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ORIGINAL

ORDINANCE NO. 2008-029

**AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF DELAWARE, INDIANA, AUTHORIZING THE COUNTY OF DELAWARE, INDIANA TO MAKE TEMPORARY LOANS TO REFINANCE WARRANTS ISSUED TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF CERTAIN FUNDS OF THE COUNTY AND CERTAIN DEPARTMENTS THEREOF; AUTHORIZING THE ISSUANCE AND EXCHANGE OF TEMPORARY LOAN TAX ANTICIPATION WARRANTS TO EVIDENCE SUCH LOANS; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON**

**WHEREAS**, the County Council (the "County Council") of the County of Delaware, Indiana (the "County") has determined that there will be an insufficient amount of money in the Family and Children Fund of the County (the "Fund") to meet the respective current running expenses of the County from the Fund during the fiscal year ending on the last day of December 2008, and prior to the respective December settlement and distribution of taxes levied for the Fund; and

**WHEREAS**, the County Council has heretofore determined in Ordinance No. 2007-027 adopted on December 11, 2007 and Ordinance No. 2008-19 adopted on July 22, 2008 (the "Prior Ordinances") that an emergency exists for the borrowing of money to pay the County's current running expenses, that temporary loans for the Fund for such purposes should be made, and that tax anticipation warrants evidencing such loans should be issued and sold, subject to the terms and conditions set forth herein and in accordance with the provisions of Indiana law; and

**WHEREAS**, in order to provide funds to meet the County's current running expenses as aforesaid the County did issue (i) on January 23, 2008, its Tax Anticipation Warrant, Series 2008A in the aggregate principal amount of Four Million Dollars (\$4,000,000) and (ii) on

September 4, 2008, its Tax Anticipation Warrant, Series 2008B in the aggregate principal amount of Two Million Three Hundred Thousand Dollars (\$2,300,000) (collectively the "Prior Warrants"); and

**WHEREAS**, revenues anticipated to be received by the County to pay the Prior Warrants upon maturity on December 31, 2008, have not been received and are not expected to be received by the County prior to December 31, 2008; and

**WHEREAS**, the County is authorized by Indiana Code 5-1-5-2, 5-1-5-3, and 5-1-5-13 to issue and sell or exchange, on a negotiated basis, warrants to replace the Prior Warrants if there are no funds otherwise available to pay the Prior Warrants at maturity; and

**WHEREAS**, Old National Bank, N.A., is the purchaser and owner of the Prior Warrants; and

**WHEREAS**, except for the Prior Warrants, the County has no outstanding tax anticipation warrants payable from 2008 tax or other revenues with respect to the Fund; and

**WHEREAS**, the County Council seeks to authorize the issuance of such tax anticipation warrants with respect to the Fund and the exchange of such warrants for the Prior Warrants pursuant to the provisions of Indiana Code 36-2-6-18, 5-1-5-2, 5-1-5-3, and 5-1-5-13, subject to and dependent upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF DELAWARE, INDIANA, AS FOLLOWS:**

**SECTION 1. THE WARRANTS.** It is hereby found and declared that an emergency exists for the borrowing of money with which to pay when due on December 31, 2008, the outstanding principal due on the Prior Warrants. For the purpose of providing warrants to be delivered in exchange for the Prior Warrants, there shall be issued tax anticipation warrants of

the County designated "Tax Anticipation Warrants, Series 2008D (Family and Children Fund)" (the "Warrants"), in an aggregate principal amount not to exceed Six Million Three Hundred Thousand Dollars (\$6,300,000), subject to applicable law, issued pursuant to the provisions of Indiana Code 36-2-6-18, 5-1-5-2, 5-1-5-3, and 5-1-5-13, as in effect on the date of the issuance of the Warrants. The County is authorized to issue Warrants from the Fund in combined amounts not exceeding Six Million Three Hundred Thousand Dollars (\$6,300,000), subject to applicable law.

The Warrants shall be dated as of the respective dates of delivery thereof and shall be payable in lawful money of the United States of America upon presentation at the office of the Treasurer of the County or at such other place as shall be agreed to by the purchaser and the County. The County is authorized to make payments of principal and interest on the Warrants by paying the amount due from funds that are available for immediate transfer or investment on or before 12:00 noon on the due date to the purchaser of the Warrants.

The Warrants shall mature not later than June 30, 2009. The final maturity date and final aggregate principal amount of the Warrants shall be set forth in a certificate executed by the Treasurer of the County prior to the sale of the Warrants. The Warrants shall bear interest prior to maturity at a rate or rates not exceeding eight percent (8%) per annum. Interest on the Warrants shall be calculated on the basis of a three hundred sixty-five (365)-day year.

It is hereby determined that it is in the best interests of the County and the Auditor is hereby authorized to negotiate an interest rate with Old National Bank, N.A., and to exchange the Warrants for the Prior Warrants held by Old National Bank, N.A. In the event the Auditor is unable to negotiate such exchange on terms consistent with this Ordinance, the Auditor is hereby

authorized to negotiate the Warrants to any other purchaser on terms consistent with this Ordinance.

The Warrants shall be issued in denominations of One Hundred Thousand Dollars (\$100,000) or integral multiples of One Thousand Dollars (\$1,000) in excess thereof (*e.g.*, \$100,000, or \$101,000, or \$102,000, etc.). The Warrants shall be numbered from 08RD-1 upwards. The Warrants shall be issued in the maximum combined principal amount of Six Million Three Hundred Thousand Dollars (\$6,300,000), subject to applicable law.

The Warrants shall be prepayable on any date at the option of the County, in whole or in part, upon at least seven (7) days' written notice to the holder of the Warrants to be prepaid, at a prepayment price equal to one hundred percent (100%) of the principal amount to be prepaid, plus accrued interest thereon to the date of prepayment, and without premium.

**SECTION 2. INCORPORATION OF PROVISIONS OF THE PRIOR ORDINANCES.** Provisions of the Prior Ordinances relating to the Authorization and Terms, Form of Warrants and Use of Proceeds, and Other Actions are hereby incorporated by reference and shall be effective with respect to the Warrants as though set forth in full herein. Specifically, the form of Warrant shall be as set forth in the Prior Ordinances with such modifications as shall be necessitated to conform to the warrant exchange transaction authorized herein.

**SECTION 3. ISSUANCE AND DELIVERY OF WARRANTS.** The Auditor of the County is hereby authorized and directed to have the Warrants prepared, and the County Commissioners and the Auditor of the County are hereby authorized and directed to execute or to cause the execution of the Warrants in the form and manner herein provided, as conclusively evidenced by their execution thereof.

The Warrants shall be issued in exchange for the Prior Warrants or to another purchaser as negotiated by the Auditor. The Auditor, on behalf of the County, is authorized and directed to have the Warrants prepared in the form herein provided.

**SECTION 4. PLEDGE OF REVENUES.** A sufficient amount of the taxes levied for the Fund and in the course of the collection is hereby appropriated and pledged to the repayment of the promised amount and accrued interest at maturity of the Warrants.

**SECTION 5. FURTHER ACTIONS.** The County Commissioners and the Auditor of the County are hereby authorized and directed to make such filings and requests, deliver such certifications, execute and deliver such documents and instruments, and otherwise take such actions as are necessary or appropriate to carry out the terms and conditions of this Ordinance and the actions authorized hereby and thereby.

**SECTION 6. TAX COVENANTS.** The County hereby covenants that the County and its officers shall not take any action or fail to take any action with respect to the proceeds of any of the Warrants or any investment earnings thereon that would result in constituting any of the Warrants as “arbitrage bonds” under the Internal Revenue Code of 1986, as amended (the “Code”), and any and all final or proposed regulations or rulings applicable thereto, or which would otherwise cause the interest on any of the Warrants to cease to be excludable from gross income for purposes of federal income taxation; and the Auditor of the County and all other appropriate officers of the County are hereby authorized and directed to take any and all actions and to make and deliver any and all reports, filings and certifications as may be necessary or appropriate to evidence, establish or ensure such continuing exclusion of the interest on the Warrants.

Because the County reasonably expects to issue more than Ten Million (\$10,000,000) of tax-exempt obligations in the current calendar year, the Warrants are **NOT** designated as qualified tax-exempt obligations for the purpose of Section 265(b)(3) of the Code.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after the time it has been adopted by the County Council.

**SECTION 8. REPEAL OF CONFLICTING ORDINANCES.** All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed. To the extent not in conflict herewith, the Prior Ordinances are expressly ratified and confirmed.

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DULY ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY OF DELAWARE, DELAWARE COUNTY, INDIANA, THIS 28 DAY OF October, 2008.



JOE RUSSELL



BRADLEY BOOKOUT



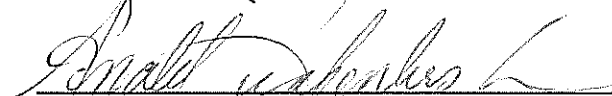
MEL BOTKIN



MARY CHAMBERS



TED BOWMAN



RONALD QUAKENBUSH



CHRIS MATCHETT

ATTEST:



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JUDITH RUST, AUDITOR