

CITY OF WILKES-BARRE
PENNSYLVANIA



CITY COUNCIL AGENDA

CITY COUNCIL

NOVEMBER 23, 2021

6:00 P.M. Cathy Payne, City Clerk

1. An Ordinance of the City of Wilkes-Barre, Pennsylvania adopting the Mayor's proposed General Fund Budget.

6:10 P.M. Mayor George Brown (See Attached)

WILKES-BARRE CITY COUNCIL
WORK SESSION – NOVEMBER 23, 2021
MAYOR’S AGENDA

RESOLUTIONS:

A Resolution of the City Council of the City of Wilkes-Barre, approving the financing by the City of Wilkes-Barre Finance Authority of a project for the benefit of Wilkes University, a Pennsylvania Nonprofit Educational Institution. (Please note, this Resolution expressly disclaims any liability for the City of Wilkes-Barre related to the bonds and the project).

FILE OF COUNCIL

Presented in Council on November 23, 2021

No. ____ of 2021

AN ORDINANCE

OF THE CITY OF WILKES-BARRE, PENNSYLVANIA ADOPTING THE
MAYOR'S PROPOSED GENERAL FUND BUDGET.

Now, Therefore, It Is Hereby Ordered and Enacted by the City Council of the City of Wilkes-Barre That the Mayor's Proposed General Fund Budget For 2022 is Hereby Adopted as follows:

- Section 1. The Mayor's proposed budget for calendar year 2022 is hereby adopted without changes. A copy of the proposed budget is available for review at the Office of the City Clerk during normal business hours or on the City's website.
- Section 2. 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. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.
- Section 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.
- Section 4. Passed finally by the Council of the City of Wilkes-Barre on _____, 2021.
- Section 5. This ordinance shall become effective on January 1, 2022.

Attest:

Cathy Payne, City Clerk



Resolution No. _____

Wilkes-Barre, PA _____

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILKES-BARRE, PENNSYLVANIA APPROVING THE FINANCING BY THE CITY OF WILKES-BARRE FINANCE AUTHORITY OF A PROJECT FOR THE BENEFIT OF WILKES UNIVERSITY, A PENNSYLVANIA NONPROFIT EDUCATIONAL INSTITUTION; DECLARING THAT IT IS DESIRABLE FOR THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE IN THE AREA SERVED BY THE PROJECT TO HAVE THE PROJECT FINANCED THROUGH THE AUTHORITY; DECLARING THE CITY COUNCIL AS THE "APPLICABLE ELECTED REPRESENTATIVE" WITHIN THE MEANING OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED AND APPROVING THE PROJECT; AUTHORIZING PROPER OFFICERS OF THE CITY TO TAKE SUCH FURTHER ACTIONS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS RESOLUTION; NOTING THE LIMITED NATURE OF THE AUTHORITY'S OBLIGATION WITH RESPECT TO THE 2021 BONDS ISSUED TO FINANCE THE PROJECT ANY DISCLAIMING ANY LIABILITY OF THE CITY WITH RESPECT TO THE 2021 BONDS AND THE PROJECT; AND PROVIDING FOR THE IMMEDIATE EFFECTIVENESS OF THIS RESOLUTION AND REPEALING ALL PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS.

RECITALS

WHEREAS, The City of Wilkes-Barre Finance Authority (the "**Authority**") is a body corporate and politic organized by the City of Wilkes-Barre, a Pennsylvania City of the Third Class (the "**City**") under the provisions of the Pennsylvania Municipality Authorities Act, Ch. 56, 2001 Pa. Laws 22 (53 Pa. Cons. §§ 5601-5622 (2002)), as amended and supplemented (the "**Act**"); and

WHEREAS, The Act permits the Authority to assist in the financing of buildings and facilities for eligible educational institutions; and

WHEREAS, Wilkes University (the "**University**") has represented to the Authority, and the Authority has determined, that the University operates as an eligible educational institution and is a nonprofit, privately owned, non-sectarian institution of higher education located in the Commonwealth of Pennsylvania (the "**Commonwealth**") and approved by the Commonwealth Department of Education; and

WHEREAS, The University has asked the Authority to finance, through the issuance of a series of tax-exempt bonds in an aggregate original principal amount not to exceed \$18,500,000 (the "**2021 Bonds**"), a project (the "**Project**") consisting of the following components:

Submitted by _____

ROLL CALL

(1) the current refunding all of the outstanding Northeastern Pennsylvania Hospital and Education Authority University Revenue Bonds (Wilkes University Project), Series A of 2012 (the “*2012A Bonds*”), the proceeds of which were used to finance: (i) the costs of constructing and equipping a 70,000 square foot science facility that serves as the University’s Departments of Biology, Chemistry and Environmental Engineering and Earth Sciences building (the “Science Center”), and related capital costs; (ii) miscellaneous expenditures from the University’s capital budget; (iii) a deposit to the debt service reserve fund established in connection with the 2012A Bonds; and (iv) the costs and expenses associated with the issuance of the 2012A Bonds;

(2) a deposit to a debt service reserve fund account relating to the 2021 Bonds (defined below), and any other appropriate or necessary reserves and the cost of credit or liquidity enhancement, if any, in connection with the 2021 Bonds; and

(3) paying certain costs and expenses associated with the issuance of the 2021 Bonds; and

WHEREAS, In order to finance or refinance the Project, the University has requested that the Authority issue the 2021 Bonds in an aggregate original principal amount not to exceed \$18,500,000; and

WHEREAS, Pursuant to the Act, the University and the Authority have requested the City Council to declare, by this Resolution, that the Project is desirable for the health, safety and welfare of the people in the area served by the Project; and

WHEREAS, Pursuant to the Internal Revenue Code of 1986, as amended (the “Code”), all debt issued by the Authority, such as the 2021 Bonds to be issued to finance the Project for the benefit of the University, must be approved by the “applicable elected representative” of the governmental unit in which the Project is located and of the governmental unit on behalf of which the Authority acts or issues bonds or notes after a public hearing following reasonable public notice; and

WHEREAS, The Authority published a notice of a public hearing with respect to the issuance of the 2021 Bonds to finance the Project on November 5, 2021 in *The Times-Leader*, a newspaper of general circulation in the City of Wilkes-Barre, Pennsylvania.

WHEREAS, The Authority held a public hearing regarding the issuance of the 2021 Bonds to finance the Project on November 15, 2021 and attached to this Resolution as Exhibit A is a report of such hearing; and

WHEREAS, Pursuant to the Code, the term “applicable elected representative” means, among other things, the elected legislative body of the governmental unit in which the Project is located and the governmental unit on behalf of which the Authority acts or issues bonds or notes; and

WHEREAS, The City Council is the governmental unit in which the Project is located and the governmental unit on behalf of which the Authority acts or issues bonds or notes, and the City Council is the “applicable elected representative” of the County within the meaning of the Code; and

WHEREAS, The City Council desires (i) to declare, by this Resolution, that the Project is desirable for the health, safety and welfare of the people in the area served by the Project, and (ii) as the “applicable elected representative” of the governmental unit in which the Project is located and of the governmental unit on behalf of which the Authority acts or issues bonds or notes, to approve the Project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Wilkes-Barre, as follows:

Section 1. It is hereby determined and declared pursuant to the Act that it is desirable for the health, safety and welfare of the people in the area served by the Project for the Authority to undertake the financing of the Project.

Section 2. The City Council, as the “applicable elected representative” of the governmental unit in which the Project is located and of the governmental unit on behalf of which the Authority acts or issues bonds or notes, hereby approves the Project as described herein.

Section 3. The City Council hereby authorizes and directs the proper officers of the City, on behalf of the City and City Council, to take all such further actions deemed necessary and appropriate to effectuate the purposes of this Resolution and to evidence the determination and approval set forth herein.

Section 4. The 2021 Bonds shall be a limited obligation of the Authority payable solely from funds provided by the University. The adoption of this Resolution is not a pledge of any revenues or security by the City, nor shall the City be liable for the payment of the principal of, or interest on, any obligations issued by the Authority, including, but not limited to, the 2021 Bonds. Neither the faith and credit nor the taxing power of the City, the Commonwealth, or any other political subdivision, agency or instrumentality thereof is pledged for payment of the 2021 Bonds.

Section 5. This Resolution shall take effect immediately. All prior ordinances and resolutions or portions thereof inconsistent herewith are hereby repealed.

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RESOLVED AND ADOPTED this 23rd day of November, 2021, at a regular meeting of the City Council of the City of Wilkes-Barre, Pennsylvania.

CITY OF WILKES-BARRE, PENNSYLVANIA

By: _____
Name: Tony Brooks
Title: Chair of City Council

On this day, the _____ day of _____, 2021, I do certify that the above is a true and correct copy of the Resolution adopted by the City Council of the City of Wilkes-Barre at a regular meeting held November 23, 2021, at which a quorum was present and acting, which Resolution remains in full force and effect as of the date hereof.

By: _____
Name: Cathy Payne
Title: City Clerk

(SEAL)

EXHIBIT A

CITY OF WILKES-BARRE FINANCE AUTHORITY

SUMMARY OF PUBLIC COMMENTS

The City of Wilkes-Barre Finance Authority (the “*Authority*”) held a public hearing (the “*Hearing*”) on November 15, 2021 at 10:30 A.M. in the City Council Chambers located on the fourth floor of City Hall, 40 East Market Street, Wilkes-Barre, Pennsylvania 18711 with respect to the issuance by the Authority of its obligations to finance the project in the amount and on behalf of the applicant described below; the following is a summary of the public comments received by the Authority at the Hearing with respect to said project:

Applicant: Wilkes University

Amount of Proposed Issuance: Not to exceed \$18,500,000.

Nature of Facilities Being Financed:

The proceeds of proposed bonds (the “*2021 Bonds*”) to be issued by the Authority on behalf of the Applicant will be applied to:

- (i) the current refunding of all of the outstanding Northeastern Pennsylvania Hospital and Education Authority University Revenue Bonds (Wilkes University Project), Series A of 2012 (the “*2012A Bonds*”), the proceeds of which were used for: (a) the costs of constructing and equipping a 70,000 square foot science facility that serves as the Applicant’s Departments of Biology, Chemistry and Environmental Engineering and Earth Sciences building (the “*Science Center*”), and related capital costs; (b) miscellaneous expenditures from the Applicant’s capital budget; (c) fund a deposit to the debt service reserve fund established in connection with the 2012A Bonds; and (d) pay the costs and expenses associated with the issuance of the 2012A Bonds;
- (ii) fund a debt service reserve fund established in connection with the 2021 Bonds, and
- (iii) pay certain costs and expenses of issuing the 2021 Bonds

Location of Facilities Being Financed:

The Project will be located on the University’s campus in downtown Wilkes-Barre, PA. The University’s administrative office is located at 170 South Franklin Street, Wilkes-Barre, PA and the Science Center is located at 140 South River Street, Wilkes-Barre, PA, on property owned by the University adjacent to the University’s Stark Learning Center.

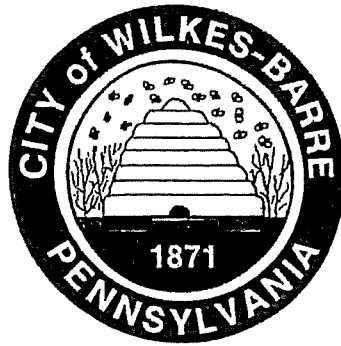
Notice of Public Hearing:

Notice of the Hearing was published in the *Times Leader* on November 5, 2021.

Summary of Public Comments:

No members of the public were present at the Hearing and no written questions or comments were submitted to the Authority prior to or after the Hearing.

CITY OF WILKES-BARRE
PENNSYLVANIA



CITY COUNCIL AGENDA

CITY COUNCIL

NOVEMBER 23, 2021

PLEDGE OF ALLEGIANCE

ROLL CALL

RESOLUTION

MINUTES

ORDINANCE

PRESENTATIONS BY COUNCIL MEMBERS

PUBLIC DISCUSSION

ADJOURNMENT

CITY COUNCIL
NOVEMBER 23, 2021

RESOLUTION

Approving the financing by the City of Wilkes-Barre Finance Authority of a project for the benefit of Wilkes University, a Pennsylvania Nonprofit Educational Institution. (Please note, this Resolution expressly disclaims any liability for the City of Wilkes-Barre related to the bonds and the project).

MINUTES

Of the Regular Session of City Council of October 28, 2021.

Of the Zoning Hearing Board Meeting of October 20, 2021.

Of the Traffic Committee Meeting of October 28, 2021.

Of the Planning Commission Meeting of October 20, 2021.

ORDINANCE

FILE OF COUNCIL NO. 13 OF 2021 – AN ORDINANCE OF THE CITY OF WILKES-BARRE, PENNSYLVANIA ADOPTING THE MAYOR’S PROPOSED GENERAL FUND BUDGET. (FIRST READING)