the execution thereof; that due notice of such meeting was given and the meeting was at all times open to the public; that such Ordinance was duly recorded; that this Ordinance is still in full force and effect as of the date hereof; that the vote upon said Ordinance was called and duly recorded upon the minutes of the Governing Body; and that the members of the Governing Body voted in the manner following:

	Yes	No	Abstain	Absent
Gary Gilbert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Randy E. Schmidt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James Aughenbaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Diane L. Bernardo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Edward Walsh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WITNESS my hand and seal of the Local Government Unit this 23 day of March  
 20 15

CITY OF DUBOIS

  
 John Suplizio - City Manager

