

**ORDINANCE #136**

FIRST READING - November 27, 2002

SECOND READING - December 10, 2002

**AUTHORIZING THE ISSUANCE OF TAX ANTICIPATION NOTES IN AMOUNTS NOT TO EXCEED \$7,000,000 IN AGGREGATE PRINCIPAL AMOUNT OUTSTANDING AT ANY GIVEN TIME; PROVIDING FOR THE DATE, DENOMINATION, INTEREST RATE, MATURITY DATE AND PLACE OF PAYMENT PROVISIONS IN RESPECT OF THE NOTES; ACCEPTING THE PROPOSAL OF A LOCAL LENDING INSTITUTION FOR THE PURCHASE OF THE NOTES; PROVIDING THE SECURITY FOR THE NOTES; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING OF THE PROCEEDINGS WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; ESTABLISHING A SINKING FUND IN RESPECT OF THE NOTES; PROVIDING FOR A SINKING FUND DEPOSITORY AND PAYING AGENT; SETTING FORTH A FORM OF NOTE; REPEALING INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the County of Lackawanna (the "County") anticipates receiving, by March 31, 2003, tax revenues, such revenues being as yet unreceived.

**WHEREAS**, the County has estimated such expected tax revenues and expenditures for the fiscal year 2003 and, on a monthly basis, will experience a cash flow deficit during some portions of such quarter.

**WHEREAS**, the County has therefore determined to borrow for the purpose of meeting current expenses by issuing Notes to be repaid from said anticipated tax revenues, all in accordance with the Local Government Unincorporated Debt Act (the "Debt Act") being Act No. 185 of the 1972 General Assembly of the Commonwealth of Pennsylvania, approved July 12, 1972, as amended and re-enacted by Act No. 52 of the 1978 General Assembly of the Commonwealth of Pennsylvania.

**WHEREAS**, the County has received an acceptable proposal for the purchase of its tax anticipation notes hereinafter described.

**WHEREAS**, as required by Section 506 of the Debt Act, the authorized officers of the County have heretofore made an estimate of the tax revenues during the period when the said tax anticipation notes will be outstanding and, by their execution of a certificate with respect thereto dated as of December 10, 2003, (the "Certificate as to Taxes and Revenues") have certified the said estimate.

**WHEREAS**, Section 501 of the Debt Act provides, with regard to tax and revenue anticipation notes, that "Such power to borrow from time to time shall include but not be limited to, the power to make a single authorization and then issue and sell portions of such amount of authorized notes whenever desired during the fiscal year."

**WHEREAS**, it is the intent of the County to authorize the issuance and sale of its tax anticipation notes in amounts not to exceed \$7,000,000 in aggregate principal amount outstanding at any given time, such Notes to be completely repaid on or before December 31, 2003.

**WHEREAS**, such tax anticipation notes shall be borrowed pursuant to and evidenced by Notes, the form which is as substantially specified herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, by the Board of County Commissioners of the County of Lackawanna, Pennsylvania, that:

**SECTION 1.** For the reasons and purposes recited above, the County hereby authorizes the issuance of its tax anticipation notes in amounts not to exceed \$7,000,000 in aggregate principal amount outstanding at any given time (the "Notes") in anticipation of the receipt of tax revenues, said Notes to be sold and delivered as hereinafter provided.

**SECTION 2.** At least two of the members of the Board of Commissioners, Administrative Director, Controller and/or Treasurer of the County, or any duly appointed successor, as the case may be, are hereby authorized and directed to prepare and verify a certified copy of this Ordinance and a true copy of the accepted proposal for the purchase of the Notes, all as required by Section 508 of the Debt Act and to file all of the above, together with an executed copy of the Certificate as to Taxes and Revenues, the contents of which are hereby approved, with the Department of Community Affairs of the Commonwealth of Pennsylvania.

**SECTION 3.** The Notes shall be designated "Tax Notes, Series A of 2003", shall be borrowed pursuant to and evidenced by Notes and shall be issued in denominations to be agreed upon by the County and the Purchaser (as hereinafter defined), shall be subject to prepayment prior to maturity, shall be payable to the registered owner thereof, shall be dated the date of delivery thereof, shall bear interest on the unpaid principal balance hereof from the date hereof at a rate of 1.88% fixed, per annum. Said principal and interest shall be payable on December 31, 2003 at the place in the manner and be otherwise in substantially the same form recited in Section 10 hereof. The interest rate specified above is based on the assumption that interest income from this loan is exempt from federal income taxes and interest expense deductible on loans and deposits incurred to provide funds used by the Bank in making this loan is limited to 80%.

**SECTION 4.** The Note shall be executed by at least two members of the Board of Commissioners, the Treasurer and the Controller of the County and shall have the corporate seal of the County affixed thereto, duly attested by the Administrative Director. Those officers are further authorized and directed to deliver the Note to the Purchaser hereinafter named upon the terms and conditions hereinafter provided for such delivery and to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the issuance and sale of the Notes, all in accordance with this Ordinance and the Debt Act.

**SECTION 5.** The Notes shall be secured by a pledge of, first security interest in, and a lien and charge on, the tax revenues received by the County during the period when the Notes are outstanding; and the Administrative Director is hereby authorized and directed to prepare and file such financing statements as may be necessary under the Pennsylvania Uniform Commercial Code and Section 505 of the Debt Act to fully perfect said pledge, security interest, lien and charge.

**SECTION 6.** There is hereby established a Sinking Fund to be known as "Sinking Fund, County of Lackawanna Tax Notes, Series A of 2003" into which the County covenants to deposit and into which the Treasurer is hereby authorized and directed to deposit, on or before December 31, 2003, from taxes and revenues received by the County, amounts sufficient to pay the interest due on that date and the principal on the Note as provided in Section 3 hereof. All sums in the Sinking Fund shall be applied exclusively to the payment of said

principal and interest. Said Sinking Fund shall be kept in a separate account at the principal office of the Sinking Fund Depository provided for in Section 7 hereof, until such time as the County and the Treasurer thereof shall provide for a similar separate account in another bank, trust company or bank and trust company located and lawfully conducting a bank or trust business in the Commonwealth of Pennsylvania. The said Sinking Fund Depository, without further authorization than is herein contained, shall pay from all moneys in the Sinking Fund the interest on and the Principal of the Notes, when the same shall become due.

SECTION 7. The Treasurer is hereby authorized and directed to contract with a commercial bank for its services and sinking fund depository (the "Sinking Fund Depository") and paying agent (the "Paying Agent") said bank being hereby appointed to such positions in respect to the County's Tax Notes, Series A of 2003.

SECTION 8. The Notes shall be sold at private, negotiated sale upon receipt of an acceptable proposal for the purchase thereof, which proposal shall be in compliance with the provisions of the Debt Act. The County Commissioners hereby find that such private, negotiated sale is in the best financial interest of the County.

SECTION 9. The proposal of PNC Bank (the "Purchaser"), presented to the Board of Commissioners at a public meeting on the date of second reading of this Ordinance, such proposal being in conformity with the requirements of Section 8 of this Ordinance for the purchase at private sale by negotiation of the Notes, is hereby accepted and the Notes are hereby awarded to the Purchaser. The Administrative Director is hereby authorized and directed to notify the Purchaser of such action and to file the original of said proposal with the records of the County. The officers of the County are hereby authorized to deliver the Note to the Purchaser upon receipt of the principal amount thereof and upon compliance with all conditions precedent to such delivery required by the Debt Act, this Ordinance, the County Home Rule Charter and said proposal; and the officers of the County are hereby authorized and directed to prepare, verify and deliver to the Purchaser, concurrently with the delivery of the Note, the certificate required by Section 507 of the Debt Act, a copy of which certificate shall be retained in the records of the County until all tax and/or revenue anticipation notes issued by the County during the fiscal year ending on December 31, 2003, shall have been paid in full.

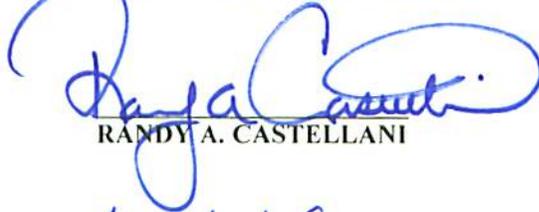
SECTION 10. The form of the Note shall be substantially as contained in Exhibit A attached hereto and made a part hereof (with necessary language changes, as approved by counsel), the terms and conditions set forth in such form being hereby incorporated by reference and enacted as if fully recited at length herein and said form is hereby approved.

SECTION 11. All prior ordinances or resolutions or parts thereof inconsistent herewith are hereby repealed.

SECTION 12. This Ordinance shall become effective ten days after enactment.

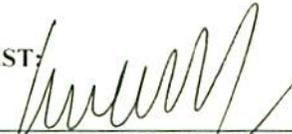
This Ordinance is an Ordinance adopted pursuant to the Home Rule Charter of Lackawanna County and is also intended to qualify as a Resolution pursuant to §508 of the Debt Act.

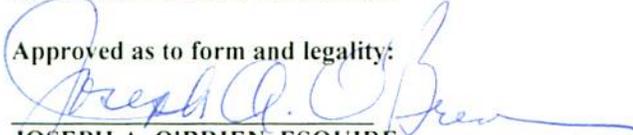
COUNTY OF LACKAWANNA

  
RANDY A. CASTELLANI

  
JOSEPH J. CORCORAN

ROBERT C. CORDARO

ATTEST:   
WILLIAM A. JENKINS,  
ADMINISTRATIVE DIRECTOR

Approved as to form and legality:  
  
JOSEPH A. O'BRIEN, ESQUIRE  
COUNTY SOLICITOR