



County of Lackawanna

Lackawanna County
Administration Building
200 Adams Avenue
Scranton, Pennsylvania
18503

Certified Copy

Ordinance: 09-0312

File Number: 09-0312

Second Reading of Ordinance #200
Authorizing the issuance of Tax Anticipation Notes.

Ordinance #200

First Reading: December 15, 2009

Second Reading: December 21, 2009

AUTHORIZING THE ISSUANCE OF TAX ANTICIPATION NOTES IN AMOUNTS NOT TO EXCEED \$8,500,000 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 AND ECONOMIC DEVELOPMENT; 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, in fiscal year 2010, tax revenues, such revenues being as yet unreceived.

WHEREAS, the County has estimated such expected tax revenues and expenditures for the fiscal year 2010 and, on a monthly basis, will experience a cash flow deficit during some portions of such year.

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 (the "Notes"), all in accordance with the Local Government Unit 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 the Notes, as hereinafter described.

WHEREAS, as required by Section 8126 of the Debt Act, the authorized officers of the County have heretofore made an estimate of the tax revenues during the period when the Notes will be outstanding and, by their execution of a certificate with respect thereto dated within 30 days of, but not later than the date of, this Ordinance (the "Certificate as to Taxes and Revenues") have

certified said estimate.

WHEREAS, Section 8121 of the Debt Act provides, with regard to tax and revenue anticipation notes, that “the power to borrow from time to time shall include 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 \$8,500,000 in aggregate principal amount outstanding at any given time, such Notes to be completely repaid on or before December 31, 2010.

WHEREAS, such borrowing in anticipation of tax revenues shall be pursuant to and evidenced by the 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 the Notes in amounts not to exceed \$8,500,000 in aggregate principal amount outstanding at any given time 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, Chief of Staff, 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 8128 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 and Economic Development of the Commonwealth of Pennsylvania.

SECTION 3. The Notes shall be designated “Tax Notes, Series A of 2010” and the Notes shall be issued in denominations to be agreed upon by the County and the Purchaser (as herein 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 not to exceed 2.06% fixed, per annum. Said principal and interest shall be payable on December 31, 2010 at the place in the manner and be otherwise in substantially the same form recited in Section 10 hereof.

SECTION 4. The Notes 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 Chief of Staff. Those officers are further authorized and directed to deliver the Notes to the Purchaser 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 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 Chief of Staff is hereby authorized and directed to prepare and file such financing statements as may be necessary under the Pennsylvania Uniform Commercial Code and Section 8125 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 2010" into which the County covenants to deposit and into which the Treasurer is hereby authorized and directed to deposit, on or before December 31, 2010, from taxes and revenues received by the County, amounts sufficient to pay the interest due on that date and the principal on the Notes 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 Notes.

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, National Association** (the "Purchaser"), presented to the Board of Commissioners at a public meeting on the date of the first 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 Chief of Staff 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 Notes 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 Notes, the certificate required by Section 8127 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, 2010, shall have been paid in full.

SECTION 10. The forms of the Notes 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.

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