

ORDINANCE #88

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FIRST READING - January 19, 1994  
SECOND READING - February 10, 1994  
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DETERMINING TO COMBINE REFUNDING OF DEBT AND FUNDING PROJECT COSTS FOR FINANCING PURPOSES AS PERMITTED BY SECTION 401 OF THE ACT OF THE COMMONWEALTH OF PENNSYLVANIA, APPROVED APRIL 28, 1978, ACT NO. 52, AS AMENDED AND SUPPLEMENTED; AUTHORIZING AND DIRECTING THE INCURRENCE OF NONELECTORAL DEBT THROUGH THE ISSUANCE OF THE COUNTY OF LACKAWANNA GENERAL OBLIGATION BONDS - SERIES OF 1994 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$19,305,000 PURSUANT TO SUCH ACT FOR AND TOWARD A PROJECT CONSISTING OF THE ADVANCE REFUNDING OF THE COUNTY'S GENERAL OBLIGATION BONDS, SERIES OF 1991, THE CURRENT REFUNDING OF THE COUNTY'S OUTSTANDING SERIES OF NOTES ISSUED IN 1987 AND 1988 THE FUNDING OF RENOVATIONS AND IMPROVEMENTS TO COUNTY FACILITIES AND THE EXPENSE OF ISSUING THE BONDS AND REFUNDING THE 1991 BONDS; IRREVOCABLY CALLING THE 1991 BONDS FOR OPTIONAL REDEMPTION ON DECEMBER 1, 2001; APPROVING THE DEPOSIT OF MONEYS WITH THE THIRD NATIONAL BANK & TRUST COMPANY, SCRANTON, PENNSYLVANIA TO PROVIDE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE 1991 BONDS WHEN DUE AND PAYMENT OF THE REDEMPTION PRICE OF THE OUTSTANDING 1991 BONDS ON DECEMBER 1, 2001; APPROVING THE FORM OF, AND AUTHORIZING EXECUTION OF, AN ESCROW AGREEMENT IN CONNECTION THEREWITH; ESTIMATING THE USEFUL LIFE OF THE PROJECT FOR WHICH SUCH BONDS ARE BEING ISSUED AND ESTIMATING THE REMAINING USEFUL LIFE OF THE PROJECT FOR WHICH THE 1991 BONDS AND THE NOTES WERE ISSUED; DETERMINING TO ACQUIRE A POLICY OF INSURANCE ASSURING PAYMENT OF THE BONDS WHEN DUE; DETERMINING THAT SAID BONDS SHALL BE SOLD AT PRIVATE SALE; DETERMINING THAT SUCH DEBT SHALL BE NONELECTORAL DEBT OF THIS COUNTY; ACCEPTING A BID FOR PURCHASE OF SAID BONDS AT PRIVATE SALE AND AWARDED SAID BONDS AND SETTING FORTH RELATED PROVISIONS; PROVIDING THAT SAID BONDS, WHEN ISSUED, SHALL BE GENERAL OBLIGATION BONDS OF THIS COUNTY; FIXING THE SUBSTANTIAL FORM, DENOMINATIONS, DATE, MATURITY DATES, INTEREST RATES, INTEREST PAYMENT DATES, REGISTRATION PROVISIONS, PLACE OF PAYMENT OF PRINCIPAL AND INTEREST AND REDEMPTION PROVISIONS OF SAID BONDS, AS WELL AS THE FORM OF PAYING AGENT'S CERTIFICATE AND FORM OF ASSIGNMENT AND TRANSFER; AUTHORIZING EXECUTION, ATTESTATION AND AUTHENTICATION OF SAID BONDS; PROVIDING COVENANTS RELATED TO DEBT SERVICE APPLICABLE TO SAID BONDS AS REQUIRED BY SUCH ACT AND THE PENNSYLVANIA CONSTITUTION AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS COUNTY IN SUPPORT THEREOF; CREATING A SINKING FUND IN CONNECTION WITH SAID BONDS AS REQUIRED BY SUCH ACT; APPOINTING A PAYING AGENT, BOND REGISTRAR AND A SINKING FUND DEPOSITARY; PROVIDING A COVENANT TO INSURE PROMPT AND FULL PAYMENT OF ALL OBLIGATIONS OF SAID BONDS WHEN DUE; AUTHORIZING AND DIRECTING APPROPRIATE AND SPECIFIED OFFICERS OF THIS COUNTY TO PREPARE, EXECUTE, VERIFY AND FILE, AS APPROPRIATE, THE DEBT STATEMENT, THE BORROWING BASE CERTIFICATE TO BE APPENDED TO THE DEBT STATEMENT, APPLICATION FOR EXCLUSION OF SELF-LIQUIDATING DEBT, IF DEEMED APPROPRIATE, AND A TRANSCRIPT AND APPLICATION FOR APPROVAL OF THE DEPARTMENT OF COMMUNITY AFFAIRS AS REQUIRED BY SUCH ACT; AUTHORIZING AND DIRECTING APPROPRIATE OFFICERS OF THIS COUNTY TO DO AND PERFORM CERTAIN OTHER SPECIFIED, REQUIRED OR APPROPRIATE ACTS AND THINGS; SETTING FORTH THAT SAID BONDS HAVE BEEN SOLD AT PRIVATE SALE; DECLARING THAT THE DEBT TO BE INCURRED IS WITHIN THE LIMITATION IMPOSED BY SUCH ACT UPON THE INCURRING OF SUCH DEBT BY THIS COUNTY; PROVIDING FOR THE COUNTY'S COVENANTS AS TO CERTAIN FEDERAL TAX MATTERS; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HEREWITH.

**WHEREAS**, The County of Lackawanna, Pennsylvania (the "County"), is a municipality existing under the laws of the Commonwealth of Pennsylvania (the "Commonwealth") and is a Local Government Unit, as defined in the Local Government Unit Debt Act, Act No. 52 of 1978, approved April 28, 1978, as amended and supplemented, of the Commonwealth (the "Act"); and

**WHEREAS**, The Board of Commissioners of the County (the "Board of Commissioners") desires to incur debt in the amount of Nineteen Million, Three Hundred Five Thousand Dollars (\$19,305,000), without the assent of the electors and to issue general obligation bonds (the "Bonds") in evidence of such debt, for the purpose of providing funds to be used, together with interest to be earned thereon and other available funds, toward the payment of the costs of a project (the "Project") consisting of; (A) (i) the advance refunding of County's General Obligation Bonds, Series of 1991 (the "1991 Bonds") (ii) the current refunding of the County's outstanding series of Notes issued in 1987 and 1988 (collectively, the "Notes"), in both cases to reduce total debt service costs (the "Refunding Program") as set forth on Exhibit A; (B) improvements and renovations to various County facilities and the acquisition of equipment in connection therewith as part of funding this County's capital budget (the "Capital Project") and (C) payment of the costs of issuing the Bonds, advance refunding the 1991 Bonds and current refunding of the Notes; and

**WHEREAS**, such incurrence of authorized debt by the County, will not, when aggregated with the existing net nonelectoral debt of the County, result in a violation of the limitations of the Constitution of the Commonwealth of Pennsylvania or of the Act; and

**WHEREAS**, the Board of Commissioners of the County has determined that it is desirable and in the best interests of the County to sell the Bonds at private negotiated sale, as authorized by Section 701 (a) of the Act;

**WHEREAS**, the County has invited Butcher & Singer, A Division of Wheat, First Securities, Inc. (the "Underwriter") to make a proposal with respect to the purchase of the Bonds at private negotiated sale; and

**WHEREAS**, the Board of Commissioners has received a negotiated proposal from the Underwriter (the "Bond Purchase Agreement") for the purchase of the Bonds specifying a purchase price of the Bonds of 98.9% of par or \$19,202,241.35 plus accrued interest with a "net interest cost" of 5.19% and a "net (or "true") interest rate of 4.9791% (as those terms are used in Section 709 of the Act), in each case assuming a settlement date of March 15, 1994, which was read aloud at the meeting; and

**WHEREAS**, the Board of Commissioners deems it in the best interests of the County that the aforesaid proposal to purchase the Bonds be accepted; and

**WHEREAS**, to reduce interest costs and to secure the payment of the principal of and interest on the Bonds for the benefit of the purchasers thereof, the County will acquire a municipal bond insurance policy from AMBAC Indemnity Corporation (the "Bond Insurer") guaranteeing the prompt payment of the principal of and interest on the Bonds when and as due; and

**WHEREAS**, to consummate the Refunding Program the County will irrevocably deposit moneys with a bank or trust company, acting as an escrow agent, in an amount which when invested in qualified securities, together with interest earned and thereon, will be sufficient to pay the principal of, and interest on, the 1991 Bonds until the first date on which such 1991 Bonds may be called for redemption pursuant to an escrow agreement with such bank or trust company;

**WHEREAS**, the Board of Commissioners determines that it is necessary and desirable to appoint The Third National Bank & Trust Company, Scranton, Pennsylvania, a bank and trust company lawfully conducting a banking and trust business in the Commonwealth, as a sinking fund depository, and as registrar and paying agent for the Bonds, and further the Board of Commissioners determines that it is necessary and desirable to appoint The Third National Bank & Trust Company, Scranton, Pennsylvania as escrow agent.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Board of Commissioners of this County, as follows:

**Section 1.** The funding of the costs of the Refunding Program and the Capital Project shall be combined for financing purposes.

**Section 2. (A)** The Board of Commissioners of this County does authorize and direct the issuance of a series of general obligation bonds of this County, pursuant to this Ordinance, in the aggregate principal amount of Nineteen Million, Three Hundred Five Thousand Dollars (\$19,305,000) to be designated generally as "General Obligation Bonds - Series of 1994", in accordance with the Act, to provide funds for and toward the Project consisting of (1) the components of the Refunding Program including (a) the advance refunding of the 1991 Bonds

through the application of a portion of the proceeds of the Bonds to the payment of the principal of and interest on the 1991 Bonds due between June 1, 1994 and December 1, 2001 and the redemption on December 1, 2001 of all 1991 Bonds maturing on and after December 1, 2002 (the 1991 Bonds having been issued to provide funds for and towards the acquisition of a ski facility and recreation area known as Montage located in the County (the "1991 Project")) (b) the current refunding of the Notes consisting of the Series A of 1987 Notes, the Series B of 1987 Notes and the Series of 1988 Notes; (2) the funding of the Capital Project including improvements and renovations to various County facilities and the acquisition of equipment in connection therewith all as part of funding this County's Capital Budget; and (3) payment of the costs and expenses of issuance of the Bonds and the advance refunding of the 1991 Bonds and the current refunding of the Notes.

**B.** Subject only to completion of, delivery and settlement for the Bonds, the County hereby irrevocably calls for redemption on December 1, 2001 all of its then outstanding 1991 Bonds maturing on December 1, 2002 and thereafter.

In connection with the redemption of the 1991 Bonds, the County hereby irrevocably makes, constitutes and appoints The Third National Bank & Trust Company, Scranton, Pennsylvania, paying agent and sinking fund depository for the 1991 Bonds (the "1991 Paying Agent") its true and lawful attorney to effect the redemption of the 1991 Bonds and in the name of the County to publish notice of redemption as provided in the form of the 1991 Bonds. The County agrees to pay the expenses of redemption notices and grants to the 1991 Paying Agent full authority to do and perform each and every act and thing whatsoever requisite and necessary to effectuate the redemption of the 1991 Bonds and the County hereby ratifies and confirms all that said 1991 Paying Agent shall do or cause to be done by virtue thereof.

Concurrently with the issuance of the Bonds and the deposit with the 1991 Paying Agent of an amount of money which, together with amounts held by the 1991 Paying Agent and the interest to be earned thereon, will be sufficient to meet all obligations of the County under and with respect to the 1991 Bonds, the County shall enter into a County of Lackawanna, Pennsylvania, Series of 1991 Escrow Agreement, (the "1991 Escrow Agreement") constituting the 1991 Paying Agent the Escrow Agent (the "Escrow Agent") establishing the terms and conditions upon which amounts held by the Escrow Agent for payment obligations with respect to the 1991 Bonds shall be invested in certain Government Obligations (as defined in the 1991 Escrow Agreement), including, if directed by the County, an escrow reinvestment agreement as more fully referred to in the 1991 Escrow Agreement.

**C.** Subject only to completion of, delivery and settlement for the Bonds, the County hereby calls the Notes for prepayment on the date of settlement under and pursuant to the Purchase Contract (hereafter defined). The County hereby authorizes and directs the Paying Agent (as defined in the Ordinances authorizing issuance of each of the Notes) to do and perform each and every act and thing whatsoever requisite and necessary to effectuate redemption of the Notes and the County hereby ratifies and confirms all that the said Paying Agents shall do and cause to be done by virtue thereof.

**D.** On the date of issuance of the Bonds the County shall furnish to the Paying Agent (hereafter defined) a certificate signed by the authorized officers of the County setting forth:

- i. the amount of proceeds to be received by the County from the sale of the Bonds;
- ii. the amount of any accrued interest received on the sale of the Bonds;
- iii. the amounts presently payable or to be reserved for payment of the costs and expenses of issuance of the Bonds;
- iv. the amount required, determined as provided in Section 2 (E) below, to be paid to the 1991 Paying Agent to provide for the payment of principal and interest and the redemption price of the 1991 Bonds, net of moneys available in the 1991 Bonds sinking fund, or otherwise, for payment of the 1991 Bonds;
- v. with respect to each series of Notes, the amount of the outstanding balance of principal and accrued interest to the date of issuance of the Bonds; and
- vi. the amounts remaining for payment to the County to be held and applied for and towards the costs of the Capital Project.

**E.** On the date of issuance of the Bonds, the Paying Agent shall transfer and deposit with the 1991 Paying Agent, as the 1991 Escrow Agent, for irrevocable deposit pursuant to the 1991 Escrow Agreement, that portion of the net proceeds of the Bonds which when combined with funds, if any, otherwise available to the 1991 Paying Agent, and invested by the 1991 Escrow Agent as provided in the 1991 Escrow Agreement as will be sufficient to pay the

principal of and interest on the 1991 Bonds from June 1, 1994 through December 1, 2001 and the redemption on such date of all 1991 Bonds maturing on and after December 1, 2002.

F. On the date of issuance of the Bonds the Paying Agent shall pay over and transfer to the holder of each of the series of the Notes the principal amount thereof and interest thereon accrued to the date of such prepayment.

G. The balance of the proceeds of the Bonds shall be paid over to the County and shall be held and disbursed in compliance with the provisions hereof.

**Section 3.** The Board of Commissioners of this County determines that the debt, of which the Bonds shall be evidence, to be incurred pursuant to this Ordinance, shall be nonelectoral debt of this County.

**Section 4.** The realistic estimated remaining useful life, as measured from the date of issuance of the 1991 Bonds for the project financed by the 1991 Bonds and being refunded by a portion of the Refunding Program is in excess of 20 years and the portion of the Bonds issued with respect to the refunding of the 1991 Bonds does not extend beyond the estimated original life of the 1991 Project. That portion of the Refunding Program attributable to the projects funded by the Notes does not extend beyond the estimated useful life of such projects as originally estimated pursuant to Section 602 (a) (2) of the Act.

B. The aggregate useful life of the components of the Capital Project, as a portion of the County's Capital Budget, is Thirty (30) years as provided by Section 602 (a) (2) of the Act.

**Section 5.** The Bonds, when issued, will be general obligation bonds of this County.

**Section 6.** The Bonds shall be issued in fully registered form, without coupons, shall be in the denomination of \$5,000 each or whole multiples thereof, shall be dated as of February 15, 1994, and shall bear interest from February 15, 1994 at the rates per annum set forth in Section 7 hereof, payable semiannually on June 1 and December 1 in each year (each an "Interest Payment Date"), commencing June 1, 1994, until payment of the principal sum has been made or provided for upon redemption or at maturity.

**Section 7.** The rates of interest, aggregate principal amount and maturity dates of the Bonds shall be as follows:

<u>Year of Maturity (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1994	\$ 840,000	2.70%
1995	1,020,000	3.10
1996	1,055,000	3.50
1997	1,085,000	3.75
1998	985,000	3.90
1999	885,000	4.10
2000	925,000	4.30
2001	965,000	4.40
2002	1,000,000	4.50
2003	965,000	4.60
2004	1,005,000	4.70
2005	1,055,000	4.80
2006	1,105,000	4.90
2007	1,155,000	5.00
2008	1,215,000	5.10
2009	1,280,000	5.10
2011	2,785,000	6.00

**Section 8.(A) Mandatory Redemption.** Bonds maturing on December 1, 2011 (hereafter the "Term Bonds") are subject to mandatory redemption prior to maturity, in amounts required by Section 16 hereof, on December 1, 2010, as drawn by lot by the Paying Agent. Prior to selection within a maturity by lot, the Paying Agent is authorized to accept tenders for the purchase of Term Bonds out of the moneys on deposit in the sinking fund, more fully set forth in Section 16 below, at prices not exceeding 100% of the principal amount and interest accrued to the date of purchase. The principal amount of Term Bonds shall be reduced by the amount of Term Bonds of that maturity which the Paying Agent shall have purchased or contracted to purchase. Such redemptions shall be in such principal amounts and upon such dates as shown below:

Term Bonds due December 1, 2011

<u>December 1 of Year</u>	<u>Amount</u>
2010	\$1,365,000
2011 (Maturity Date)	1,420,000

Any such redemption shall be upon payment of the principal amount thereof, together with accrued interest to the date fixed for redemption. In the event any Bonds are in a denomination greater than \$5,000, a portion of such Bonds shall be redeemed only in the principal amount of \$5,000 or any whole multiple thereof.

**B. Optional Redemption.** Bonds maturing on December 1, 2004 through December 1, 2009 are subject to redemption prior to maturity, at the option of the County, in whole, or, from time to time, in part, (and if in part, in any order of maturity and by date within a maturity) at any time on and after December 1, 2004. If less than all Bonds of any one maturity are to be redeemed, such Bonds shall be drawn by lot by the Paying Agent. In the event any Bonds are in a denomination greater than \$5,000, a portion of such Bonds shall be redeemed in the principal amount of \$5,000 or any whole multiple thereof. Any such redemption shall be upon payment of the principal amount thereof, together with accrued interest to the date fixed for redemption.

Term Bonds maturing on December 1, 2011 are subject to redemption prior to maturity, at the option of the County, in whole or, from time to time, in part (and if in part, by lot) on any date on and after June 1, 2004, at the applicable redemption price (expressed as a percentage of principal amount of Bonds to be redeemed) as set forth below, plus accrued interest to the redemption date:

<u>Redemption Periods (Both Dates Inclusive)</u>	<u>Price</u>
December 1, 2004 to May 31, 2005	102%
June 1, 2005 to May 31, 2006	101.25%
June 1, 2006 to November 30, 2006	100.50%
December 1, 2006 and thereafter	100%

In the event any Term Bonds are in a denomination greater than \$5,000, a portion of such Bonds shall be redeemed in the principal amount of \$5,000 or any whole multiple thereof.

If at the time of publication of notice of such redemption in the manner provided in the Bonds the County shall not yet have deposited with the Paying Agent moneys sufficient to redeem all such Bonds so called for redemption, such notice shall state that redemption is conditioned upon the deposit with the Paying Agent not later than the date specified for redemption of sufficient moneys for the purpose and such notice shall be of no effect unless such moneys are so deposited.

If, whenever the Paying Agent shall be required by this Ordinance to redeem Bonds as described in Section 8 (A) or the Board of Commissioners shall determine to exercise its option to redeem, on the same date, any Bonds as set forth in Section 8 (B) together with accrued interest to the date fixed for redemption, as permitted herein, the Paying Agent, as necessary and appropriate, shall draw by lot the Bonds to be redeemed in the following order to the extent appropriate: (i) first, the Bonds in the amounts required by the Ordinance as described in Section 8 (A); and (ii) second, Bonds to be redeemed in accordance with Section 8 (B), together with accrued interest to the date fixed for redemption.

Notice of any redemption shall be published once in a newspaper of general circulation in the County of Lackawanna, Pennsylvania, at least thirty (30) days before the redemption date. Notice of redemption shall be mailed, first class mail postage prepaid, by the Paying Agent to each registered owner of the Bonds to the address of such registered owner as it appears in the registration books maintained by the Paying Agent; provided, however, that failure to give notice of redemption by mailing such notice to the registered owner of any Bond shall not affect the validity of any proceedings for the redemption of the Bonds. Such notice shall specify: (1) the series, maturities and numbers of Bonds to be redeemed (if less than all then outstanding); (2) the date fixed for redemption; (3) the redemption price or prices applicable to the Bonds to be redeemed; (4) that on the date fixed for redemption such bonds will be payable at the principal corporate trust office of the Paying Agent and that after such date interest thereon shall cease to accrue; (5) if part thereof is to be redeemed as a Mandatory Redemption at the principal amount thereof, together with accrued interest to the date fixed for redemption and a part thereof is to be redeemed, on the same date, as an Optional Redemption at the principal amount thereof, together with accrued interest to the date fixed for redemption, said notice shall specify the numbers of the Bonds to be redeemed at the principal amount thereof, together with accrued interest to the date fixed for redemption as a Mandatory Redemption and the numbers of the Bonds to be redeemed at

the principal amount thereof, together with accrued interest to the date fixed for redemption as an Optional Redemption; and (6) if at the time of publication of a notice of redemption of Bonds as an Optional Redemption at the principal amount thereof together with accrued interest as aforesaid, the County shall not yet have deposited with the Paying Agent moneys sufficient to redeem all such Bonds so called for redemption, such notice shall state that redemption is conditioned upon the deposit with the Paying Agent not later than the date specified for redemption of sufficient moneys for the purpose and such notice shall be of no effect unless such moneys are so deposited.

If a Bond in a denomination in excess of \$5,000 is partially redeemed then, upon surrender thereof to the Paying Agent, there shall be issued to the registered owner thereof, without charge therefor, a fully registered Bond or Bonds for the unredeemed balance of such partially redeemed Bond, of like series, designation, maturity date, interest rate and in any authorized denomination.

On the date designated for redemption, notice having been published as aforesaid and moneys for payment of the principal of, premium, if any, and accrued interest being held by the Paying Agent, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds or portions thereof shall cease to be entitled to any benefit or security under this Ordinance and the registered owners of such Bonds shall have no rights with respect to such Bonds or portions thereof, except to receive payment of the principal of, premium, if any, and accrued interest on such Bonds or portions thereof to the date fixed for redemption.

**Section 9.** The Bonds shall be executed in the name of and on behalf of this County by the facsimile signature of the Chairman of the Board of Commissioners and the County Controller and the County Treasurer and a facsimile of the official seal of this County shall be affixed thereunto and duly attested by the facsimile signature of the Administrative Director of the County; and said officers are authorized to execute and to attest, as applicable, the Bonds. No bond shall be valid or enforceable unless such Bond has been authenticated by the certificate endorsed thereon, manually signed by an officer of the Paying Agent appointed in Section 13 of this Ordinance.

**Section 10.** The principal of and interest on the Bonds shall be payable to the registered owner at the principal corporate trust office of the Paying Agent hereinafter appointed in the City of Scranton, Pennsylvania, as Paying Agent, or the corporate trust office of any successor Paying Agent appointed by the County pursuant to the Act, in lawful moneys of the United States of America.

Payment of the interest due on the Bonds shall be paid to the registered owners thereof by check drawn on the Paying Agent dispatched to the registered owners thereof as they appear on the bond register maintained by such Paying Agent, as bond registrar, at the close of business on the fifteenth day of the calendar month immediately preceding each Interest Payment Date, (whether or not a business day), respectively, as applicable, in each year (the "Record Date"), irrespective of any transfer or exchange of the Bonds subsequent to the applicable Record Date. If and to the extent there shall be a default in the payment of interest due on the Bonds at the time the same is due and payable, such defaulted interest will be payable to the registered owners thereof by check or draft drawn on such Paying Agent mailed to the registered owners at their addresses as they appear on the bond register maintained by such Paying Agent, as bond registrar, at the close of business on a special record date (the "Special Record Date"), established by such Paying Agent, notice of which shall be mailed by first class mail by such Paying Agent to the registered owners thereof not less than fifteen (15) days preceding the Special Record Date. Such notice shall be mailed to the registered owners shown on the aforesaid bond register maintained by such Paying Agent at the close of business on the fifth (5th) business day preceding the date of mailing.

**Section 11.** The form of Bond, the form of Paying Agent's certificate of authentication, the endorsement and the form of instrument of transfer of the Bonds, and the statement of insurance shall be substantially as follows, with appropriate insertions, omissions and variations:

[FORM OF BOND]

Registered No. R- \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LACKAWANNA  
**GENERAL OBLIGATION BOND - SERIES OF 1994**

Interest <u>Rate</u>	Maturity <u>Date</u> December 1	Dated Date <u>of Series</u> February 15, 1994	<u>CUSIP Number</u>
Registered Owner:			
Principal Sum:			

The County of Lackawanna, Pennsylvania (the "County"), a political subdivision and body corporate existing under laws of the Commonwealth of Pennsylvania (the "Commonwealth"), for value received, hereby acknowledges itself indebted and promises to pay to the registered owner of this General Obligation Bond - Series of 1994 (the "Bond"), on the above stated maturity date, unless this Bond shall be redeemable and duly shall have been called for previous redemption and payment of the redemption price shall have been made or provided for, the above stated Principal Sum, and to pay interest thereon at the above stated annual rate of interest, from the Interest Payment Date (hereinafter defined) next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated as of an Interest Payment Date, in which event this Bond shall bear interest from such Interest Payment Date, or unless this Bond is registered and authenticated after a Record Date (hereinafter defined) and before the succeeding Interest Payment Date, in which event this Bond shall bear interest from such succeeding Interest Payment Date, such interest to be payable semiannually on the first day of June and December in each year (each an "Interest Payment Date") commencing June 1, 1994, on June 1 or December 1 next succeeding the date this Bond is registered and authenticated, and continuing until maturity hereof or, if this Bond shall be redeemable and payment of the redemption price shall have been made or provided for, until the date fixed for redemption hereof.

The principal of and premium, if any, on this Bond is payable to the registered owner hereof in lawful moneys of the United States of America upon presentation hereof at the principal corporate trust office of Third National Bank & Trust Company (the "Paying Agent" which term shall include any duly appointed alternate or successor paying agent) in the City of Scranton, Pennsylvania, or at the duly designated office of any alternate or successor paying agent. Payment of the interest due hereon shall be paid to the registered owner hereof as shall appear on the bond register maintained by the Paying Agent, as bond registrar, at the close of business on the fifteenth day of the calendar month immediately preceding the Interest Payment Date (whether or not a business day), respectively, in each year (the "Record Date") irrespective of any transfer or exchange of this Bond subsequent to the applicable Record Date, by check drawn on the Paying Agent mailed to the registered owner at his address as it appears on the bond register maintained by the Paying Agent, as bond registrar. In the event the County shall default in the payment of interest due hereon at the time the same is due and payable, such defaulted interest will be payable to the registered owner hereof in the manner described above dispatched to the registered owner as shall appear on the bond register maintained by the Paying Agent, as bond registrar, at the close of business on a special record date (the "Special Record Date"), established by the Paying Agent, notice of which shall be mailed by the Paying Agent to the registered owner hereof not less than 15 days preceding the Special Record Date. Such notice shall be mailed to the registered owner shown on the aforesaid bond register maintained by the Paying Agent at the close of business on the fifth business day preceding the date of mailing.

This Bond is one of a series of bonds of the County, known generally as "General Obligation Bonds - Series of 1994" all of like tenor, except as to dates of maturity, denominations, rates of interest and provisions for redemption, in the aggregate principal amount of \$19,305,000 (the "Bonds").

The Bonds are issued in accordance with provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved April 28, 1978, Act No. 52, as amended and supplemented, known as the Local Government Unit Debt Act (the "Act"), and by virtue of a duly adopted Ordinance (the "Ordinance") of the Board of Commissioners of the County. The Act, as such shall have been in effect when the Bonds were authorized, and the Ordinance shall constitute a contract between the County and the registered owners, from time to time, of the Bonds.

**THE TERMS AND PROVISIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF AND SUCH CONTINUED TERMS AND PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.**

This Bond shall not be valid or enforceable until this Bond shall have been duly authenticated by the Certificate of Authentication endorsed hereon signed by a duly authorized officer of the Paying Agent.

**[FORM OF CERTIFICATE OF AUTHENTICATION]**

**CERTIFICATE OF AUTHENTICATION AND  
CERTIFICATE AS TO OPINION**

This Bond is one of the General Obligation Bonds - Series of 1994 described in the Ordinance referred to in this Bond and the Opinion of Montgomery, McCracken, Walker & Rhoads, Philadelphia, Pennsylvania, printed on the reverse side hereof, is a true and correct copy of an original Opinion which was signed and dated as of the date of initial delivery hereof and is on file at our principal office where the same may be inspected.

**[BACK OF FORM OF BOND]**

COMMONWEALTH OF PENNSYLVANIA  
 THE COUNTY OF LACKAWANNA  
 GENERAL OBLIGATION BOND - SERIES OF 1994

**OPTIONAL REDEMPTION**

Bonds maturing on December 1, 2004 through December 1, 2009 are subject to redemption prior to maturity, at the option of the County, in whole, or, from time to time, in part (and if in part, in any order of maturity and by date within a maturity) at any time on and after December 1, 2004. If less than all Bonds of any one maturity are to be redeemed, such Bonds shall be drawn by lot by the Paying Agent. In the event any Bonds are in a denomination greater than \$5,000, a portion of such Bonds shall be redeemed in the principal amount of \$5,000 or any whole multiple thereof. Any such redemption shall be upon payment of the principal amount thereof, together with accrued interest to the date fixed for redemption.

Bonds maturing on December 1, 2011 (herein the "Term Bonds"), are subject to redemption prior to maturity, at the option of the County, in whole or, from time to time, in part (and if in part, by lot) on any date on and after June 1, 2004, at the applicable redemption price (expressed as a percentage of principal amount of Bonds to be redeemed) as set forth below, plus accrued interest to the redemption date:

<u>Redemption Periods</u> <u>(Both Dates Inclusive)</u>	<u>Price</u>
December 1, 2004 to May 31, 2005	102%
June 1, 2005 to May 31, 2006	101.25%
June 1, 2006 to November 30, 2006	100.50%
December 1, 2006 and thereafter	100%

In the event any Term Bonds are in a denomination greater than \$5,000, a portion of such Bonds shall be redeemed in the principal amount of \$5,000 or any whole multiple thereof.

**MANDATORY REDEMPTION**

Term Bonds maturing on December 1, 2011 are subject to mandatory redemption in principal amounts required by the Ordinance upon payment of the redemption price in an amount equal to the principal amount thereof, plus accrued interest to the redemption date, on December 1 of the years and in the principal amounts set forth below:

<u>Term Bonds due December 1, 2011</u>	
<u>December 1 of Year</u>	<u>Amount</u>
2010	\$1,365,000
2011	1,420,000

Any such redemption shall be by application of moneys available for the purpose in the sinking fund created under the Ordinance and shall be upon payment of the principal amount thereof, together with accrued interest to the date fixed for redemption, and shall be effected upon terms and conditions set forth herein and in the Ordinance. In the event any such Bonds are in a denomination greater than \$5,000, a portion of such Bonds may be redeemed only in the principal amount of \$5,000 or any whole multiple thereof.

If, whenever the Paying Agent shall be required by the Ordinance to redeem Term Bonds, the Board of County Commissioners shall determine to redeem as an Optional Redemption, on the same date, any Bonds as permitted herein, the Paying Agent, as necessary and appropriate, shall draw by lot the Bonds to be redeemed in the following order, to the extent appropriate: (1) First, the Term Bonds in the amounts required by the Ordinance; and (2) Second, Bonds to be redeemed as an Optional Redemption upon payment of the principal amount thereof together with accrued interest to the date fixed for redemption.

Notice of any such redemption shall be published once in a newspaper of general circulation in The County of Lackawanna, Pennsylvania, at least thirty days before the redemption date. Notice of redemption shall be mailed, first class mail, by the Paying Agent to each registered owner of the Bonds to the address of such registered owner as it appears in the registration books maintained by the Paying Agent; provided, however, that failure to give notice of redemption by mailing such notice to the registered owner of any Bond shall not affect the validity of any proceedings for the redemption of the Bonds. Such notice shall specify: (1) the series, maturities



and numbers of Bonds to be redeemed (if less than all then outstanding); (2) the date fixed for redemption; (3) the redemption price or prices applicable to the Bonds to be redeemed; (4) that on the date fixed for redemption such bonds will be payable at the principal corporate trust office of the Paying Agent, The Third National Bank & Trust Company, Scranton, Pennsylvania, and that after such date interest thereon shall cease to accrue; (5) if part thereof are to be redeemed at the principal amount thereof, together with accrued interest to the date fixed for redemption and a part thereof are to be redeemed, on the same date, as an Optional Redemption, together with accrued interest to the date fixed for redemption, said notice shall specify the numbers of the Bonds to be redeemed at the principal amount thereof, together with accrued interest to the date fixed for redemption and the numbers of the Bonds to be redeemed at the redemption price, together with accrued interest to the date fixed for redemption; and (6) if at the time of publication of a notice of redemption of Bonds as an Optional Redemption at the redemption price together with accrued interest as aforesaid, the County shall not yet have deposited with the Paying Agent moneys sufficient to redeem all such Bonds so called for redemption, such notice shall state that redemption is conditioned upon the deposit with the Paying Agent not later than the date specified for redemption of sufficient moneys for the purpose and such notice shall be of no effect unless such moneys are so deposited.

If a Bond in a denomination in excess of \$5,000 is partially redeemed then, upon surrender thereof to the Paying Agent, there shall be issued to the registered owner thereof, without charge therefor, a fully registered Bond or Bonds for the unredeemed balance of such partially redeemed Bond, of like series, designation, maturity date, interest rate and in any authorized denomination.

On the date designated for redemption, notice having been published as aforesaid and moneys for payment of the principal of, premium, if any, and accrued interest being held by the Paying Agent, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds or portions thereof shall cease to be entitled to any benefit or security under the Ordinance authorizing issuance of the Bonds and registered owners of such Bonds shall have no rights with respect to such Bonds or portions thereof, except to receive payment of the principal of, premium, if any, and accrued interest on such Bonds or portions thereof to the date fixed for redemption.

It hereby is certified that: (1) all acts, conditions and things required to be done, to happen or to be performed as conditions precedent to and in issuance of this Bond or in creation of the debt of which this Bond is evidence have been done, have happened or have been performed in due and regular form and manner, as required by law; and (2) the debt represented by this Bond, together with any other indebtedness of the County, is not in excess of any limitation imposed by the Act upon the incurring of debt by the County. The County has covenanted, in the Ordinance, with registered owners, from time to time, of the Bonds which shall be outstanding, from time to time, pursuant to the Ordinance, that the County, as appropriate, shall include the amount of the debt service, for each fiscal year of the County in which sums are payable, in its budget for that fiscal year, shall appropriate such amounts to the payment of such debt service and duly and punctually shall pay or shall cause to be paid the principal of each of the Bonds and the interest thereon at the dates and place and in the manner stated herein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, the County has and does pledge, irrevocably, its full faith, credit and taxing power. The Act provides that the foregoing covenant of the County shall be enforceable specifically. The County, in the Ordinance, has established a sinking fund with the Paying Agent, as the sinking fund depository, into which funds for the payment of the principal of and the interest on the Bonds shall be deposited not later than the date fixed for disbursement thereof. The County has covenanted in the Ordinance to make payments out of such sinking fund or out of any other of its revenues or funds, at such times and in such annual amounts as shall be sufficient for prompt and full payment of all obligations of this Bond.

This Bond shall be transferable and exchangeable at the principal corporate trust office of The Third National Bank & Trust Company, Scranton, Pennsylvania, by the registered owner hereof in person or by the registered owner's duly authorized attorney at the designated office of the Paying Agent, upon surrender hereof, together with a written instrument of transfer duly executed by the registered owner hereof or the registered owner's duly authorized attorney, and thereupon the Paying Agent shall issue in the name of the transferee a new fully registered Bond or Bonds of the same aggregate principal amount and series, designation, maturity date and interest rate as the surrendered Bond. The County and the Paying Agent may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The County and the Paying Agent shall not be required to: (1) issue, transfer, or exchange any Bonds during the period beginning at the opening of business on any Record Date for interest payments and ending at the close of business on such interest payment date; or (2) issue, transfer, or exchange, any Bonds during a period beginning at the opening of business on the 15th business day next preceding any date of selection of Bonds to be redeemed and ending at the close of business on the date the notice of redemption shall be published; or (3) issue, transfer, or exchange, any Bonds during the period beginning at the opening of business on the first business day next succeeding the business day the Paying Agent determines the registered owners of Bonds to receive notice of any Special Record Date and the close of business on the

Special Record Date; or (4) issue, transfer, or exchange, any Bonds selected or called for redemption.

This Bond is issuable only in the form of a fully registered Bond, without coupons, in the denomination of \$5,000 or any whole multiple thereof. This Bond or this Bond, together with any other Bonds, at the option of the registered owner hereof, may be exchanged for an aggregate principal amount of a registered Bond or Bonds of the same series, designation, maturity and interest rate of any authorized denomination.

[FORM OF INSTRUMENT OF TRANSFER]

ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto:

Please Insert Social Security or Tax Identification Number of Assignee(s)

\_\_\_\_\_  
\_\_\_\_\_

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ Attorney, to transfer said Bond on the books kept for registration thereof, with full power of substitution in the premises.

FORM OF STATEMENT OF INSURANCE

STATEMENT OF INSURANCE

Municipal Bond Insurance Policy No. \_\_\_\_\_ (the "Policy") with respect to payments due for principal of and interest on this bond has been issued by AMBAC Indemnity Corporation ("AMBAC Indemnity"). The Policy has been delivered to the United States Trust Company of New York, New York, New York, as the Insurance Trustee under said Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from AMBAC Indemnity or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this bond acknowledges and consents to the subrogation rights of AMBAC Indemnity as more fully set forth in the Policy.

**Section 12.** Until Bonds in definitive form are ready for delivery, the proper officers of the County may execute, and upon their request in writing, the Paying Agent shall authenticate and deliver in lieu of the Bonds in definitive form and subject to the same provisions, limitations and conditions, one or more printed or typewritten bonds in temporary form, substantially of the tenor of the Bonds herein before described in fully registered form, without coupons and with appropriate omissions, variations and insertions. Such bond or bonds in temporary form may be for the principal amount of Five Thousand Dollars (\$5,000) or any whole multiple or multiples thereof, as such officers may determine. The aforesaid officers, without unnecessary delay, shall cause Bonds in definitive form to be prepared, executed and delivered to said Paying Agent, and thereupon, upon presentation and surrender of the bond or bonds in temporary form, said Paying Agent shall authenticate and deliver, in exchange therefor, Bonds in definitive form in authorized denominations for the same aggregate principal amount and bearing interest at the same rate per annum as the bond or bonds in temporary form surrendered. Such exchange shall be made by the County at its own expense and without any charge therefor to the holders thereof. When and as interest is paid upon the bond or bonds in temporary form, the fact of such payment shall be endorsed thereon. Until so exchanged, the temporary bond or bonds shall be in full force and effect according to its or their terms.

**Section 13 (A).** The Board of Commissioners determines that it is necessary and desirable and in the best interest of the County to appoint a financial institution to act as paying agent and registrar for the Bonds to insure adequate record keeping to identify the holders of the Bonds and to direct payment of interest or principal or both to such holders, and to deliver all notices to such holders. The Third National Bank & Trust Company, Scranton, Pennsylvania is hereby appointed as the paying agent, sinking fund depository and bond registrar (the "Paying Agent"). The Paying Agent, by a duly authorized officer, hereby is authorized and requested, upon written order of the Chairman of the Board of Commissioners of this County or other authorized officer, to authenticate the Bonds by execution of the Certification of Authentication endorsed on the Bonds and deliver them to the purchaser thereof designated in the order.

B. The Paying Agent may resign and be discharged of the trusts created hereby on written resignation filed with the Administrative Director of the County not less than sixty (60) days before the date when such resignation is to take effect; provided notice of such resignation is mailed to each registered owner of the Bonds and to the Bond Insurer not less than thirty (30) days prior to such effective date of such resignation and a notice of such registration is published once in The Buyer Bond or its successor, if any, not less than thirty (30) days prior to such effective date. Such resignation shall take effect on the day specified therein unless a successor Paying Agent is previously appointed, in which event the resignation shall take effect immediately on the appointment of such successor.

C. Any Paying Agent hereunder may be removed at any time by ordinance of the County, with the consent of the Bond Insurer, appointing a successor to the Paying Agent so removed in accordance with the Act and filed with the Paying Agent. The Bond Insurer shall have the right to remove any Paying Agent for any material breach of its fiduciary duty, the existence of which material breach shall be established by an opinion to such effect by counsel satisfactory to the County and the Bond Insurer.

D. If a Paying Agent or any successor fiduciary resigns or is removed or dissolved, or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall forthwith exist in the office of such Paying Agent and the County shall appoint a successor and shall publish notice of such appointment in The Bond Buyer or its successor, if any, and shall cause notice of such appointment to be mailed to the Bond Insurer and to the registered owner of the Bonds. If the County fails to make such appointment within thirty (30) days of the occurrence of such vacancy, the holders of a majority in principal amount of the Bonds then outstanding may do so.

E. A successor paying agent shall be a national bank, bank, bank and trust company or a trust company, duly authorized to exercise trust powers, subject to examination by federal or state authority, having combined net capital and surplus in excess of \$75,000,000 and otherwise qualified under the Act. Any successor paying agent shall execute, acknowledge and deliver to the County an instrument accepting such appointment hereunder; and thereupon such successor paying agent, without any further act, deed or conveyance, shall become fully vested with all estates, properties, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Paying Agent herein. The Paying Agent ceasing to act hereunder shall pay over to the successor paying agent all moneys held by it hereunder; and, upon request of the successor paying agent, the Paying Agent ceasing to act and the County shall execute and deliver an instrument transferring to the successor paying agent all the estates, properties, rights, powers and trusts hereunder of the Paying Agent ceasing to act.

F. Any corporation into which any Paying Agent hereunder may be merged or with which it may be consolidated, or to which substantially all of the trust business of such Paying Agent shall be transferred, or any corporation resulting from any merger or consolidation to which any Paying Agent hereunder shall be a party, shall be the successor paying agent hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that any such successor corporation continuing to act as Paying Agent hereunder shall meet the requirements of this Section 13 and if such corporation does not meet the aforesaid requirements, a successor paying agent shall be appointed pursuant to this Section 13.

**Section 14.** The Board of Commissioners of this County accepts the proposal dated the date hereof of Butcher & Singer, A Division of Wheat, First Securities, Inc. as the Underwriter, to purchase the Bonds at a private negotiated sale at the price and in accordance with the other terms and conditions contained in such proposal. This Board of Commissioners hereby finds that such private negotiated sale is in the best interests of the County and the Bonds are hereby awarded to the Purchaser in accordance with terms and conditions of its proposed Purchase Contract, in substantially the form attached hereto. As set forth in the proposed Bond Purchase Agreement, the Bonds are purchased at a price of \$19,202,241.35 (98.9% of the principal amount thereof), together with accrued interest from the date of the Bonds to the date of delivery of the Bonds, a "net interest cost" of 5.19% and a "net (or true)" interest rate" of 4.9791% assuming a settlement date of March 15, 1994, the Purchaser having submitted such Bond Purchase Agreement in accordance with provisions of the Act. Said acceptance and award, however, is conditioned upon all parts of this Ordinance becoming effective and the Department of Community Affairs of the Commonwealth of Pennsylvania approving the incurrence of the debt to be evidenced by the Bonds. The proper officers of the County are hereby authorized to endorse the acceptance of the County upon such Bond Purchase Agreement, to deliver a copy, as so endorsed, to the Underwriter and to cause a copy of such Bond Purchase Agreement to be attached to this Ordinance.

The Chairman of the Board of Commissioners, and the Treasurer of the County and their respective successors are further authorized and directed to deliver the Bonds to the Underwriter upon fulfillment of the aforementioned conditions and receipt of the purchase price payable under

such proposal and in connection therewith, the proper officials of the County are hereby authorized to execute the necessary affidavits and all such other papers, including the preliminary official statement and official statement of the County and a certificate of conformance with the requirements of Regulation 15c2-12 of the Rules and Regulations of the Securities and Exchange Commission and such other matters as necessary and desirable, to purchase a municipal insurance policy from the Bond Insurer to enhance the rating of the Bonds and provide debt service savings to the County, to execute and deliver the 1991 Escrow Agreement with the 1991 Escrow Agent to pay the costs of issuing the Bonds and otherwise take such other action as may be necessary or convenient to make settlement or as may be required in the issuance of the Bonds.

**Section 15.** This County covenants to and with the registered owners, from time to time, of the Bonds, pursuant to this Ordinance, that this County, as appropriate, shall include the amount of the debt service for each fiscal year of this County in which such sums are payable in its budget for that fiscal year, shall appropriate such amounts to the payment of such debt service and duly and punctually shall pay or shall cause to be paid the principal of the Bonds and the applicable interest thereon on the dates and at the place and in the manner stated in the Bonds, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, this County shall and does pledge, irrevocably, its full faith, credit and taxing power. As provided in the Act, the foregoing covenant of this County shall be enforceable specifically.

The amounts of the debt service for each fiscal year of this County in which such sums are payable are set forth in Exhibit "B" attached hereto, which Exhibit "B" hereby is incorporated as though fully set forth in this Section 15.

**Section 16.** There is created, pursuant to Section 1001 of the Act, a sinking fund for the Bonds, to be known as "Sinking Fund, General Obligation Bonds - Series of 1994" (the "Sinking Fund"), which Sinking Fund shall be administered in accordance with applicable provisions of the Act and into which funds shall be deposited for prompt and full payment of all obligations of the Bonds when due.

The County, except as otherwise provided herein, shall deposit into the Sinking Fund not later than the business day (unless such deposit is other than in next day funds, in which case, three business days) next preceding each date when interest or principal is to become due on the Bonds a sufficient sum of money such that on each such payment date the Sinking Fund will contain, together with any other available funds therein, sufficient moneys to pay in full the interest and principal then due on the Bonds. The Sinking Fund shall be secured and invested by the Paying Agent, as directed by the County, in securities or deposits authorized by the Act. Said deposits and securities, together with interest thereon, shall be part of the Sinking Fund. The Paying Agent is directed to pay from the Sinking Fund the principal of and interest on the Bonds when due and payable.

For so long as any Term Bonds shall remain outstanding, the County shall deposit in the Sinking Fund, not later than the business day next preceding the dates set forth below as dates upon which a mandatory redemption must occur, the aggregate principal amount as may be required to redeem or pay upon maturity, as applicable, the following aggregate principal amounts of the applicable Term Bonds being retired on or prior to the next succeeding December 1 as hereinafter provided:

<u>Mandatory Redemption</u> <u>(December 1)</u>	<u>Principal amount</u>
2010	\$1,365,000
2011	\$1,420,000

or such lesser aggregate principal amount as on the particular date shall represent all Term Bonds of the particular maturity then being retired that remain outstanding.

Moneys so deposited in the Sinking Fund, as provided in the preceding paragraph, shall be applied to the payment for redemption of the Term Bonds, as set forth above. On October 20, 2010 or as soon after October 20 as shall suit the convenience of the Paying Agent and shall allow sufficient time to publish and mail the notice of redemption, the Paying Agent shall draw by lot for redemption on the following December 1 such principal amount of Term Bonds then being retired as shall represent the difference between the aggregate principal amount of Term Bonds fixed for redemption on or prior to the following December 1 in accordance with the schedule set forth in the preceding paragraph and the principal amount thereof which the Paying Agent shall have purchased during the immediately preceding period, as herein provided.

Upon selection by lot of the particular Term Bonds to be redeemed, as above provided, the Paying Agent shall advertise, in the name of this County such Term Bonds so drawn for redemption, in the manner provided in the Bonds.

This County shall pay all costs of such redemption.

**Section 17.** This County covenants to make payments out of the Sinking Fund created pursuant to Section 16 or out of any other of its revenues or funds, at such times and in the annual amounts, as shall be sufficient for prompt and full payment of all obligations of the Bonds when due.

**Section 18 (A).** The purchase of a policy of municipal bond insurance ("Municipal Bond Insurance Policy") unconditionally guaranteeing payment of a principal of and interest on the Bonds (to the extent that sufficient funds for such payment shall have not been provided by the County) from AMBAC Indemnity Corporation, as the Bond Insurer, is hereby authorized and approved and the commitment of the Bond Insurer to issue such insurance is hereby accepted.

**B.** In the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer, the Bonds so paid shall remain outstanding for all purposes hereunder and under the Act shall not be deemed to have been defeased, satisfied or otherwise paid by the County. In such event, all covenants, agreements and other obligations of the County under this ordinance to the registered owners of the Bonds so paid shall continue to exist and shall run to the benefit of the Bond Insurer and the Bond Insurer shall be fully subrogated to the rights of such registered owners.

**Section 19.** As long as the bond insurance shall be in full force and effect, the County and Paying Agent agree to comply with the following provisions:

**A.** One (1) day prior to all Interest Payment Dates the Paying Agent will determine whether there will be sufficient funds in the Sinking Fund to pay the principal of or interest on the Bonds on such Interest Payment Date. If the Paying Agent determines that there will be insufficient funds in the Sinking Fund, the Paying Agent shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Paying Agent has not so notified the Bond Insurer at least one (1) day prior to an Interest Payment Date, the Bond Insurer will make payments of principal or interest due on the Bonds on or before the first (1st) day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Paying Agent.

**B.** The Paying Agent shall, after giving notice to the Bond Insurer as provided in (A) above, make available to the Bond Insurer and at the Bond Insurer's direction, to the United States Trust Company of New York, as insurance trustee for the Bond Insurer or any successor insurance trustee (the "Insurance Trustee"), the registration books of the County maintained by the Paying Agent and all records relating to the funds and accounts maintained under this ordinance.

**C.** The Paying Agent shall provide the Bond Insurer and the Insurance Trustee with a list of registered owners of Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the Municipal Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of the Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the registered owners of Bonds entitled to receive full or partial principal payments from the Bond Insurers.

**D.** The Paying Agent shall, at the time it provides notice to the Bond Insurer, pursuant to (A) above, notify registered owners of Bonds entitled to receive the payment of principal or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of the bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee) to permit ownership of such Bonds to be registered in the name of the Bond Insurer for payment to the Insurance Trustee, and not the Paying Agent and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Paying Agent who shall note on such Bonds the portion of the principal paid by the Paying Agent and then along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

**E.** In the event that the Paying Agent has notice that any payment of principal or interest on a Bond which has become Due for Payment (as defined in the Municipal Bond Insurance Policy) and which is made to a holder of any Bond by or on behalf of the County has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time the Bond Insurer is notified pursuant to (A) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to

payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Bonds which have been made by the Paying Agent and such subsequently recovered from registered owners and the dates on which such payments were made.

F. In addition to those rights granted under this ordinance, the Bond Insurer shall, to the extent it makes payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Municipal Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books of the County maintained by the Paying Agent upon receipt from the Bond Insurer of proof of payment of interest thereon to the registered owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books of the County maintained by the Paying Agent upon surrender of the Bonds by the registered owners thereof together with proof of the payment principal thereof.

**Section 20.** If the County shall fail or refuse to make any required deposit in the Sinking Fund established by Section 16, and in accordance with the requirements of Section 17, of this Ordinance, or to satisfy any of the covenants contained herein, the Paying Agent may, and upon the request of the Bond Insurer or of the Registered Owners of 25% of the principal amount of the Bonds then outstanding, upon being furnished with indemnity satisfactory to it against the expenses and possible liabilities in connection with the duties thereby accepted, shall, exercise any remedy provided in the Act or at law or in equity for the benefit of the Registered Owners of the Bonds and shall disburse all funds so collected to the person entitled to receive payments pursuant to the terms of the Bonds as provided in the Act, subject to any limitations contained in Article XII thereof. If the Paying Agent is willing at such time to serve and exercise the powers conferred upon a trustee appointed in the manner provided in Section 1203 of the Act, subject as aforesaid, such representation shall be exclusive for the purposes therein and in the Act provided.

**Section 21.** The appropriate officers of this County, which shall include their duly qualified successors in office, if applicable, are authorized and directed: (A) to prepare, verify and file with the Pennsylvania Department of Community Affairs (the "Department"), a debt statement as required by Section 410 of the Act; (B) to prepare, execute and file with the Department the borrowing base certificate to be appended to the debt statement referred to in subparagraph (A) of this Section 21 and, if deemed appropriate, an application for exclusion of self liquidating debt; (C) to prepare, execute and file the application with the Department, together with a complete and accurate transcript of the proceedings relating to the incurring of debt, of which debt the Bonds, upon issue, will be evidence, as required by Section 411 of the Act; (D) to pay or to cause to be paid to the Department all filing fees required by the Act in connection with the foregoing; and (E) to take other required, necessary and/or appropriate action.

**Section 22.** It is declared that the debt to be incurred hereby is within the limitation imposed by the Act upon the incurring of such debt by this County.

**Section 23.** The County covenants with the registered owners of the Bonds that (A) no part of the proceeds of the Bonds shall at any time be used directly or indirectly to acquire securities or obligations the acquisition of which would cause the Bonds to be "arbitrage bonds" as defined in Section 103 (b) (2) and Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or any similar statutory provision or any rule or regulation promulgated thereunder, such that the interest on the Bonds would no longer be exempt from Federal income tax and (B) it will comply with each applicable requirement of the Code to the extent required to maintain the exemption from Federal income taxation of the interest payable on the Bonds under Section 103 (a) of the Code, including without intending to limit the generality of the foregoing, compliance with its obligations, if any, to rebate arbitrage profits applicable to the Bonds, if any, under Section 148 (f) of the Code. The County is authorized to comply with such procedures as may be recommended by its duly appointed bond counsel in complying with the provisions of such Section 148 (f).

**Section 24.** In furtherance of the County's covenant set forth in Section 23 hereof, the County shall:

(A) keep accurate records and accounts for the facilities utilized in the Project (the "Project Records"), separate and distinct from its other records and accounts. Such Project Records shall be audited annually, which may be part of the annual audit of records and accounts of the County;

(B) keep, or cause to be kept, accurate records of each investment it makes in "investment property", if any, acquired directly or indirectly with "gross proceeds" of the Bonds and each "expenditure" it makes with the "gross proceeds" of the Bonds. Such records shall include the purchase date or allocation date, purchase price (including any "constructive

payments"), nominal interest rate, dated date, maturity date, type of property, frequency of periodic payments, period of compounding, yield to maturity, amount actually or constructively received on disposition (including any "disposition receipt" or "installment date receipt"), disposition date and evidence of the fair market value of such property on the purchase date or disposition date) for each item of such "investment property". For purposes of the calculation of purchase price and disposition price, brokerage or selling commissions, administrative expenses or similar expenses shall not increase the purchase price of an item and shall not reduce the amount actually or constructively received upon disposition of an item;

(C) compute, or cause to be computed (using such consultants as it deems necessary), within thirty (30) days of the last day of the fifth and each succeeding fifth "bond year" and within thirty (30) days of the date the last Bond is discharged the "rebtable arbitrage" as of the "installment computation date" or "final computation date" attributable to any investment in "investment property" made by the County;

(D) pay to the Internal Revenue Service (i) within sixty (60) days of the last day of the fifth and each succeeding fifth "bond year" an amount of money equal to 90% of the "rebtable arbitrage" and (ii) within sixty (60) days after the last Bond is discharged, the balance of the "rebtable arbitrage" together with interest as required by Section 148 (f) of the Code; provided, however, that computations and payments may be made on other bases, at other times, and in other amounts, or omitted altogether, to the extent a nationally recognized bond counsel opines that such action will not adversely affect the exemption of interest on the Bonds from Federal income tax; and

(E) retain records of the determinations of the amounts paid to the United States until six (6) years after the date the last Bond is discharged.

For purposes of this Section 24, quoted terms shall have the meanings given to such terms by Section 148 of the Code, including particularly Treasury Regulations §1.148-1 through 1.148-811, as supplemented or amended, to the extent applicable to the Bonds, and any successor legislation or regulations applicable to the Bonds.

**Section 25.** Proper officers of this County are authorized and directed to deliver the Bonds, upon execution and attestation thereof as provided for herein, to the Underwriter, but only upon receipt of proper payment of the balance due therefor, and only after the Department has certified its approval pursuant to Section 804 of the Act or the same has been deemed to be approved as provided in Section 806 of the Act.

**Section 26.** In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this County that such remainder shall be and shall remain in full force and effect.

**Section 27.** All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

**Section 28.** This Ordinance shall become effective in accordance with Section 103 of the Act.

#### EXHIBIT A

THE COUNTY OF LACKAWANNA  
 \$ \_\_\_\_\_  
 GENERAL OBLIGATION BONDS - SERIES OF 1994  
 DEBT SERVICE REDUCTION SCHEDULE

<u>Year End</u>	<u>Current D/S</u>	<u>Alternate D/S</u>	<u>Differences</u>	<u>Present Value</u>
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EXHIBIT B

THE COUNTY OF LACKAWANNA  
\$ \_\_\_\_\_  
GENERAL OBLIGATION BONDS - SERIES OF 1994  
DATED AS OF FEBRUARY 1, 1994  
DEBT SERVICE SCHEDULE

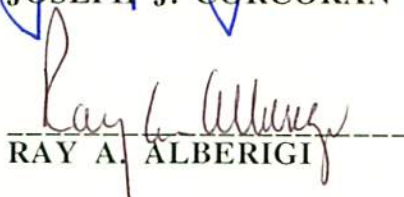
Interest Rate Per Annum (from February 1, 1994, Until Maturity <u>Or Until Redeemed</u> )	Aggregate Principal <u>Amount</u>	<u>Maturity Date</u>
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EXHIBIT C

THE COUNTY OF LACKAWANNA  
\$ \_\_\_\_\_  
GENERAL OBLIGATION BONDS - SERIES OF 1994  
BOND PURCHASE CONTRACT

COUNTY OF LACKAWANNA

  
-----  
JOSEPH J. CORCORAN

  
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RAY A. ALBERIGI

  
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JOHN SENIO

ATTEST:

  
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GERALD L. STANVITCH,  
ADMINISTRATIVE DIRECTOR

Approved as to form and legality:

  
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JOSEPH A. O'BRIEN, ESQUIRE  
COUNTY SOLICITOR