

Ordinance #195

First Reading: August 27, 2008

Second Reading: September 10, 2008

AUTHORIZING THE ADOPTION OF AN ORDINANCE FOR THE ISSUANCE OF A TAX AND REVENUE ANTICIPATION NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,900,000; PROVIDING FOR THE DATE, INTEREST RATE, MATURITY DATE, PLACE OF PAYMENT AND PREPAYMENT PROVISIONS IN RESPECT OF THE NOTE; ACCEPTING THE PROPOSAL OF THE BANK OF NEW YORK MELLON 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, 2008, in amounts not exceeding Four Million Nine Hundred Thousand Dollars (\$4,900,000) 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 \$4,900,000 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 The Bank of New York Mellon, 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 12, 2008, 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 12, 2008, 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; and

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

the filing of a certified copy of this Ordinance, the Certificate as to taxes and revenues remaining to be collected, and a copy of the Proposal with the Pennsylvania Department of Community and Economic Development, all as required by the Act.

9. This Ordinance shall be in full force and effect only upon the filing with the Pennsylvania Department of Community and Economic Development of the documents set forth in Section 8 hereof; provided, however, with respect to Bank as purchaser of the Note, that this Ordinance shall be effective and enforceable as of the date of acceptance by the Issuer of the Proposal.

10. The proper officers of the Issuer are authorized to deliver the Note, fully executed, to the Bank and to take such actions and execute such documents necessary to effect up to two draws under the Note.

11. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

12. This Ordinance shall take effect on the later of ten (10) days following enactment or seven (7) days following publication in summary form pursuant to the Issuer's Home Rule Charter.

I HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance duly enacted by the affirmative vote of a majority of the members of the governing body of the Issuer named in such Ordinance at a meeting held the 27th day of August 2008; that proper public notice of such meeting was given as required by law; and that said Ordinance has been entered upon the minutes of the governing body of such Issuer, showing how each member thereof voted thereon.

COUNTY OF LACKAWANNA

MICHAEL J. WASHO

COREY D. O'BRIEN

A.J. MUNCHAK

ATTEST:

ELIZABETH F. RANDOL
CHIEF OF STAFF

Approved as to form and legality:

JOHN R. O'BRIEN, ESQUIRE
COUNTY SOLICITOR