

COUNCIL BILL NO. 1968**INTRODUCED BY: James Aughenbaugh****ORDINANCE NO. 1869****AN ORDINANCE**

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE CITY OF DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, AND AMENDING THE PROVISIONS OF ORDINANCE NO. 1868 REQUIRING THE ISSUANCE OF A GENERAL OBLIGATION BOND TO REQUIRE INSTEAD THE ISSUANCE OF A GUARANTEED REVENUE BOND IN THE MAXIMUM PRINCIPAL AMOUNT OF EIGHTY-SIX MILLION, ONE HUNDRED SEVENTEEN THOUSAND, EIGHT HUNDRED NINETY-SEVEN DOLLARS (\$86,117,897.00) FOR THE PURPOSES OF THE CONSTRUCTION OF A NEW 5.4 MGD AADF WATER RESOURCE RECOVERY FACILITY, CONSISTING OF A NEW INFLUENT PUMP STATION, SEPTAGE RECEIVING, SCREENING, GRIT REMOVAL, SBR BIOLOGICAL TREATMENT, TERTIARY FILTRATION, ULTRAVIOLET (UV) DISINFECTION, AEROBIC DIGESTION, SLUDGE DEWATERING, ADMINISTRATIVE BUILDING, AS WELL AS A NEW ACCESS ROAD AND BRIDGE TO THE SITE; TOGETHER WITH THE REPLACEMENT OF 8,000 FEET OF SANITARY SEWER AND 4,500 FEET OF SEWER INTERCEPTOR AND THE REHABILITATION OF 1,600 FEET OF SEWER INTERCEPTOR WITH THE ULTIMATE DEMOLITION OF THE EXISTING WASTE WATER FACILITY; FIXING THE FORM, DATES, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENTATION WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO INCUR AND EXCLUDE ADDITIONAL DEBT OF THE GOVERNMENTAL UNIT; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE BOND; PROVIDING FOR THE AUTHORIZED SIGNATORIES AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, it is necessary that the indebtedness of the City of DuBois, Clearfield County, Pennsylvania ("Local Government Unit") be increased for the following purpose: for the cost of the construction of a new 5.4 MGD AADF water resource recovery facility, consisting of a new influent pump station, septage receiving, screening, grit removal, SBR biological treatment, tertiary filtration, ultraviolet (UV) disinfection, aerobic digestion, sludge dewatering, administrative building, as well as a new access road and bridge to the site; together with the replacement of 8,000 feet of sanitary sewer and 4,500 feet of sewer interceptor and the rehabilitation of 1,600 feet of sewer interceptor with the ultimate demolition of the existing waste water facility; ("Project");

WHEREAS, the Local Government Unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$86,117,897.00 will be needed to complete the project;

WHEREAS, the Pennsylvania Infrastructure Investment Authority ("PennVEST") has approved funding for the Project, subject to the approval of debt proceedings.

WHEREAS, the Local Government Unit shall file debt proceedings with the Department of Community and Economic Development to qualify the indebtedness hereafter authorized as self liquidating debt; and

WHEREAS, provided the debt related to the project qualifies as self liquidating, as aforesaid, the proposed increase of debt, together with the Local Governmental Unit's nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the Local Governmental Unit's debt incurring power, pursuant to constitutional and statutory authority, to be exceeded.

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

SECTION 1. It is necessary that the indebtedness of the City of DuBois, Clearfield County, Pennsylvania, be increased for the purpose of constructing the Project;

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of 50 years.

SECTION 3. Said indebtedness shall be incurred as nonelectoral debt and shall be evidenced by one guaranteed revenue bond, in fully registered form, in the sum not to exceed \$86,117,897.00 (the "PENNVEST Guaranteed Revenue Bond") bearing interest at a rate of 1% during the interest only period and the first five years of principal amortization and 1% for the remainder of the 360-month term. The form of the PENNVEST Guaranteed Revenue Bond is set forth in **EXHIBIT A**.

SECTION 4. The PENNVEST Guaranteed Revenue Bond is being issued as provided in the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of 1978 Session and known as the Local Government Unit Debt Act (the "Act"). The Authority shall begin principal amortization of the PENNVEST Bond on the earlier of: (i) three (3) months after the estimated date of completion of the Project, (ii) the first day of the calendar month following actual completion of the Project, or (iii) three (3) years from the date of settlement. Notwithstanding the foregoing, principal amortization on the PENNVEST Bond shall not be deferred beyond the later of two (2) years from the date of settlement or one (1) year after completion of the Project in accordance with Section 8142(c) of the Act. As of the date of this Ordinance, the projected estimated date of completion of the Project is November 30, 2024.

The Local Government Unit reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice or penalty.

The principal and interest of the PENNVEST Guaranteed Revenue Bond shall be payable at the office of the sinking fund depository selected for the Bond as hereinafter provided.

SECTION 5. The PENNVEST Guaranteed Revenue Bond is hereby declared to be a general obligation of the Local Government Unit. The Local Government Unit hereby covenants that it shall include the amount of debt service on the PENNVEST Guaranteed Revenue Bond for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the PENNVEST Guaranteed Revenue Bond and the interest thereon at the dates and places and in the manner stated in the PENNVEST Guaranteed Revenue Bond according to the true intent and meaning thereof, and for such

proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Local Government Unit is hereby irrevocably pledged.

In addition, the Local Government Unit grants to PENNVEST a lien and security interest in all other gross revenues or receipts of the Local Government Unit generated or produced from the Local Government Unit's wastewater treatment system (the "System") as it now exists and upon completion of the Project, including but not limited to, a security interest in all existing and future accounts, contract rights and general intangibles arising out of its operation of the System. The grant of a lien and security interest created hereby shall be evidenced in the Loan Documents entered into between the Local Government Unit and PENNVEST, as the registered owner of the PENNVEST Guaranteed Revenue Bond.

Further, the Local Government Unit hereby covenants to pay in each of the following fiscal years in respect to the PENNVEST Guaranteed Revenue Bond, including the principal maturity and interest are set forth in **EXHIBIT C** attached hereto and incorporated herein by reference thereto.

SECTION 6. The PENNVEST Guaranteed Revenue Bond shall be executed in the name and under the corporate seal of the Local Government Unit by the Mayor and City Controller and attested to by the Secretary. Each of the foregoing individuals and the Treasurer are hereby authorized and directed to deliver the PENNVEST Guaranteed Revenue Bond to PENNVEST, and receive payment therefore on behalf of the Local Government Unit. The Mayor, Controller and Secretary of the Local Government Unit are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including filing any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. S & T Bank, DuBois Branch, DuBois, Pennsylvania is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Wastewater Facility Construction Project Sinking Fund 2022 PENNVEST Guaranteed Revenue Bond" for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The Treasurer shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payment shall become due. PENNVEST shall, as and when said payments are due, without further action by the Local Government Unit, withdraw available monies in the Sinking Fund and apply said monies to payment of principal and interest on the obligation.

SECTION 8. The Mayor and Controller of the local government unit are hereby authorized to contract with S & T Bank, DuBois Branch, DuBois, Pennsylvania, for its services as Sinking Fund Depository for the PENNVEST Guaranteed Revenue Bond and paying agent for the same.

SECTION 9. In compliance with Section 8161 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best financial interest of the Local Government Unit. Therefore, the PENNVEST Guaranteed Revenue Bond in the amount not to exceed \$86,117,897.00, herein authorized to be issued and sold is hereby awarded and sold to PENNVEST in accordance with its proposal to purchase the PENNVEST Guaranteed Revenue Bond at par; provided it is dated the delivery thereof to PENNVEST and is in the form set forth in this Ordinance as **EXHIBIT A**;

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, and subject to such further terms and conditions set forth in the PENNVEST Funding Offer attached hereto as **EXHIBIT D** and made a part hereof by reference.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the Courier – Express /Tri-County Sunday, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

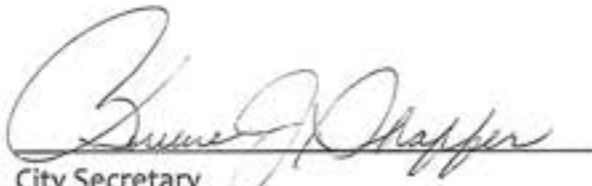
SECTION 11. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED THIS 7th day of November, 2022.

ATTEST:

CITY OF DUBOIS

BY: 
Edward L. Walsh, Mayor & President of Council


City Secretary