

ORDINANCE #44

FIRST READING - OCTOBER 15, 1986
 SECOND READING - OCTOBER 28, 1986

DECLARING THE COUNTY'S GUARANTY OF UP TO 75% OF THE PAYMENT OBLIGATIONS OF LACKAWANNA COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY UNDER A CERTAIN REIMBURSEMENT AGREEMENT DATED AS OF NOVEMBER 1, 1986 TO BE EXECUTED AMONG LACKAWANNA COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, MONTAGE, INC. AND NORTHEASTERN BANK OF PENNSYLVANIA TO BE A PROJECT OF THE COUNTY FOR WHICH LEASE RENTAL DEBT IS TO BE INCURRED; STATING THE ESTIMATED REALISTIC USEFUL LIFE OF THE FACILITIES INVOLVED IN SAID PROJECT; DETERMINING TO INCUR LEASE RENTAL DEBT IN THE AMOUNT OF \$5,625,000 IN RESPECT OF SAID PROJECT, SUCH DEBT TO BE EVIDENCED BY THE COUNTY'S GUARANTY AGREEMENT IN CONNECTION WITH THE AUTHORITY'S SPORTS FACILITY REVENUE REFUNDING BONDS (MONTAGE PROJECT), SERIES 1986; AUTHORIZING CERTAIN COUNTY OFFICERS TO PREPARE, CERTIFY AND FILE WITH THE DEPARTMENT OF COMMUNITY AFFAIRS THE DEBT STATEMENT REQUIRED BY SECTION 410 OF THE LOCAL GOVERNMENT UNIT DEBT ACT AND ANY STATEMENTS REQUIRED BY SECTION 206 OF SUCH DEBT ACT TO QUALIFY THE DEBT INCURRED AS SELF-LIQUIDATING DEBT, AND AUTHORIZING THE PREPARATION OF A BORROWING BASE CERTIFICATE; APPROVING THE FORM, AND AUTHORIZING EXECUTION AND DELIVERY, OF THE AFORESAID GUARANTY; REPEALING INCONSISTENT PRIOR ORDINANCES; AND AUTHORIZING CERTAIN INCIDENTAL ACTION, INCLUDING THE EXECUTION AND DELIVERY OF A CERTAIN MORTGAGE AND SECURITY AGREEMENT AND A CERTAIN REPAYMENT AGREEMENT.

WHEREAS, the Lackawanna County Industrial Development Authority (the "Authority") was organized on June 25, 1969 by the Board of Commissioners (the "Board") of the County of Lackawanna Pennsylvania (the "County") under provisions of the Pennsylvania Industrial and Commercial Development Authority Law, Act of 1967, P.L. 251, as amended; and

WHEREAS, the Authority has undertaken a project to accomplish the public purposes of the Pennsylvania Industrial and Commercial Development Authority Law by the financing of a portion of certain commercial facilities comprising a winter ski area and summer recreation center at Scranton, Pennsylvania (the "Project"); and

WHEREAS, the Authority has financed a portion of the costs of the Project by (a) the issuance of its Sports Facility Revenue Bonds (Montage Project), Series 1983 Book Entry CITIZEN BONDS (the "1983 Bonds") in the aggregate principal amount of \$7,500,000, and (b) the issuance of its Sports Facility Revenue Bonds (Montage Project), Series 1985 (the "1985 Bonds") in the aggregate principal amount of \$2,120,000 both of which have been partially guaranteed by the County, such existing guarantee being limited to \$5,625,000 in principal amount; and

WHEREAS, in furtherance of the Project, the Authority intends to undertake an additional project (the "Refinancing Project") in which it will (i) advance refund the 1983 Bonds by funding an escrow for the payment of interest on, and the principal and redemption price of, the 1983 Bonds until their first optional redemption date of June 15, 1988, and (ii) refinance the 1985 Bonds, with proceeds from the issuance of its Sports Facility Revenue Refunding Bonds (Montage Project), Series 1986 (the "Authority Bonds") to be issued under and pursuant to a Trust Indenture to be dated as of November 1, 1986 (the "Authority Indenture") by and between the Authority and Northeastern Bank of Pennsylvania, Scranton, Pennsylvania, as Trustee (the "Authority Trustee"), thereby releasing the County's outstanding guaranty respecting the 1983 Bonds and the 1985 Bonds; and

WHEREAS, Montage, Inc. ("Montage") is a Pennsylvania not-for-profit corporation sponsored by the County, the Greater Scranton Chamber of Commerce, Lackawanna Industrial Fund Enterprises and the Scranton-Lackawanna Industrial Building Company, formed for the purpose of owning and operating the Project; and

WHEREAS, the Authority and Montage will enter into a Sports Facilities Agreement to be dated as of November 1, 1986 (the "Facilities Agreement") pursuant to which the Authority will agree to finance the Refinancing Project by the issuance of the Authority Bonds and to transfer title to the Project to Montage, and Montage will agree to provide for the payment of the debt service on the Authority Bonds; and

WHEREAS, to secure the Authority Bonds and to satisfy its obligation under the Facilities Agreement, Montage will cause to be delivered to the Authority its Sports Facility First Mortgage Bond, Series A of 1986 (the "Series A Mortgage Bond") to be issued under and pursuant to a Mortgage and Trust Indenture to be dated as of November 1, 1986 (the "Mortgage Indenture") by and between Montage, as mortgagor, and _____, as trustee and mortgagee (the "Mortgage Trustee"), granting to the Mortgage Trustee a first mortgage on and security interest in the Project; and

WHEREAS, the Authority and Montage will cause to be delivered to the Mortgage Trustee a Letter of Credit (the "Series A Letter of Credit") issued by Northeastern Bank of Pennsylvania, Scranton, Pennsylvania ("Northeastern"), to provide for the payment of principal of, and 228 days' interest on, the Series A Mortgage Bond to the extent that moneys are not available therefor under the Mortgage Indenture; and

WHEREAS, Montage and the Authority will enter into a Credit Agreement with Northeastern to be dated as of November 1, 1986 (the "Series A Reimbursement Agreement") pursuant to which Montage and the Authority will agree to reimburse Northeastern for all amounts paid by Northeastern pursuant to the Series A Letter of Credit; and

WHEREAS, the obligations of Montage and the Authority under the Series A Reimbursement Agreement are to be secured by second mortgage of, and a lien on, the Project facility,

granted pursuant to a Second Mortgage and Security Agreement to be dated as of November 1, 1986, between Montage, as mortgagor, and Northeastern, as mortgagee; and

WHEREAS, under authority of the Local Government Unit Debt Act, Act 52 of the 1978 General Assembly of the Commonwealth of Pennsylvania (the "Debt Act"), the County has the power to guarantee the obligations of the Authority to Northeastern under the Series A Reimbursement Agreement; and

WHEREAS, the County desires that the Authority issue the Authority Bonds and apply the proceeds as aforesaid and is willing to continue its existing \$5,625,000 guarantee of Authority obligations by entering into a Guaranty Agreement to be dated as of November 1, 1986 (the "Guaranty") in order to enhance the marketability of the Authority Bonds and thereby achieve interest cost and other savings with respect to the Project and as an inducement to the purchase of the Authority Bonds; and

WHEREAS, any payment made by the County under the Guaranty will obligate Montage and the Authority under a Repayment Agreement to be dated as of November 1, 1986 (the "Repayment Agreement") to reimburse the County for all amounts so paid; and

WHEREAS, the obligations of Montage and the Authority under the Repayment Agreement are to be secured by a third mortgage of, and a lien on, the Project facility, granted pursuant to a Third Mortgage and Security Agreement to be dated as of November 1, 1986, between Montage, as mortgagor, and the County, as mortgagee; and

WHEREAS, the proceeds derived from the issuance of the Authority Bonds are to be applied to the costs of the Refinancing Project which will benefit the County and promote the general welfare of the residents thereof;

NOW, THEREFORE, the Board of County Commissioners of the County of Lackawanna, Pennsylvania, hereby **ORDAINS** and **ENACTS** that:

Section 1. The County hereby authorizes the incurring of nonelectoral debt in the form of the Guaranty previously recited to secure a portion of the payment obligation of the Authority under the Series A Reimbursement Agreement (a copy of which has been presented at this meeting and filed with the County's Administrative Director) dated as of November 1, 1986 among the Authority, Montage and Northeastern. The County declares such guarantee to be a project of the County for which lease rental debt in the amount of \$5,625,000 is to be incurred.

Section 2. The realistic estimated useful life of the Project is hereby declared to be 37 years.

Section 3. The County hereby authorizes the incurring of lease rental debt in the form of the guaranty contained in the Guaranty to secure the payment of up to \$5,625,000 of the payment obligations of the Authority under the Series A Reimbursement Agreement.

Section 4. The Chairman and Administrative Director of the Board, or any duly appointed successors, are hereby authorized and directed to prepare, certify and file with the Department of Community Affairs, in accordance with the Debt Act, a debt statement required by Section 410 thereof, and are further hereby authorized and directed to file with the Department of Community Affairs a report; to be prepared by Montage, required by Section 206 of the Debt Act which is necessary to qualify that portion of the gross lease rental debt of the County securing the payment of principal and interest on the Authority Bonds which may be excluded from such gross lease rental debt as self-liquidating debt for the purposes of establishing its debt limit; and the Chairman and Administrative Director are hereby authorized and directed to prepare and execute a certificate stating the County's borrowing base, as such term is defined in the Debt Act, for submission to the Department of Community Affairs.

Section 5. Subject to Section 8 hereof, the Chairman of the Board of Commissioners, the Controller and the Treasurer are hereby authorized and directed to execute, acknowledge and deliver, and the Administrative Director is hereby authorized and directed to affix and attest the corporate seal of the County to, the Guaranty in substantially the form approved in Section 8 (b) hereof with such changes therein as counsel may advise and the officers executing by their execution thereof and to take any other actions necessary to effectuate the Refinancing Project and the Project.

Section 6. The County hereby approves the forms of the Repayment Agreement and of the Third mortgage presented at this meeting and filed with its Administrative Director. The officers of the County are hereby further authorized and directed to execute and deliver such other documents, including the Repayment Agreement and the Third Mortgage, with such changes therein as counsel shall advise, and to take such other action as may be necessary or appropriate in order to effectuate the execution and delivery of the Guaranty, the Repayment Agreement and the Third Mortgage and the performance of the County's obligations thereunder, all in accordance with the foregoing Sections hereof.

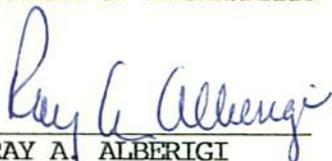
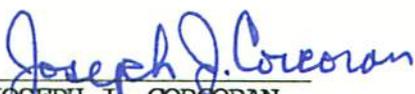
Section 7. This Ordinance shall become effective upon enactment. All prior ordinances or resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 8. The Guaranty shall be executed and delivered as provided in Section 5 hereof only after the following conditions have been met:

(a) the Department of Community Affairs shall have approved the execution of the Guaranty pursuant to the Debt Act and shall have approved the exclusion of lease rental debt thereby to be incurred as self-liquidating pursuant to the Debt Act;

(b) the Guaranty shall be in substantially the following form, with such changes as counsel may advise, the terms and provisions thereof being in all respects adopted fully herein.

COUNTY OF LACKAWANNA


RAY A. ALBERIGI
JOSEPH J. CORCORAN
CHARLES LUGER

ATTEST:


GERALD L. STANVITCH,
ADMINISTRATIVE DIRECTOR