

Ordinance #153

Lackawanna County Health Care Center Intergovernmental Transfer

First Reading

August 24, 2004

Second Reading

September 14, 2004

AUTHORIZING THE ISSUANCE OF A TAX AND REVENUE ANTICIPATION NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF \$13,500,000; PROVIDING FOR THE DATE, INTEREST RATE, MATURITY DATE, PLACE OF PAYMENT AND PREPAYMENT PROVISIONS IN RESPECT OF THE NOTE; ACCEPTING THE PROPOSAL OF MELLON BANK, N.A. FOR THE PURCHASE AND FINANCING OF THE NOTE; PROVIDING FOR THE SECURITY OF THE NOTE; AUTHORIZING THE PROPER OFFICERS TO EXECUTE AND DELIVER THE NOTE; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING OF THE PROCEEDINGS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; PROVIDING FOR A PAYING AGENT; SETTING FORTH A FORM OF NOTE; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, Lackawanna County, Pennsylvania (the "Issuer") has determined to borrow money during the fiscal year beginning January 1, 2004 in amounts not exceeding Thirteen Million Five Hundred Thousand Dollars (\$13,500,000) at any one time outstanding in anticipation of the receipt of taxes and other current revenues, such borrowing to be evidenced by its tax and revenue anticipation note or notes (the "Note") in a principal amount up to \$13,500,000 at any one time outstanding (the "Approved Principal Amount"), provided that the principal amount of the Note outstanding shall satisfy the limitations of Section 8122 of the Local Government Unit Debt Act, as amended (53 Pa.C.S. § 8001, *et seq.*; the "Act"); and

WHEREAS, a proposal (the "Proposal") has been submitted by Mellon Bank, N.A., for the purchase and funding of the Note in the Approved Principal Amount at a purchase price equal to the principal amount thereof, such Note to bear interest as follows (the "Approved Interest Rate"):

(a) in the event a draw hereunder is repaid before the close of the banking day on which the draw occurred, no interest shall be payable thereon. For purposes of this provision, the term "banking day" shall mean that period from 8:30 a.m. to 5:00 p.m. on any single day; and

(b) in the event a draw hereunder is not repaid before the close of the banking day on which the draw occurred, interest thereon shall accrue at a rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to (i) for each day on or prior to December 31, 2004 the sum of (A) 0.5% plus (B) the rate of interest announced by the Bank from time to time as its prime rate (the "Prime Rate"), such rate to change automatically effective with each change in the Prime Rate and (ii) for each day after December 31, 2004 the sum of (A) 2% plus (B) the Prime Rate.

WHEREAS, the Approved Principal Amount of the Note does not exceed 85% of the taxes levied for the fiscal year in which the Note is to be issued and other current revenues for such year remaining to be collected or received in such fiscal year during the period in which the Note will be outstanding as evidenced by a certificate of officers of the Issuer heretofore executed in accordance with Section 8126 of the Act;

NOW, THEREFORE, it is hereby enacted and ordained by the governing body of the Issuer, that:

1. The Note in the Approved Principal Amount to be drawn down and repaid during the current fiscal year in accordance with the terms and conditions of the Proposal, and the sale and issuance of the Note pursuant to the Act is hereby approved, and is authorized and directed to be undertaken and done.

2. The Proposal, in the form presented at this meeting, is hereby approved, and the Note is hereby awarded to Mellon Bank, N.A. (the "Bank") on the terms named therein. The Chairman, the Controller, and the Treasurer of the governing body of the Issuer are authorized and directed to execute an endorsement to the Proposal, including the Issuer's acceptance thereof, and the Chairman of the governing body of the Issuer is authorized to deliver the same to the Bank. The Note shall be issued in the Approved Principal Amount, shall bear interest at the Approved Interest Rate, shall be subject to prepayment as provided herein, shall mature on December 31, 2004 ("Maturity"), and otherwise shall be in accordance with the Proposal, the terms of which are incorporated herein. A copy of the Proposal shall be placed in the records of the Issuer and filed with the Pennsylvania Department of Community and Economic Development.

3. The Note shall be payable as to principal and interest at Maturity or earlier prepayment or redemption in lawful money of the United States of America, at the principal office of the Bank, in Pittsburgh, Pennsylvania. Mellon Bank, N.A. is hereby appointed as the Issuer's paying agent with respect to the Note or such other bank as shall be so appointed from time to time by the Issuer. The Note shall be payable in full at Maturity or may be sooner prepaid by paying Bank 100% of the principal amount outstanding under the Note plus interest accrued to the date of prepayment.

4. The Note, and the obligations of the Issuer for payments on account of draws under the Note, shall be payable from and is secured by the pledge of, security interest in, and lien and charge upon, the taxes and other revenues of the Issuer to be received during the period in which the Note is outstanding, as set forth in the certificate of the Issuer