

ORDINANCE #37

First Reading December 20, 1985
Enacted December 27, 1985

AUTHORIZING THE ISSUANCE OF A TAX AND REVENUE ANTICIPATION NOTE IN THE AMOUNT OF \$2,000,000; PROVIDING FOR THE DATE, DENOMINATION, INTEREST RATE, MATURITY DATE AND PLACE OF PAYMENT PROVISIONS IN RESPECT OF THE NOTE; ACCEPTING THE PROPOSAL OF NORTHEASTER BANK OF PENNSYLVANIA FOR THE PURCHASE OF THE NOTE; PROVIDING THE SECURITY FOR THE NOTE; 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 NOTE; PROVIDING FOR A SINKING FUND DEPOSITORY AND PAYING AGENT; SETTING FORTH A FORM OF NOTE AND REPEALING INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the County of Lackawanna, Pennsylvania (the "County") anticipates receiving taxes and revenues during the fiscal year ending December 31, 1986, which are as yet uncollected; and,

WHEREAS, the County has estimated such expected taxes, revenues and expenditures for fiscal year 1986 and, on a monthly basis will experience a cash flow deficit during some portions of such fiscal year; and

WHEREAS, the County has therefore determined to borrow for the purpose of meeting current expenses by issuing a Note to be repaid from said anticipated taxes and revenues, 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; and

WHEREAS, the County has received an acceptable proposal for the purchase of its Tax and Revenue Anticipation Note hereinafter described; and

WHEREAS, as required by Section 506 of the Debt Act, the authorized officers of the County have heretofore made an estimate of the moneys to be received during the period when the said Tax and Revenue Anticipation Note will be outstanding from taxes then levied and assessed and revenues and, by their execution of a certificate with respect thereto dated as of December 27, 1985, (the "Certificate as to Taxes and Revenues") have certified the said estimate.

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 a tax and revenue anticipation note in the principal amount of \$2,000,000 (the "Note" in anticipation of the receipt of current taxes and revenues, said Note to be sold and delivered as hereinabove provided.

SECTION 2. The Chairman 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 Note, all as required by Section 508 of the Debt Act and to file all of the above, together with and 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. The Chairman of the Board of Commissioners and the Controller are also hereby authorized and directed to prepare and verify a certificate indicating the cumulative cash flow deficit calculated in accordance with Section 103 of the Internal Revenue Code of 1954, as amended, and the Regulations promulgated thereunder.

ORDINANCE #37

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SECTION 3. The Note shall be designated "Tax and Revenue Anticipation Note, Series A of 1986", shall be issued in the denomination of \$2,000,000 unless lesser denominations are specified by the Purchaser, shall not 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 at a rate of five and three quarters per cent (5.75%) per annum from such date of delivery, shall be payable at maturity, shall mature on December 26, 1986, and shall be payable at the place and in the manner and be otherwise in substantially the form recited in Section 11 hereof.

SECTION 4. The Note shall be executed by the Chairman 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 of the Note 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 Note, all in accordance with this Ordinance and the Debt Act.

SECTION 5. The Note, together with any other tax and/or revenue anticipation notes to be issued by the County during the County's fiscal year ending on December 31, 1986, shall be equally and ratably secured by a pledge of, security interest in, and a lien and charge on, the taxes and/or all other revenues, as the case may be, to be received by the County during the period when the Note is 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 and Revenue Anticipation Note, Series A of 1986" into which the County covenants to deposit and into which the Treasurer is hereby authorized and directed to deposit, on or before December 26, 1986, 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 Note, when the same shall become due.

SECTION 7. The Treasurer is hereby authorized and directed to contract with Northeastern Bank of Pennsylvania, for its services as 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 and Revenue Anticipation Note, Series A of 1986.

SECTION 8. The County hereby covenants with the holders from time to time of the Note that it will make no use of the proceeds of the Note which, if such use had been reasonably expected on the date of issuance of such Note, would have caused such Note to be an "arbitrage bond" within the meaning of Section 103(c) of the Internal Revenue Code of 1954 and the Regulations thereunder and that it will comply with the requirements of said section and the regulations throughout the term of the Note. Neither the Treasurer nor any other official of the County shall make an investment inconsistent with the foregoing covenant.

SECTION 9. The Note shall be sold at private sale upon receipt of an acceptable proposal for the purchase thereof, which proposal shall be in compliance with the provisions of the Debt Act.

SECTION 10. The proposal of Northeastern Bank of Pennsylvania, presented to the Board of Commissioners at a public meeting on the date of second reading of this Ordinance, of such proposal being in conformity with the requirements of Section 9 of this Ordinance for the purchase at private sale of the Note, is hereby accepted and the Note is 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, 1986, shall have been paid in full.

SECTION 11. The form of the Note shall be substantially as follows (with necessary language changes, as approved by counsel, should the Purchaser require denominated amount notes), 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:

(FORM OF NOTE)
UNITED STATES OF AMERICA
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF LACKAWANNA
TAX AND REVENUE ANTICIPATION NOTE
SERIES A OF 1985

The County of Lackawanna, Pennsylvania (the "County") for value received promises to pay to _____ upon surrender hereof, on December 31, 1986 the principal sum of \$2,000,000 and to pay interest thereon from January 1986 until maturity at the rate of _____ per annum, payable at maturity.

Principal and interest will be payable in such coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts at the principal office of _____, without deduction of, and the County assumes and agrees to pay, any tax or taxes which the County or the Treasurer thereof may be required to pay or retain therefrom under any present or future law of the Commonwealth of Pennsylvania except for gift, succession and inheritance taxes.

The Note is issued in accordance with the Local Government Unit Debt Act, Act No. 185 of the 1972 General Assembly of the Commonwealth of Pennsylvania as amended and re-enacted by Act No. 52 of the 1978 General Assembly of the Commonwealth of Pennsylvania, and by virtue of an Ordinance (the "Ordinance") of the County Commissioners of the County of Lackawanna duly filed, together with other required documents in respect of the Note with the Pennsylvania Department of Community Affairs. Reference is made to the Act and the Ordinance for a complete statement of the rights and limitations of the rights of the holders of the Note, to all of which the holder hereof by acceptance of this Note assents.

This Note is not prepayable prior to maturity.

ORDINANCE #37

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The indebtedness evidenced hereby is a borrowing in anticipation of current taxes and other current revenues to be received by the County during the fiscal year ending December 31, 1986, and is to be repaid from such taxes and other revenues received by the County during said fiscal year. As provided in the Ordinance, this Note, together with all other tax and/or revenue anticipation notes issued, or to be issued, by the County during its fiscal year ending December 31, 1986 shall be equally and ratably secured by a pledge of, security interest in and lien and charge on the taxes and/or other revenues of the County as the case may be, received during the period when the Note is outstanding, and for such purpose and to secure the payment of the indebtedness evidenced hereby and the interest thereon, the County hereby pledges to the holders hereof and grants to said holders a security interest in and lien and charge on its taxes and other revenues to be received during the period when this Note is outstanding.

It is hereby certified that all acts, conditions and things required to be done, occur or be performed precedent to and in the issuance of this Note, or in the creation of the debt of which this Note is evidenced, have been done, occurred and been performed in regular and due form and manner as required by law, and that the debt represented by this Note, together with all other debt of the County is not in excess of any constitutional or statutory limitation.

In witness whereof, the County of Lackawanna has caused this Note to be signed in its name by the Chairman of the Board of Commissioners, the Treasurer and Controller of the County and its corporate seal to be hereto affixed, duly attested by the Administrative Director.

SECTION 12. All prior ordinances or resolutions or parts thereof inconsistent herewith are hereby appealed.

SECTION 13. This Ordinance shall become effective ten days after enactment.

LACKAWANNA COUNTY

Joseph J. Corcoran
Joseph J. Corcoran

Ray A. Alberigi
Ray A. Alberigi

Charles Luger
Charles Luger

ATTEST:

Gerald L. Stanvitch
Gerald L. Stanvitch
Administrative Director