

CITY OF WILKES-BARRE
PENNSYLVANIA



CITY COUNCIL AGENDA

CITY COUNCIL

DECEMBER 11, 2008

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSENT AGENDA (RESOLUTIONS)

ORDINANCES

MOTION – TO ADOPT THE MAYOR’S PROPOSED 2009 GENERAL FUND
BUDGET

PRESENTATIONS BY COUNCIL MEMBERS

PUBLIC DISCUSSION

ADJOURNMENT

CITY COUNCIL
DECEMBER 11, 2008

CONSENT AGENDA (RESOLUTIONS)

Approving the transfer of a Liquor License from D'Angio Inc. 935 East 3rd Street, Nescopeck, PA to C.R.H. Realty Club, Inc., 79 Blackman Street, Wilkes-Barre, PA.

Authorizing the proper City officials to enter into a contract with Wyoming Valley Alcohol and Drug Services as a sub-contractor to provide services for prenatal clients within the City.

Authorizing the proper City officials to enter into a contract with the Hay Group for actuarial services in connection with Postretirement Benefit Plan.

Authorizing the issuance of a Tax and Revenue Anticipation Note, Series A of 2009 in a principal amount of three million dollars (\$3,000,000).

Authorizing the issuance of a Tax and Revenue Anticipation Note, Series B of 2009 in a principal amount of one million dollars (\$1,000,000).

Authorizing the proper City officials to register as the Department of Transportation business partner to be permitted access to dotGrants system.

MINUTES

Of the Wilkes-Barre City Planning Commission of November 19, 2008.

Of the Wyoming Valley Sanitary Authority of October 21, 2008.

Of the Parking Authority of the City of Wilkes-Barre of October 21, 2008.

Of the Regular Session of Wilkes-Barre City Council of November 20, 2008.

Of the Special Session of Wilkes-Barre City Council of November 25, 2008.

Of the Special Session Wilkes-Barre City Council of December 3, 2008.

CITY COUNCIL
DECEMBER 11, 2008

ORDINANCES

FILE OF COUNCIL NO. 26 OF 2008 – AN ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF WILKES-BARRE ENTITLED “GARBAGE AND REFUSE”. **(SECOND AND FINAL READING)**

FILE OF COUNCIL NO. 27 OF 2008 - AN ORDINANCE AMENDING ARTICLE VII, SECTION 28-116 OF THE WILKES-BARRE CITY CODE OF ORDINANCES RELATIVE TO THE IMPOSITION OF THE EARNED INCOME TAX. **(SECOND AND FINAL READING)**

FILE OF COUNCIL NO. 28 OF 2008 – AN ORDINANCE AMENDING ARTICLE VIII, SECTION 28-177 OF THE WILKES-BARRE CITY CODE OF ORDINANCES RELATIVE TO THE MILLAGE RATE FOR REAL PROPERTY TAXES. **(SECOND AND FINAL READING)**

FILE OF COUNCIL NO. 29 OF 2008 - AN ORDINANCE AMENDING ARTICLE I, SECTION 3.5-24 REGARDING SERVICES FEES AND COLLECTION FEES. **(SECOND AND FINAL READING)**

FILE OF COUNCIL NO. 30 OF 2008 – AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT BUDGET FOR PROGRAM YEAR 2008. **(FIRST READING – ON TITLE)**



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

A Resolution of the City of Wilkes-Barre, County of Luzerne, Commonwealth of Pennsylvania, approving transfer of Liquor License No. R-19561, Lid. #20253 into the City of Wilkes-Barre from Nescopeck.

Whereas, Act 141 of 2000 ("the Act"), which amends the Commonwealth's Liquor Code, authorizes the Pennsylvania Liquor Control Board to approve, in certain instances the transfer of restaurant liquor licenses across municipal boundaries within the same county regardless of the quota limitations provided for in Section 461 of the Liquor Code, if sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

Whereas, the receiving municipality issues a resolution approving the transfer of the license outside the municipality to inside the municipality; and

Whereas, amendments to the Liquor Code stipulate that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purposes of permitting interested parties to state their concerns regarding the transfer of a restaurant liquor license into the receiving municipality; and

Whereas, an application for transfer filed under the Act must contain a copy of the resolution adopted by the municipality approving the transfer of a restaurant liquor license into the municipality.

Now, Therefore, Be It Resolved, Charles Hoynowski has requested the approval of the City Council of the City of Wilkes-Barre for the proposed transfer of a Pennsylvania Retail Liquor License to its facilities within the City of Wilkes-Barre with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board.

Be It Further Resolved, that the City Council of and for the City of Wilkes-Barre has held a public hearing to receive comments on the proposed license transfer into Wilkes-Barre City which will result in job creation, revenue enhancement and dining accommodations for the residents of Wilkes-Barre.

Be It Further Resolved, that City Council approves by adopt of this Resolution the proposed intermunicipal transfer of the License from D'Angio Inc., 935 East 3rd Street, Nescopeck, PA to C.R.H. Realty Club, Inc., 79 Blackman Street, Wilkes-Barre City, Luzerne County, Pennsylvania.

Submitted by _____

ROLL CALL

YEAS

RESOLUTIONS

NAYS



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, the City of Wilkes-Barre through its Health Department has administered the Maternal Children's Health (MCH) over the past several years; and

WHEREAS, the City has been successful in obtaining grant funds for the Maternal Children's Health (MCH) for each of the past several years.

NOW, THEREFORE, BE IT RESOLVED by City Council of the City of Wilkes-Barre, that the proper City officials are hereby authorized to agree (contract) with Wyoming Valley Alcohol and Drug Services as a sub-contractor to provide proposed services (proposal attached hereto and made part hereof) to prenatal clients in the City of Wilkes-Barre. Wilkes-Barre City will reimburse Wyoming Valley Alcohol and Drug Services in the amount of \$16,475.84 for the period July 1, 2008 through June 30, 2009.

FURTHER, that the Mayor is hereby authorized to enter into the appropriate agreement if the application is approved.

Submitted by _____

ROLL CALL

YEAS

RESOLUTIONS

NAYS



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

THAT, the proper City officials are hereby authorized to enter into a contract for actuarial services in connection with its Postretirement Benefit Plan under GASB Statement Nos. 43 & 45 with the Hay Group, Inc.

Submitted by _____

ROLL CALL

YEAS

RESOLUTIONS

NAYS



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, City of Wilkes-Barre, Luzerne County, Pennsylvania (the "City"), anticipates receiving taxes and other revenues during the fiscal year ending December 31, 2009, which taxes and other revenues are currently uncollected; and

WHEREAS, the City has estimated, on a monthly basis, its expected taxes, revenues and expenditures for the fiscal year ending December 31, 2009, and has determined that during a portion of such fiscal year it will experience a "cumulative cash flow deficit" as such phrase is defined in the regulations promulgated under Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the City has determined to borrow monies for the purpose of funding, in part, such cumulative cash flow deficit by issuing a note to be repaid from the anticipated taxes and revenues, all in accordance with the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, Act 53 Pa.C.S., Chapters 80-82, as reenacted and amended (the "Debt Act"); and

WHEREAS, the City has received an acceptable proposal for the purchase of its Tax and Revenue Anticipation Note as hereinafter described; and

WHEREAS, as required by Section 8126 of the Debt Act, officials of the City have heretofore made an estimate of the taxes and revenues to be received during such fiscal year ending December 31, 2009, and, by their execution of a certificate with respect thereto dated this date, have certified to such estimate.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Wilkes-Barre, Luzerne County, Pennsylvania (the "Council"), in lawful session duly assembled, as follows:

Section 1. For the reasons and purposes recited above, the City hereby exercises its power and authority to borrow money and authorizes the issuance and sale of its Tax and Revenue Anticipation Note, Series A of 2009, in an principal amount of Three Million Dollars (\$3,000,000) (the "Note") in anticipation of the receipt of current taxes and revenues during the fiscal year ending December 31, 2009, such Note to be issued, sold and delivered as hereinafter provided.

Submitted by _____

ROLL CALL

1

YEAS

RESOLUTIONS

NAYS

BARRETT

Section 2. The Mayor and City Controller of the City, attested by the City Clerk, are hereby authorized and directed, in the name and on behalf of the City, to prepare and file with the Department of Community and Economic Development of the Commonwealth of Pennsylvania a certified copy of this Resolution, a certificate setting forth the taxes and revenues to be collected in the fiscal year ending December 31, 2009, and a true copy of the accepted Proposal (hereinafter defined) for the purchase of the Note, all as set forth in and required by Section 8128 of the Debt Act. The Mayor and City Controller of the City, attested by the City Clerk, are also hereby authorized and directed, in the name and on behalf of the City, to prepare and verify a certificate, in accordance with Sections 103 and 148 of the Code and the regulations applicable thereto, setting forth the anticipated use of the proceeds, to prepare and deliver to the Purchaser of the Note the certificate required by Section 8127 of the Debt Act relating to the total amount of the City's tax and revenue anticipation notes outstanding on the date of delivery of the Note, and to take any and all other action, and to execute and deliver any and all other documents and instruments, as may be necessary, proper or desirable to effect the issuance and sale of the Note as contemplated herein. The certification made on the date of adoption of this Resolution by the aforementioned officials of the City, relating to the amount of taxes and other revenues remaining to be collected by the City in the fiscal year ending December 31, 2009, is hereby ratified and approved.

Section 3. The Note shall be designated "City of Wilkes-Barre, Luzerne County, Pennsylvania, Tax and Revenue Anticipation Note, Series A of 2009", shall be in registered form, without coupons, shall be prepayable prior to maturity, shall be in the denomination of Three Million Dollars (\$3,000,000), shall be dated the date of issuance, shall bear interest at the rate of interest set forth in the Proposal from the date of delivery until maturity, shall mature on December 31, 2009, and shall be payable as to principal and interest at the place and in the manner and be otherwise in substantially the form set forth in the form of Note attached as Exhibit "A" hereto and the Proposal attached as Exhibit "B" hereto.

Section 4. The Note, when issued, will be a general obligation of the City.

Section 5. The Note shall be executed by the Mayor and City Controller of the City, shall have the corporate seal of the City affixed thereto, and shall be duly attested by the City Clerk. The Mayor and City Controller of the City are further authorized and directed to deliver the Note to the Purchaser hereinafter named upon the terms and conditions hereinafter provided and to execute and deliver such other documents and instruments, attested to by the City Clerk, and to take such other action as may be necessary or appropriate to effect the issuance and sale of the Note in accordance with this Resolution and the Debt Act.

Section 6. The Note, together with any other tax and revenue anticipation notes issued, or to be issued, by the City during the City's fiscal year ending on December 31, 2009, shall, upon issuance thereof, be equally and ratably secured by a pledge of, security interest in, and a lien and charge on, the taxes and other revenues to be received by the City during the period when the Note is outstanding; and the Mayor and City Controller of the City, attested by the City Clerk, are hereby authorized and directed to prepare and file, or to have filed, such financing statements as may be necessary to fully perfect such pledge, security interest, lien and charge pursuant to the Pennsylvania Uniform Commercial Code and Section 8125 of the Debt Act.

Section 7. The City hereby covenants that it will not make any use of the proceeds of the Note or do or suffer any other action which, if such use or action had been reasonably expected on the date of issuance of the Note, would cause the Note to be an "arbitrage bond" or a "private activity bond" as such terms are defined in Section 148 or Section 141 of the Code and the regulations applicable thereto and further covenants that it will comply with Section 148 and Section 141 of the Code, and with any regulations applicable thereto, throughout the term of the Note, including without limitation, any requirements relating to a rebate of certain excess earnings pursuant to Section 148(f) of the Code of any regulations applicable thereto now existing or promulgated hereafter. In connection therewith, the Mayor and City Controller of the City, attested by the City Clerk, are hereby authorized and directed to execute and to deliver, in the name and on behalf of the City, any and all documents or other instruments which Stevens & Lee, Bond Counsel, may reasonably request to provide its opinion that the Note is not an "arbitrage bond" or a "private activity bond" within the meaning of Section 148 and Section 141 of the Code and the regulations applicable thereto.

Section 8. The formal proposal (the "Proposal") of _____, Pennsylvania (the "Purchaser"), presented to the Council is attached hereto as Exhibit "B", is hereby accepted and the Note is hereby awarded to the Purchaser at a private sale for the purchase price of \$3,000,000. The terms of the Proposal are incorporated herein by reference with the same effect as if set forth in full at this place. The Mayor and City Controller, attested by the City Clerk, are hereby authorized and directed to, accept the Proposal, in the name of and on behalf of the City, by executing the City's acceptance on an original copy of the Proposal, to deliver a copy of the same to the Purchaser and to file the original with the records of the City. The Mayor and City Controller are hereby authorized to deliver the Note to the Purchaser upon receipt of the full principal amount of the purchase price for such Note and upon compliance with all conditions precedent to such delivery as required by the Debt Act, this Resolution and the Proposal; and such Mayor and City Controller, attested by the City Clerk, is hereby authorized and directed to prepare, verify and deliver to the Purchaser concurrently with the delivery of the Note, the certificate required by Section 8127 of the Debt Act, a copy of which certificate shall be retained with the records of the City until all tax and revenue anticipation notes issued by the City during the fiscal year ending on December 31, 2009, shall have been paid in full.

Section 9. The form of the Note shall be substantially as set forth and attached hereto as Exhibit "A," which form is hereby incorporated by reference and adopted as it fully recited at length herein and said form is hereby approved by this Council.

Section 10. The proper officers of the City are hereby authorized, empowered and directed to contract with a bank or bank or trust company authorized to do business in the Commonwealth of Pennsylvania (the "Paying Agent") for its services as paying agent and sinking fund depository in accordance with the terms of the Proposal, this Resolution and the Debt Act. The proper officers of the City are hereby authorized to establish a sinking fund for the Note with the Paying Agent for the benefit of the holder of the Note. The City Controller or other proper officer of the City is hereby authorized and directed to make deposits to the sinking fund to be held for the payment of principal and interest on the Note no later than the date of final maturity thereof.

Thereafter, the Paying Agent shall, without further authorization or direction from the City or any of its officials, withdraw moneys from the sinking fund and apply such moneys to the payment of principal and interest then due on the Note. Deposit by the City into the sinking

fund of the full amount of such money shall satisfy in full the obligation of the City to pay principal and interest with respect to the Note.

Section 11. Stevens & Lee, a professional corporation, is hereby appointed Bond Counsel in connection with the issuance and sale of the Note.

Section 12. The City Controller or other proper official of the City is hereby authorized and directed to pay at, or subsequent to, the closing for the issuance of the Note, all costs and expense of the issuance incurred by or on behalf of the City or required to be paid by the City, all in accordance with the provisions of the Purchaser's proposal



December 10, 2008

Mr. James Ryan
City Clerk
City of Wilkes-Barre
40 East Market Street
Wilkes-Barre, PA 18711

Dear Mr. Ryan:

PNC Bank ("the Bank") is pleased to offer to purchase your Tax and Revenue Anticipation Note, Series 2009 ("the Note") issued by the City of Wilkes-Barre ("the Borrower") as follows:

1) **Amount of Note**

The Total Amount of the note shall not exceed \$3,000,000.00

2) **Term of Note**

The term of the note will be approximately Twelve (12) Months, not to mature later than December 31, 2009 in compliance with the Local Government Unit Debt Act.

3) **Type of Note**

Tax and Revenue Anticipation Note issued by the City of Wilkes-Barre

4) **Rate of Interest Per Annum**

The note shall (subject to the following terms) bear interest on the outstanding principal balances at a non-bank qualified tax-exempt rate (Actual/360 day basis) of **4.79%**:

This interest rate is issued upon the borrowers compliance with all acts of appropriate legislation and all necessary documentation designating the obligation as "Non-bank Qualified Tax Exempt" under Regulation 265 (b) (3) of the Internal Revenue Code of 1986 and any and all applicable amendments. An opinion of borrower's legal counsel attesting to this is required.

A member of The PNC Financial Services Group

11 West Market Street Wilkes Barre Pennsylvania 18768

5) Repayment Terms

The note will be fully funded at closing. The outstanding principal amount drawn and accrued interest will be due on December 31, 2009.

6) Maturity

The Note will mature on December 31, 2009. The note may be subject to penalty for early redemption.

7) Security

The borrower will provide for the satisfactory pledging of all revenues and receipts of the City of Wilkes-Barre in a manner satisfactory and evidenced by a filing or approval from the Commonwealth of Pennsylvania Department of Community and Economic Development.

8) Covenants

None.

9) Reporting Covenants

None.

10) Opinion of Legal Counsel

An opinion of legal counsel shall be delivered in a form satisfactory to the bank evidencing the fact that this borrowing is "Non-bank Qualified Tax Exempt" under all applicable laws of the Commonwealth of Pennsylvania and the United States of America; that this note is not an Arbitrage Note and that the borrowing is a valid and binding obligation of the borrower.

11) Fees and Expenses

PNC Bank will not assess closing fees associated with this borrowing.

The borrower further agrees to indemnify the bank against any and all claims, which may be incurred in conjunction with this transaction.

12) Documentation

The bank shall be listed as "PNC BANK" in all documentation. If so chosen, PNC Bank will provide documentation required to issue the note.

The documents, including the following, shall be delivered in satisfactory form to the bank:

- A) Original Executed Tax and Revenue Anticipation Note
- B) Original Executed Authorizing Resolution
- C) Original Executed Federal Tax Certificate
- D) Original Executed Secretary's Certificate
- E) Cash Flow Deficit Calculation Worksheet
- F) Copy of the appropriate DCED Filing or Approval if required
- G) Internal Revenue Service Form 8038-G 8038 GC form
- H) Solicitor's Opinion Letter

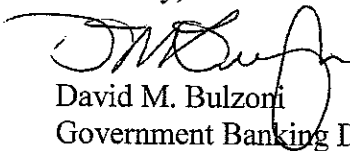
13) Acceptance

This offering must be accepted not later than the close of business on December 31, 2008. Unless extended by the bank, closing will take place prior to January 5, 2009. Should closing not take place within this period, this offer may be removed from consideration by the bank.

This offer is contingent on the successful delivery of the aforementioned documents satisfactory to the bank and the bank reserves the right to withdraw this commitment if the provisions of this offer are not fulfilled. Furthermore, the terms and conditions of this letter shall survive the closing and successful execution of the note.

On behalf of the PNC Bank Government Banking Division, we are proud to partner with the communities we serve and look forward to working together. Please do not hesitate to contact me at 570-821-3307 with any questions.

Sincerely,



David M. Bulzoni
Government Banking Division
Vice-President



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, City of Wilkes-Barre, Luzerne County, Pennsylvania (the "City"), anticipates receiving taxes and other revenues during the fiscal year ending December 31, 2009, which taxes and other revenues are currently uncollected; and

WHEREAS, the City has determined to borrow monies for the purpose of funding, in part, any cash flow deficit or any working capital needs which may be experienced during the fiscal year ending December 31, 2009, by issuing a note to be repaid from the anticipated taxes and revenues, all in accordance with the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, Act 53 Pa.C.S., Chapters 80-82, as reenacted and amended (the "Debt Act"); and

WHEREAS, the City has received an acceptable proposal for the purchase of its Federally Taxable Tax and Revenue Anticipation Note as hereinafter described; and

WHEREAS, as required by Section 8126 of the Debt Act, officials of the City have heretofore made an estimate of the taxes and revenues to be received during such fiscal year ending December 31, 2009, and, by their execution of a certificate with respect thereto dated this date, have certified to such estimate.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Wilkes-Barre, Luzerne County, Pennsylvania (the "Council"), in lawful session duly assembled, as follows:

Section 1. For the reasons and purposes recited above, the City hereby exercises its power and authority to borrow money and authorizes the issuance and sale of its Federally Taxable Tax and Revenue Anticipation Note, Series B of 2009, in an principal amount of One Million Dollars (\$1,000,000) (the "Note") in anticipation of the receipt of current taxes and revenues during the fiscal year ending December 31, 2009, such Note to be issued, sold and delivered as hereinafter provided.

Submitted by _____

ROLL CALL

YEAS

RESOLUTIONS

NAYS

Section 2. The Mayor and City Controller of the City, attested by the City Clerk, are hereby authorized and directed, in the name and on behalf of the City, to prepare and file with the Department of Community and Economic Development of the Commonwealth of Pennsylvania a certified copy of this Resolution, a certificate setting forth the taxes and revenues to be collected in the fiscal year ending December 31, 2009, and a true copy of the accepted Proposal (hereinafter defined) for the purchase of the Note, all as set forth in and required by Section 8128 of the Debt Act. The Mayor and City Controller of the City, attested by the City Clerk, are also hereby authorized and directed, in the name and on behalf of the City, to prepare and deliver to the Purchaser of the Note the certificate required by Section 8127 of the Debt Act relating to the total amount of the City's tax and revenue anticipation notes outstanding on the date of delivery of the Note, and to take any and all other action, and to execute and deliver any and all other documents and instruments, as may be necessary, proper or desirable to effect the issuance and sale of the Note as contemplated herein. The certification made on the date of adoption of this Resolution by the aforementioned officials of the City, relating to the amount of taxes and other revenues remaining to be collected by the City in the fiscal year ending December 31, 2009, is hereby ratified and approved.

Section 3. The Note shall be designated "City of Wilkes-Barre, Luzerne County, Pennsylvania, Federally Taxable Tax and Revenue Anticipation Note, Series B of 2009", shall be in registered form, without coupons, shall be prepayable prior to maturity, shall be in the denomination of One Million Dollars (\$1,000,000), shall be dated the date of issuance, shall bear interest at the rate of interest set forth in the Proposal from the date of delivery until maturity, shall mature on December 31, 2009, and shall be payable as to principal and interest at the place and in the manner and be otherwise in substantially the form set forth in the form of Note attached as Exhibit "A" hereto and the Proposal attached as Exhibit "B" hereto.

Section 4. The Note, when issued, will be a general obligation of the City.

Section 5. The Note shall be executed by the Mayor and City Controller of the City, shall have the corporate seal of the City affixed thereto, and shall be duly attested by the City Clerk. The Mayor and City Controller of the City are further authorized and directed to deliver the Note to the Purchaser hereinafter named upon the terms and conditions hereinafter provided and to execute and deliver such other documents and instruments, attested to by the City Clerk, and to take such other action as may be necessary or appropriate to effect the issuance and sale of the Note in accordance with this Resolution and the Debt Act.

Section 6. The Note, together with any other tax and revenue anticipation notes issued, or to be issued, by the City during the City's fiscal year ending on December 31, 2009, shall, upon issuance thereof, be equally and ratably secured by a pledge of, security interest in, and a lien and charge on, the taxes and other revenues to be received by the City during the period when the Note is outstanding; and the Mayor and City Controller of the City, attested by the City Clerk, are hereby authorized and directed to prepare and file, or to have filed, such financing statements as may be necessary to fully perfect such pledge, security interest, lien and charge pursuant to the Pennsylvania Uniform Commercial Code and Section 8125 of the Debt Act.

Section 7. The formal proposal (the "Proposal") of _____, Pennsylvania (the "Purchaser"), presented to the Council is attached hereto as Exhibit "B", is hereby accepted and the Note is hereby awarded to the Purchaser at a private sale for the purchase price of \$1,000,000. The terms of the Proposal are incorporated herein by reference with the same effect as if set forth in full at this place. The Mayor and City Controller, attested by the City Clerk, are hereby authorized and directed to, accept the Proposal, in the name of and on behalf of the City, by executing the City's acceptance on an original copy of the Proposal, to deliver a copy of the same to the Purchaser and to file the original with the records of the City. The Mayor and City Controller are hereby authorized to deliver the Note to the Purchaser upon receipt of the full principal amount of the purchase price for such Note and upon compliance with all conditions precedent to such delivery as required by the Debt Act, this Resolution and the Proposal; and such Mayor and City Controller, attested by the City Clerk, is hereby authorized and directed to prepare, verify and deliver to the Purchaser concurrently with the delivery of the Note, the certificate required by Section 8127 of the Debt Act, a copy of which certificate shall be retained with the records of the City until all tax and revenue anticipation notes issued by the City during the fiscal year ending on December 31, 2009, shall have been paid in full.

Section 8. The form of the Note shall be substantially as set forth and attached hereto as Exhibit "A," which form is hereby incorporated by reference and adopted as it fully recited at length herein and said form is hereby approved by this Council.

Section 9. The proper officers of the City are hereby authorized, empowered and directed to contract with a bank or bank or trust company authorized to do business in the Commonwealth of Pennsylvania (the "Paying Agent") for its services as paying agent and sinking fund depository in accordance with the terms of the Proposal, this Resolution and the Debt Act. The proper officers of the City are hereby authorized to establish a sinking fund for the Note with the Paying Agent for the benefit of the holder of the Note. The City Controller or other proper officer of the City is hereby authorized and directed to make deposits to the sinking fund to be held for the payment of principal and interest on the Note no later than the date of final maturity thereof.

Thereafter, the Paying Agent shall, without further authorization or direction from the City or any of its officials, withdraw moneys from the sinking fund and apply such moneys to the payment of principal and interest then due on the Note. Deposit by the City into the sinking fund of the full amount of such money shall satisfy in full the obligation of the City to pay principal and interest with respect to the Note.

Section 10. Stevens & Lee, a professional corporation, is hereby appointed Bond Counsel in connection with the issuance and sale of the Note.

Section 11. The City Controller or other proper official of the City is hereby authorized and directed to pay at, or subsequent to, the closing for the issuance of the Note, all costs and expense of the issuance incurred by or on behalf of the City or required to be paid by the City, all in accordance with the provisions of the Purchaser's proposal.



Manufacturers and Traders Trust Company
Government Banking
15 South Franklin Street
Wilkes-Barre, PA 18711
(570) 821-7156 Fax (570) 821-8639
Email: ewalsh@mandtbank.com
Eugene J Walsh
Vice President

December 5, 2008

City of Wilkes Barre
Office of the City Clerk
City Hall
Wilkes Barre Pa 18711

**Financing Proposal:
For the City of Wilkes Barre
Tax-exempt Borrowing**

Thanks for the opportunity to provide you a quote for financing for the City of Wilkes Barre.

The attached summary includes only a brief description of the principal terms of the proposed Credit Facility. The definitive terms of the proposed Credit Facility will be more fully evidenced in commitment letter and additional loan documentation including, but not limited to, a Note together with the other agreements, instruments, certificates and documents that M&T Bank may otherwise require.

The settlement of the proposed Credit Facility is subject to several conditions. First the City must accept and comply with all the conditions of this letter as provided below. Next, the City will agree to provide financial documentation, including financial audits supported with whatever applicable information the Bank may reasonable require. After receiving the City's acceptance, the Bank will seek internal credit approval of the transaction. Upon Bank approval, definitive Note Documents will be prepared. This letter is subject to the statutory and other requirements by which M&T Bank is governed.



Wilkes-Barre, Pa. _____

Resolution No. _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, the City of Wilkes-Barre desires to register as Department of Transportation business partner to be permitted electronic access to the following Department of Transportation systems: dotGrants (hereinafter referred to as "System" whether singular or plural) for the purposes of entering information into and exchanging data with the System; and

WHEREAS, the Department of Transportation, in furtherance of the powers and duties conferred on it by Section 2002 of the Administrative Code of 1929, as amended, 71 P.S. Section 512, to design and construct state highways and other transportation facilities, to undertake other transportation-related activities, and to enter into contracts for these purposes, in willing to permit the City of Wilkes-Barre to electronically submit applications, technical proposals, invoices, engineering plans, designs, and other documents necessary to design and construct transportation projects or undertake other transportation-related activities as part of the Department of Transportation's program to use the System.

WHEREAS, Sections 2001.1 of the Administrative Code of 1929, as amended (71 P.S. §511.1) authorizes the Department of Transportation, through the Secretary of Transportation, to enter into all necessary contracts and agreements with the proper agencies of any government, federal, state, or political subdivision, "for any purpose connected in any way with the Department of Transportation of the Commonwealth of Pennsylvania."

Submitted by _____

ROLL CALL

YEAS

RESOLUTIONS

NAYS

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises expressed in this document, and intending to be legally bound, the parties agree as follows:

1. The City of Wilkes-Barre is responsible for furnishing and assuming the total costs of all software and hardware necessary to connect to the System. Such software shall include an operating system, an Internet browser and any software needed to operate a modem. The City of Wilkes-Barre is responsible for the procurement and cost of any data communications lines required to connect to the System. The City of Wilkes-Barre is responsible for the cost of telephone lines and usage.
2. The City of Wilkes-Barre will be permitted access to the System as the Department of Transportation shall direct.
3. The City of Wilkes-Barre will implement appropriate security measures to insure that only authorized employees of the City of Wilkes-Barre will have access to and enter data into the System. The City of Wilkes-Barre agrees to assign only its current employees User Identification Internet Security access codes ("User ID codes") provided to the City of Wilkes-Barre by the Department of Transportation. The City of Wilkes-Barre agrees to assign a separate and distinct User ID code to each current employee who will concur in awards, sign contracts, and approve payments. The City of Wilkes-Barre agrees to accept full responsibility for controlling the User ID codes that the City of Wilkes-Barre assigns to the employees of the City of Wilkes-Barre. The City of Wilkes-Barre agrees to deactivate an employee's User ID code immediately upon the employee's separation and/or dismissal from the employ of or association with the City of Wilkes-Barre. The City of Wilkes-Barre agrees that the City of Wilkes-Barre's employees may not share User ID codes. The City of Wilkes-Barre agrees to be responsible for the items submitted under one of its User ID codes.
4. The Department of Transportation shall make provisions for the City of Wilkes-Barre to obtain initial training for the System. This training may not include any non-System program topics, nor may it include training on any other computer hardware or software, including, but not limited to, operation of a personal computer.
5. The Department of Transportation will make reasonable attempts (barring unforeseen interruptions due to calamity, natural disaster, or technical impossibility) to make the System available for on-line access 24 hours per day, seven days per week, except for ten hours each workday when the System databases are updated. The Department of Transportation will provide support only during the normal business hours of the Department of Transportation offices.
6. This Agreement shall continue until terminated by either Party, at any time, without cause, within fifteen (15) days upon receipt of written notice thereof. Any material breach of the Agreement by either Party shall entitle the other Party to terminate this Agreement without prejudice to its rights and remedies available at law or in equity. Upon termination or expiration of the

Agreement, the City of Wilkes-Barre shall cease and shall cause its users to cease attempts of access the System

7. The City of Wilkes-Barre shall comply with the Contract Integrity Provisions, dated December 20, 1991; the Provisions Concerning the Americans with Disabilities Act, dated January 16, 2001; the Contractor Responsibility Provisions, dated April 16, 1999; the Offset Provisions, dated April 16, 1999; and the Nondiscrimination/Sexual Harassment Clause, dated June 30, 1999, all of which are incorporated into the Agreement by reference as though physically attached.
8. This Agreement embodies the entire understanding between the Department of Transportation and the City of Wilkes-Barre and there are no contracts, agreements, or understanding with reference to the subject matter hereof with are not merger herein.

(Signature) (Date)

Bernard Mengerhausen

City Controller

Attest:

(Signature) (Date)

Jim Ryan

City Clerk

(Signature) (Date)

Thomas M. Leighton

Mayor

FILE OF COUNCIL

No. 26 of 2008

PRESENTED IN CITY COUNCIL November 20, 2008

**AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF
WILKES-BARRE ENTITLED "GARBAGE AND REFUSE"**

WHEREAS, it is the desire and intention of City Council to pass legislation within the City of Wilkes-Barre and amend various provisions Section 12 of the Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wilkes-Barre, and it is hereby ordained by the authority of the same that:

SECTION I. The Section of the Code of Ordinances governing **GARBAGE AND REFUSE**, specifically, **§ 12-18 Duties Imposed** shall be amended as follows (only amended provisions are referenced):

It shall be the duty of every person owning or occupying property within the city, as a result of or incidental to which refuse is accumulated, to provide for either commercial collection of said refuse or to participate in the city's user-fee program for refuse collection as follows:

...

(5) *User-fee Program.* Effective January 10, 1994, the City of Wilkes-Barre shall commence a user-fee charge program for refuse picked up by the city shall be placed in refuse bags authorized by the city. The refuse bags will be specially designed and be distributed through commercial outlets only. The cost of the bags shall be reviewed on an annual basis and shall be modified according to all costs associated with the collection and disposal of municipal refuse. The cost of the thirty (30) gallon refuse bags shall be one dollar and seventy-five cents (\$1.75) per bag, or five (5) bags for eight dollars and seventy-five cents (\$8.75). The cost of fifteen (15) gallon refuse bags will be one dollar (\$1.00) per bag, or five (5) bags for five dollars (\$5.00).

...

(12) *Documentation.* All persons and properties covered under this section, upon reasonable demand of the City of Wilkes-Barre's Department of Public Works, shall furnish to such department, satisfactory evidence or documentation related to refuse removal or collection, whether by contract with commercial haulers or otherwise.

SECTION II. The Section of the Code of Ordinances governing **GARBAGE AND REFUSE**, specifically, **§ 12-27 Fee for recyclable newsprint, commingled recyclable aluminum cans and recyclable ferrous containers** shall be amended as follows:

The fee for collection of recyclable newsprint, commingled recyclable aluminum cans and recyclable ferrous containers shall be Forty Dollars (\$40.00)

SECTION III. The Section of the Code of Ordinances governing **GARBAGE AND REFUSE**, specifically, **Sec. 12-61. Definitions.** shall be amended as follows

Leaf Waste. Leaves, garden residue, shrubbery and tree trimmings, and similar material, but not including grass clippings.

Community Activities: Events, sponsored in whole or in part by a municipality, or conducted within a municipality and sponsored privately, which include, but are not limited to, fairs, bazaars, socials, picnics and organized sporting events that will be attended by two hundred (200) or more individuals per day.

SECTION IV. The Section of the Code of Ordinances governing **GARBAGE AND REFUSE**, specifically, **Sec. 12-65. Commercial and Community Activities Recycling** shall be amended as follows:

(c) Community Activities. There is hereby established a requirement that any sponsor of a community activity must provide for the separation, storage and collection of the following items:

- (1) Recyclable aluminum beverage cans.
- (2) High-grade office paper.
- (3) Corrugated paper.
- (4) Leaf Waste.

SECTION V. **CONFLICTS AND SEVERABILITY**

All Ordinances or parts of Ordinances of the City of Wilkes-Barre in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed. The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby.

SECTION VI **EFFECTIVE DATE OF ORDINANCE**

Passed finally by City Council on

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

ATTEST:

JAMES RYAN, CITY CLERK

FILE OF COUNCIL

No. 27 of 2008

PRESENTED IN CITY COUNCIL December 3, 2008

AN ORDINANCE AMENDING ARTICLE VII, SECTION 28-116 OF THE WILKES-BARRE CITY CODE OF ORDINANCES RELATIVE TO THE IMPOSITION OF THE EARNED INCOME TAX

WHEREAS, it is the desire and intention of City Council to pass legislation within the City of Wilkes-Barre and amend Section 28-116 of the Wilkes-Barre City Code of Ordinances relative to the City's Earned Income Tax; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wilkes-Barre, and it is hereby ordained by the authority of the same that File of Council 67 of 1998, codified at Section 28-116 of the City of Wilkes-Barre Code of Ordinances is amended as follows:

SECTION I. Section 28-116 (a) **Imposition of Tax.** Is hereby amended to now read:

(a) A tax for general revenue purposes in the effective amount of three percent (3%) is hereby imposed on earned income and net profits earned by residents of the City of Wilkes-Barre (please note that the stated rate is three percent (3%) of which two and five tenths percent (2.5%) is payable to the City of Wilkes-Barre and five tenths percent (0.5%) is payable to the Wilkes-Barre Area School District), and in the amount of one percent (1%) on earned income and net profits earned by nonresidents of the City of Wilkes-Barre, to the extent applicable, during the taxable period beginning on the first day of January, 2009, or the effective date of this section and continuing for each taxable year thereafter.

SECTION II. **CONFLICTS AND SEVERABILITY**

All Ordinances or parts of Ordinances of the City of Wilkes-Barre in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed. The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby.

SECTION III. EFFECTIVE DATE OF ORDINANCE

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

ATTEST:

JAMES RYAN, CITY CLERK

FILE OF COUNCIL

No. 28 of 2008

PRESENTED IN CITY COUNCIL December 3, 2008

AN ORDINANCE AMENDING ARTICLE VIII, SECTION 28-177 OF THE WILKES-BARRE CITY CODE OF ORDINANCES RELATIVE TO THE MILLAGE RATE FOR REAL PROPERTY TAXES

WHEREAS, it is the desire and intention of City Council to pass legislation within the City of Wilkes-Barre and amend Section 28-177 of the Wilkes-Barre City Code of Ordinances relative to the City's Millage Rate; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wilkes-Barre, and it is hereby ordained by the authority of the same that File of Council 3 of 2004, codified at Section 28-177 of the City of Wilkes-Barre Code of Ordinances is amended as follows:

SECTION I. Section 28-177 (a) **Millage Rate.** Is hereby amended to now read:

(a) *Millage Increase.* The current millage for the City of Wilkes-Barre is seventy three and sixty three hundredths (73.63) mills on each one hundred dollars (\$100) of assessed valuation. The millage shall increase for the 2009 tax year and all subsequent years, unless and until changed by ordinance. The millage levied against real property within the City of Wilkes-Barre shall increase effective January 1, 2009 to ninety six and sixty three hundredths (96.63) mills, an increase of twenty three (23) mills.

SECTION II. **CONFLICTS AND SEVERABILITY**

All Ordinances or parts of Ordinances of the City of Wilkes-Barre in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed. The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby.

SECTION III. **EFFECTIVE DATE OF ORDINANCE**

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

ATTEST:

JAMES RYAN, CITY CLERK

FILE OF COUNCIL

No. 29 of 2008

PRESENTED IN CITY COUNCIL December 3, 2008

AN ORDINANCE AMENDING ARTICLE I, SECTION 3.5-24 REGARDING SERVICE FEES AND COLLECTION FEES

WHEREAS, it is the desire and intention of City Council to pass legislation within the City of Wilkes-Barre and amend Section 3.5-24, amending the fee schedule for the same; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wilkes-Barre, and it is hereby ordained by the authority of the same that:

SECTION I. **Section 3.5-24 (a) Service fees: Collection fee.** IS HEREBY AMENDED TO READ:

(a) Advanced Life Support Ambulance Services will be provided to each resident and all visitors to the City of Wilkes-Barre. All fees will be charged according to the Advanced Life Support fee schedule set forth below regardless of care rendered. Each person who utilizes the following services shall be required to pay the corresponding fee:

Advanced life support service...(Level I).....	\$550.00
Advanced life support service...(Level II).....	\$600.00
Oxygen.....	26.00
Physical Control Quick Combo Patches.....	40.00

Level II Advanced Life Support service includes three (3) separate medications or three (3) doses of the same medications or one advanced life support procedure. Level I shall be deemed anything that is not Level II, regardless of that which is performed.

SECTION II. **CONFLICTS**

All Ordinances or parts of Ordinances of the City of Wilkes-Barre in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed. The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby.

SECTION III **EFFECTIVE DATE OF ORDINANCE**

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

ATTEST:

JAMES RYAN, CITY CLERK

FILE OF COUNCIL

NO. ___ OF 2008

PRESENTED IN CITY COUNCIL ON _____

AN ORDINANCE

AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT BUDGET FOR
PROGRAM YEAR 2008. (FIRST READING – ON TITLE)

CITY OF WILKES-BARRE
PENNSYLVANIA

PRESENTED IN CITY COUNCIL ON DECEMBER 11, 2008

MOTION

M _____ MADE A MOTION TO:

To adopt the Mayor's proposed 2009 General Fund Budget.

THE MOTION WAS SECONDED BY M _____

AND ADOPTED BY THE FOLLOWING YEA AND NAY VOTE:

YEAS

NAYS

BARRETT
CRONAUER
MERRITT
THOMAS
KANE (CHAIRPERSON)

City Clerk